

Hotels, Leisure & Tourism

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PKF FRANCISCLARK

Chartered accountants & business advisers

NO VACANCIES

With the summer now past, the usual post mortem on season performance is well and truly upon us. Most of the figures we collect on occupancies are now in for August which still remains the crucial month for most, but not all hotels in the area.

Overall, we have seen some falls in occupancy to the end of August which is unsurprising when the incredible summer performance of 2017 is considered, which led to historic highs for the year. Our reporting on this in early spring this year meant that we concluded that whilst there is always room for improvement, the sector appeared to be at the top of several years of year on year growth.

By Easter this year it seemed that this was a prophetic statement which didn't bode well. Occupancies in the first four months of this year were down, and whilst Easter always masks these trends, by the end of April our stats showed a deterioration of up to 6% in bed space sold. This should be set against a prior year which showed increases of 8% for the same period.

This summer was a record, weather wise, and this did appear to boost numbers to some extent, though by the end of August the year remained down on occupancy by just less than 1% which was entirely due to the numbers around the early part of the year falling back to 2016 levels.

It wouldn't be a newsletter of our time without the mention of the 'B' word, and now seems a good time. The early part of next year could become very interesting. Will we or won't we be allowed into Europe without experiencing increased inconvenience? Will the Anglophiles from Germany and elsewhere still be Anglophiles? Will the £ depreciate? One thing is for sure though, which is that the record highs from 2017 have remained albeit skewed more towards the summer months.

From a cost perspective, wages and salaries are clearly the most significant cost for many hotels and tourism businesses. When the living wage was introduced in April 2016, there was an expectation that this would significantly eat away at margins achieved by hoteliers. At the time it was commonly thought that with inflationary increases in turnover, wages as a percentage of turnover would head up towards 40% for most hotels as the incremental increases towards 2020 came in. Initially, there was a surprising trend with hotels able to push rates in tandem with the increases in wage costs, however we are starting to see this percentage now increase, with the current wage percentage being around 36% of turnover on average.

Discretionary spend at hotels is also looking to have suffered recently, with prices of rooms rising well, but food spend and spa sales are lagging behind this trend in recent periods. Perhaps this is to do with the weather that we have experienced this year and it is too early to tell exactly what these trends mean.

The above data relates to the SW region



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Minimum living wage

Minimum wage (national minimum and living wages) compliance is an area of increased scrutiny generally, and the restaurant and hotel industry is particularly in the spotlight. HMRC is obligated to investigate all minimum wage complaints it receives and HMRC's minimum wage compliance teams are one of the few areas HMRC have been increasing, rather than reducing, personnel and resources. For employers, the financial penalties and reputational damage caused from failing to pay employees and workers minimum wage is severe.

The penalties levied can be as high as 200% of the arrears owed to the worker, capped at a maximum penalty, per worker, of £20,000. In addition to the financial penalties, the quarterly naming and shaming of non-compliant employers is regularly picked up by both local and national press. The Marriot Hotel Group and Wagamamas are examples of national employers within the industry who have been publicly named and

shamed for failing to pay minimum wage to their employees and these are deemed to be newsworthy stories at local level as well, often with little knowledge of the facts.

The reason for the failing is often found to be a technical issue, rather than an employer deliberately setting out to pay employees below minimum wage. Unfortunately, all mistakes are penalised and reasonable care is not an excuse for non-compliance with minimum wage enforcement. The penalties as well as naming and shaming policy applies in almost all instances, with no de-minimis on the number of employees who've not received minimum wage or the amount paid below the minimum wage threshold or reason for the failing.

Whilst each business will have their own unique remuneration packages and terms of employment, experience in dealing with minimum wage enquiries within the industry has identified common issues across the industry.

What constitutes the provision of a uniform and deductions from pay for uniforms are a particular risk area. TGI Fridays were found to be paying below national minimum wage on account of having a policy of employees being required to wear black shoes. This was found to be a uniform for minimum wage and by requiring employees to wear black shoes without reimbursing them for the cost of the shoes resulted in TGI Fridays failing to pay minimum wage.

The importance of what's stated in the contract cannot be ignored and this will be a fundamental in not just determining what rate is being paid to the employee, but also on what hours of work. For instance, if it isn't explicitly stated in the contract that breaks are unpaid, then failing to pay the employee whilst on a break will reduce minimum wage.

Deductions from pay for meals or accommodation provided is another common failing. No deduction can be taken from an employee's pay for meals without it impacting minimum wage and accommodation is one of the few areas where a set-off allowance

exists. If employees are provided with accommodation, employers can set off the accommodation provided against the minimum wage threshold a rate of £7 per day. If the deductions exceed the post-offset threshold, there will be a failing to pay the minimum wage.

One final word of caution is to say that where employers are found to be non-compliant for minimum wage, their risk profile with HMRC will be increased and it's not unusual to see the employer subjected to a wider PAYE employer compliance enquiry following the minimum wage enquiry concluding. PKF Francis Clark's employer solutions team have extensive experience assisting employers with minimum wage and employment tax compliance enquiries and whilst employers cannot avoid an HMRC enquiry, proactive steps to undertake a compliance review with our support, can help to avoid the financial and reputational damage caused by a potential HMRC enquiry.

Package Travel

The Package Travel and Linked Travel Arrangement Regulations 2018 (The Regulations) is the latest raft of regulatory requirements to hit those in the travel and tourism sector.

Probably the worst thing about this latest regulation is that it catches more businesses than it sounds, particularly those in the hotel industry as well as those travel providers who do not sell 'traditional' package holidays.

Many of the hotel managers and tour providers sat here reading this article will be thinking "I don't sell package holidays this doesn't apply to me", but many companies in the travel industry who would not have previously had to worry about package holiday regulations may now find themselves within the scope of the legislation. In the ever-increasing competitive market with the rise of OTAs and hotel price comparison websites, many hotel providers are looking to expand their offerings and add that USP by adding trips to local gardens, amusement parks, tickets for local attractions and themed holidays with entertainment. Experience and activity holidays have become increasingly popular in recent years and the provision of these additional services may bring businesses within the scope of the Regulations.

So what are package holidays and linked travel arrangements?

To qualify as a package holiday two or more different types of travel services need to be combined for the purpose of the same trip. Travel services include: (1) carriage of passengers (flights, trains and coaches); (2) accommodation; (3) motor vehicle hire; and (4) other tourist services. Other tourist services are services that are not intrinsically part of the transport or accommodation services provided but make up a significant part of the package such as admission to concerts, sports, events, excursions or event parks, guided tours, ski passes and rental of sports equipment or spa treatments. The Regulations set out six different circumstances in which the combination of travel services will constitute a package.

When only one of carriage of passengers, accommodation or motor vehicle hire services are combined with an 'other tourist service' this only leads to the creation of a package or a linked travel arrangement if the 'other tourist service' is either:

- Advertised as an essential feature of the combination of services; or
- Accounts for a significant proportion of the value of the combination of services.

The Government has said that whether on-site facilities, such as a swimming pool or gym, included for hotel guests would be considered an intrinsic part of accommodation would depend on the individual circumstances and how the facilities are provided but this is a worrying thought for accommodation providers.

The main protections offered by the Regulations for package holidays are as follows:

- Making the organiser of the holiday liable for the performance of the travel services included in the

package (even if the services were performed by a third party and not the organiser) if something goes wrong

- Protection for travellers against the insolvency of the organisers of the package.
- Requirements for travel organisers to provide certain detailed information to travellers making it clear what they are buying and the protections they have.

The Regulations also place various other obligations on those organising or selling package holidays which providers will need to comply with.

One of the examples the Government has given as an example of what could now constitute a package holiday, is a situation where a guest books a hotel room at the Disneyland Paris hotel with access to the amusement park included as part of the booking; this would be considered a package as entry to the amusement park could not be argued to simply be an intrinsic part of accommodation. Another example given was a traveller booking a room at a hotel with pre-booking for a round of golf as well as the accommodation - this could also be classed as a package holiday. What is worrying about these examples is that many hotel providers are already offering these types of services and will not even be aware they are caught by the Regulations.

Linked Travel Arrangements on the other hand cover situations where there are at least two different travel services purchased for the same trip, the combination does not constitute a package, the traveller has separate contracts with the service providers but the trader selling one of the travel services facilitates the sale of another travel service in one of the ways set out in the Regulations. Linked travel arrangements do not have the same level of protection as package holidays if something goes wrong but travellers will benefit from insolvency protection.

The Regulations do not intend to stop providers selling these types of holidays but they do aim to increase the level of protection for travellers. By no means stop providing these services but do make sure you consider all your products and services and whether or not they could constitute a package or linked travel arrangement and ensure you are aware of the legal implications of this and that your terms and conditions are updated accordingly.

article by:



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Expenditure on projects can offer valuable reliefs

Capital allowances are one of the most valuable reliefs available in the UK tax system, but they can be complex. The good news is that we can make the most of the opportunity by carefully planning your property expenditure or reviewing what has occurred after the expenditure has been incurred.

Within the PKF network we can offer accounting expertise in this area, and also surveying and construction professionals when required to provide strategic advice on capital allowances in relation to building projects.

Ideally we would like to get involved as early as possible, whether during a property transaction or design stage of a refurbishment project. If necessary the surveyors in the team can interact effectively with architects, project managers and engineers to act as an effective bridge between the tax specialists within PKF Francis Clark and the commercial property experts.

Optimise your position

Sustainability is not a new idea, but more recently it is being more positively encouraged through investment in equipment that saves energy and water. Certain key technologies designed to be energy efficient can heavily accelerate tax savings which will allow retention of profits generated.

Changes to the building regulations across the UK continue to challenge investors in property with respect to energy efficiency and the environment. As the financial implications of compliance for any investor and operator can be significant, the PKF Franci Clark team's in-depth knowledge can assist in mitigating the financial burden by providing strategies and options to optimise your tax savings for capital allowance purposes.

Clearly one of the aspects of this type of work is that every situation is different. Please feel free to contact us to discuss any situation regarding capital expenditure you have so we can help explore the allowances that should be available to you.



Cyber security risks for the Hotels industry

The hospitality sector now sits in the top three of industries most frequently targeted by cybercrime, according to a Trustwave Global Security Report. Half of attacks involve the theft of card holder data and personally identifiable information, such data held by hotels including; contact details, travel plans, birth dates, passport data and personal preferences - all of which provide cyber criminals with many ways in which to misuse the data ranging from fraud to extortion.

Common areas of cyber attack

Whilst all business sectors are constantly at risk, the hotels industry is particularly vulnerable to cyber-attacks mainly due to the sheer volume of credit and debit cards transactions at check in, in bars, restaurants or shops. This is compounded by the fact that hotels often keep credit cards details on file in order to access them on multiple occasions during a guest's stay - meaning that every time the card is used, there is a potential opportunity for cyber theft.

Hotels are also exposed through linking their systems to third party booking providers, particularly if the providers are not properly vetted, enabling cyber criminals to place malware on the hotel's network which captures point of sale information.

Other areas of potential weakness include unsecured public Wi-Fi access, loss or theft of laptops and storage devices which contain sensitive information and poor training of employees around IT security and data.

What a cyber-attack could mean for your business

Cyber-crime is growing and the less protected you are, the more likely your business will be targeted. The latest ONS survey for crime in England Wales showed there were over 5.1 million instances of online fraud (May to August 2018) though police suspect that the majority of cybercrime goes unreported. And although technology evolves to protect businesses, cyber criminals are evolving faster and finding new ways to steal assets and identities and interrupt business activities through ransomware attacks, identity theft, downtime and reputational damage.

Reporting on the Action Fraud website, Commissioner Adrian Leppard, Commissioner of the City of London Police, commented: "Today's crime figures for the first time show that fraud and cyber-crime are the most prevalent crimes committed against victims in England and Wales. Fraud and cyber-crime affect every community in the country and do not discriminate by social status or geographical location".

Combine the growing likelihood of a cyber-attack with the punishing consequences of not being GDPR compliant (up to €10 million or 2% of a company's annual turnover, whichever is higher) and the need to have in place a robust cyber protection policy is apparent to minimise expensive financial and reputational damage in the event of a breach.

What can you do?

If you are concerned about your business' cyber vulnerability, we would recommend that you consult a specialist third party to review the options available to protect your business and your clients' details. At PKF Francis Clark, we offer a free, no-obligation initial consultation on all aspects of cyber security. We can help with:

- Information Assurance - a review which identifies your current cyber risks across technology, data, delivery channels and the external environment.
- Penetration testing - simulated attacks to test your vulnerabilities.
- Advice on how to increase your cyber protection.
- Training for employees on their corporate and security responsibilities.
- Advice on a cohesive incident and contingency plan against cyber scams.
- Guidance and support on achieving the UK Government backed accreditation schemes to increase your protection against cyber criminals:



Cyber Essentials



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Accommodation interaction between minimum wage and BIK interaction

As highlighted in the previous article, the accommodation offset is £7 a night and where employers charge employees for the accommodation, they can only deduct the £7 from pay without it impacting minimum wage. Where a higher amount is deducted, it will be taken into account in determining if the employee has been paid minimum wage. On the flipside, employers providing this free of charge to employees in connection with the employment, can essentially pay the employees below minimum wage by an amount up to the £7 offset.



It's important to remember that the minimum wage legislation is the Business, Innovation and Skills (BIS) department legislation and not tax legislation. HMRC's job is only to enforce compliance with the BIS legislation and it is for this reason that there is no crossover between the offset amount and the benefit in kind (BIK) position on accommodation being provided.

For tax purposes, the accommodation benefit is determined by the accommodation itself and what we first need to consider is whether the accommodation being provided is living accommodation. HMRC's guidance has a pretty good outline of what's considered living accommodation and states:

“ Living accommodation is given its everyday meaning. Examples of what is clearly living accommodation are houses, flats, houseboats, holiday villas and apartments. By contrast it does not cover accommodation in a hotel room, other forms of board and lodging and non-residential accommodation such as a workshop, garage or office. These are forms of accommodation other than living accommodation.



“ The HMRC view is that living accommodation is something that gives the occupant the necessary facilities to live a domestic life independently without reliance on others to supply basic needs. In practice we would be looking for an individual to at least have the use of a refrigerator and full cooking facilities, even if such facilities are shared ”

If the accommodation is considered living accommodation, then the usual accommodation rules relating to the two elements of charge, valuations and exemptions for job-related provision etc. will need to be considered to determine the BIK position.

In the context of the hotel industry, a hotel's golf-pro being given use of one of the hotel's lodges is likely to be considered living accommodation, whereas the bar manager being given a hotel room to stay in following a Saturday night shift is unlikely to be living accommodation. The bar manager example doesn't mean a BIK doesn't arise, it simply means the accommodation benefit doesn't arise as what's being provided is unlikely to provide the bar manager with the necessary facilities to live domestic life independently.

Taking the bar manager example a stage further, whilst we've determined the hotel room isn't living accommodation, it will be considered the provision of board and lodgings. The benefit value will be based on the usual marginal cost of the provision principle. In the context of a hotel room, this is likely to be the sum of the cost of laundering the bedsheets and cleaning the room, heat and light costs and tea and coffee available in the room. If the employee is also able to have breakfast in the hotel as well, then this should also be factored into arriving at a BIK value.

Let's assume the BIK value of the hotel room provision to the bar manager is £15 and it is provided free of charge to them, the P11D reportable BIK is £15. The trivial exemption is unlikely to apply as it will be given in connection to the duties performed i.e. the bar manager is only able to stay in the hotel room because they've been on shift. However, each case should be considered on its own merits.

If the hotel room isn't provided free of charge and the employee reimburses the hotel at or above the marginal cost, then no BIK will arise. One point to watch here is around how the reimbursement is made, if it is taken from the next pay run for the employee, it cannot be a pre-tax deduction i.e. if the bar manager is paid £150 for the week's work and stayed for two nights following their shifts, they must be subject to tax on the £150, not £120.

The final scenario you might come across is where the hotel room is subsidised, with the employee only having to pay £10 of the £15 cost to the hotel. In this instance, the £5 is the reportable BIK.

Clearly this is an area fraught with discrepancies and inconsistencies between the rules that need to be applied. We are happy to provide help and advice on this area and can also support business in the event of enquiry.

HMRC is set to update the VAT legislation for vouchers to bring it up to date with a revised EU VAT directive

Currently, VAT must be paid on single purpose vouchers (SPV) when they are issued. VAT due on any multipurpose vouchers (MPV) does not have to be paid before the vouchers are redeemed. Under the current system, a voucher is an MPV if it can be redeemed against a range of goods or services, even if they are all subject to the same VAT rate.

On 1 January 2019, the UK will align with the EU on how vouchers are treated. From this date the voucher will have to be redeemable against goods or services at different VAT rates to be a multipurpose voucher, otherwise it will be deemed a single purpose voucher and VAT will be due on issue, not redemption. The new law is the first EU wide definition of a voucher, and where and when it should be taxed. The proposed changes are needed to comply with the EU Vouchers Directive 2016/1065 issued on 27 June 2016.

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