

DOES TOMS APPLY TO THIS TRANSACTION?

The correct VAT treatment of any supply (transaction) depends on the facts of that supply. This flowchart will help you to decide whether TOMS applies to a particular supply.

QUESTION

Does your supply include one or more of the following?
 Accommodation
 Passenger transport
 Hire of means of transport eg car hire
 Trips or excursions
 Services of tour guides
 Use of special lounges at airports

NO

TOMS NOT APPLICABLE TO THIS TRANSACTION

YES

Are you supplying the above as agent or principal?

AGENT

TOMS NOT APPLICABLE TO THIS TRANSACTION

PRINCIPAL

Are you buying it in or is your supply inhouse?

INHOUSE

TOMS NOT APPLICABLE TO THIS TRANSACTION

BOUGHT IN

Are you supplying it retail (to the consumer) or wholesale (to another business for resale by them)?

WHOLESALE

TOMS NOT APPLICABLE TO THIS TRANSACTION

RETAIL

TOMS APPLIES TO THIS TRANSACTION

COMMENTS

TOMS applies if you sell any one of these, not just if you sell a package. If you sell a package including one or more such supplies, you include the whole transaction in TOMS. Eg you sell hotel rooms plus theatre tickets.

You need to be the disclosed agent and if there is any doubt about the relationship, take proper advice. This is a hot potato.

Inhouse supplies are from your own resources eg you own coaches & pay the drivers or run a hotel and pay the staff. If the transaction is part bought and in part inhouse, it goes into TOMS. There are special rules for inhouse supplies.

A supply is wholesale if your customer resells it. If a business customer uses it for staff or entertaining, the customer is the consumer ie your supply is retail. If you deal with a travel agent, you are normally supplying the traveller (retail). Before 2010 there was a range of opt ins and opt out for B2B supplies.

But if your gross TOMS sales are less than 1% of all sales, you do not have to use TOMS. This exemption for incidental supplies does not apply to accommodation or passenger transport.

If TOMS applies to one or more of your transactions, you are required to do an annual calculation ie to total all the TOMS transactions in the year and calculate the TOMS liability in total. You should not calculate it transaction by transaction. In practice most tour operators supply little or nothing else so they use the total sales etc from their year end accounts.

Note that under TOMS it is your margin that determines whether you are liable to register, not gross sales. Note that you do not register for TOMS. You just use it to calculate the VAT you pay.