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CONNECTING THE DOTS:

CHALLENGES BEFORE ONLINE ACCOMMODATION PLATFORMS



The desire of the Bulgarian government to bring offering of short-term accommodation by owners of apartments, guest houses and rooms within a clear legal framework and to secure the payment of taxes by such owners encountered negative public reaction including of the Bulgarian Tour Operators and Tourist Agents. Such efforts would also impact the services offered in Bulgaria by online accommodation platforms such as Airbnb, Booking, Expedia, Homeaway, Rentbyowner and the like. However, the amendments in this regard were promulgated on 20 December 2019 and will enter in force as of 1 January 2020. But what actually the current status quo is?

? **What imposes the amendments?**

Over the past years, online accommodation platforms have gained worldwide popularity with low cost properties for short-term lease. They are also experiencing a real boom in Bulgaria as the properties offered via such platforms throughout the country have substantially increased. The legislative amendments were introduced mainly because of the Bulgarian government's concerns that property owners who lease properties through such platforms operate in the gray economy and avoid collection of taxes.

? **Do foreign online accommodation platforms have any tax related obligations in the country?**

No, it is the property owner providing the accommodation site that bears the tax liability for patent tax, or as the case may be, for personal income tax related to the rental provided. The tourist tax on each night spent is also due and payable by them.

For VAT purposes, it will be again the property owner who lists the property on the online platform that will be liable for the VAT due in respect to the listing service provided to him by the online platform. Namely, Bulgarian law stipulates a reverse charge rule for services provided by foreign providers in general, without limitation to a specific type of service. Hence, the reverse charge rule will apply also to the service provided by the foreign service provider of online accommodation platform to the property owner listing its property thereon.

Thus, the VAT registered property owner would be under the obligation to reverse charge



Bulgarian VAT on the service fee payable to the platform. Of course, if the recipient taxable person is not VAT registered, he/she will be obliged to file for special VAT registration under Art. 97a of the Value Added Tax Act no later than 7 days before the taxable event for the service and to charge Bulgarian VAT on the supply as well as on subsequent supplies subject to reverse charge. The VAT for the service fee payable to the platform is to be reverse-charged by issuance of a protocol by the property owner.

? **What are the amendments?**

Pursuant to the amendments, tourists sites providing hotel-like accommodation (such as guest apartments, guest houses, guest rooms) which are not categorized will have to be registered following a special procedure with the respective municipality in order to be allowed for listing on a platform offering accommodation online. Such procedure will be announced by the end of March 2020 where property owners will have another three months, following entry into force of the registration procedure to comply with the registration requirements.

Still expected to be promulgated in issue 102 of the State Gazette and to come into force from 1 January 2020, registered places of accommodation become subject to patent tax as well (like the categorized ones).

? **How are the amendments affecting foreign online accommodation platforms?**

Under the amendments a property could be offered for lease through an online accommodation platform only if that property was categorized or registered as place for accommodation. Access to platforms who offer properties not complying with the requirements to list only categorized or registered properties could be restricted with a court order for 14 days for first violation and for 30 days for subsequent one and the platform could be imposed a sanction which in repeated violations might reach BGN 15,000 (approx. EUR 7,670).

It is worth mentioning that the new provisions stipulate for a possibility the state and municipal authorities to enter in an agreement with online accommodation platforms for provision of information by the latter or intermediary services for collection of taxes against remuneration.

? **What is the long-term effect for the sector?**

Most likely, the market will drop out vicious players who are not willing to pay taxes. If this leads to the disappearance of “hollow” property listings, then it would be good for all participants in the chain.

Of course, it could be expected that the new requirements could raise the price for end users. We will know how the sector will react soon enough.

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