

Insights

WHAT YOU NEED TO KNOW ABOUT THE AMENDMENTS TO VAT IN PARA-HOTEL BUSINESS

Oct 20, 2023

The government has just issued an amendment n°5374 to the draft Finance Bill for 2024 aimed at clarifying the VAT regime applicable to the para-hotel and serviced residences sector, following the Administrative Supreme Court opinion of July 5, 2023 declaring this regime partially non-compliant with the EU VAT Directive.

1. The amendment distinguishes between three sectors :
2. The hotel sector, whose VAT regime would be unchanged and applies to traditional hotels.
3. The sector with a function similar to the hotel sector, whose VAT regime would be subject to compliance with the following two cumulative conditions:
 1. a duration of accommodation not exceeding thirty nights (renewable). This is a new condition that exists in other European countries (e.g. Belgium and Germany, where a stay of less than three months is required); and
 2. furnished premises with three of the following four services: breakfast, regular cleaning of the premises, supply of household linen and reception of customers, even if not personalized. These services are regularly the subject of case law decisions clarifying their scope.

This category includes inns, tourism residences (holiday resorts in particular) and "Airbnb"-type furnished tourism accommodation.

4. A new sector other than the previous two, that of furnished accommodation for residential use, which would be subject to VAT if three of the above-mentioned services are provided. This new category covers managed residences, including student and senior residences, as well as co-living facilities, in a context of uncertainty brought about by the Administrative Supreme Court ruling that put operators of this type of residence at risk.

Rental by owners to operators of such establishments would remain subject to VAT by right, and the intermediate 10% VAT rate would continue to apply.

If passed, this welcome amendment will make the practices of managed residences, such as student or senior residences, more secure, and should ensure equal treatment for these different types of operation. Tax authorities will have to clarify the conditions under which services are provided, in order to give taxpayers even greater certainty in an environment of fluctuating case law.

Current version of article 261-4° b of the French tax code	New version of article 261- 4° b of the French tax code updated by the Amendment
<p>Are exempt from value added tax : [...]</p> <p>4° Occasional, permanent or seasonal letting of furnished or garnished accommodation for residential use.</p> <p>However, the exemption does not apply to :</p> <p>a. Accommodation services provided in classified tourist hotels, classified or approved holiday villages and classified tourist residences when the latter are intended for the accommodation of tourists and are leased under a contract for a period of at least nine years to one or more operators who have made a commitment to promote tourism abroad in accordance with the conditions laid down by a decree of the Supreme Administrative Court ;</p> <p>b. The provision of furnished or garnished premises on a regular basis for consideration, including in addition to accommodation at least three of the following services, provided under conditions similar to those offered by professionally run hotel accommodation establishments: breakfast, regular cleaning of the premises, supply of household linen and reception of customers, even if not personalized.</p> <p>c. Rentals of bare, furnished or furnished premises granted to the operator of an accommodation establishment that meets the conditions set out in a or b, with the exception of those granted to the operator of an</p>	<p>Are exempt from value added tax : [...]</p> <p>4° Occasional, permanent or seasonal letting of furnished or garnished accommodation for residential use.</p> <p>However, the exemption does not apply to :</p> <p>a. (Repealed).</p> <p>b. Accommodation services provided as part of the hotel sector or sectors with a similar function which fulfil the following cumulative conditions:</p> <ul style="list-style-type: none"> - They are offered to the customer for a period not exceeding thirty nights without prejudice to the proposed renewal possibilities; - They include the provision of furnished premises and at least three of the following services: breakfast, regular cleaning of the premises, supply of household linen and reception, even if not personalized, of customers. <p>b bis. The letting of furnished accommodation for residential use in sectors other than those mentioned in point b, which is accompanied by three of the following services: breakfast, regular cleaning of the premises, the supply of household linen and the reception, even if not personalized, of customers.</p> <p>c. Rentals of bare, furnished or furnished premises granted to the operator of an accommodation establishment that meets the</p>

establishment mentioned in article L. 633-1 of the French Construction and Housing Code whose activity does not entitle it to the right to rent furnished or garnished premises.

d. (not applicable)

conditions set out in b or bis, with the exception of those granted to the operator of an establishment mentioned in article L. 633-1 of the French Construction and Housing Code whose activity does not give rise to a right to deduction.

d. (not applicable)

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