



# K. TREPPIDES & CO LTD

## Indirect Taxation Newsletter - Issue 04/2023



### ***VAT on Food Supply Services***



We would like to inform you that on the 6<sup>th</sup> of December 2022, the Department of Taxation (DoT) issued Circular 11/2022 which clarifies the VAT treatment applicable for food supply services, further to the decision issued by the Cyprus Administrative Court ("CAC") in relation to the legal case "Lamane Ltd vs Republic of Cyprus".

#### **Restaurant and catering services**

In accordance with paragraph 2 of the 12<sup>th</sup> Schedule of the Cyprus VAT Law N95(I)/2000 as amended (hereafter "the Law"), the restaurant and catering services are considered to be VAT taxable supplies and are subject to the reduced VAT rate of 9%.

As per the above provisions of the Law, restaurant and catering services are defined as follows:

*"Restaurant and catering services are considered to be the services consisting of the delivery of ready-made or non-ready-made food or beverages, or both, for human consumption, accompanied by adequate support services which make feasible their immediate consumption. The supply of food or beverages or both is one of the elements which constitute a package of services where the main element is the provision of the support services. Restaurant services cover the provision of such services at the provider's premises and catering services cover the provision of such services outside the provider's premises".*

With reference to the decision issued by the CAC on the 10<sup>th</sup> of September 2019 in relation to the legal case “Lamane Ltd vs Republic of Cyprus” (Case Ref. No. 596/2016), “adequate support services” are considered to be any combination of the following:

- Kitchen services.
- Services of receiving orders from customers.
- Preparation and serving of the order placed by the customers.
- Provision of a dining space/room for the immediate consumption of food and beverages .

Based on the above provisions and in connection with the aforementioned decision of the CAC, the following points have been interpreted in relation to the provision of restaurant and catering services:

- The package of services offered from businesses which have the right to serve food is subject to the reduced VAT rate of 9% , regardless if the customer will order only food or beverages (alcoholic and/or non-alcoholic) or both (food and beverages) and regardless if the kitchen closes at a specified time during the day since the business will remain open and continue to provide its remaining services.
- Businesses such as pubs, bars, clubs and coffee shops or any other entertainment venues which serve only beverages and may not serve food, but they offer adequate support services, which make possible the immediate consumption of beverages at their premises, such services fall under paragraph 2 of the 12<sup>th</sup> Schedule of the Law and therefore are taxable under the reduced VAT rate of 9%.

### **Delivery of food and beverage**

In accordance with the provisions of paragraph 7 of Table A of the 5<sup>th</sup> Schedule of the Law, the reduced VAT rate of 5% is applicable on the “*the delivery of food, including beverages, for consumption from humans, excluding alcoholic drinks, beer, wine and soft drinks*”.

It should be clarified that the delivery of food or beverages from a business for consumption outside of their premises which is not accompanied by adequate support services, is still considered to fall under the above mentioned provisions and therefore is taxable under the 5% reduced VAT rate.

It is noted that the delivery of soft drinks and alcoholic beverages for consumption which fall outside the provisions of paragraph 2 of the 12<sup>th</sup> Schedule of the Law (e.g. take away, delivery) are taxable under the standard VAT rate applicable in the Republic.

Our Indirect Taxation team is ready to discuss with you the content of this newsletter and provide any consultation required for better understanding its content and how this could affect your business. Please do not hesitate to contact us at [VAT@treppides.com](mailto:VAT@treppides.com).

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