

VAT treatment of ride-hailing services

The First-Tier Tribunal has ruled on VAT treatment of Bolt's ride-hailing services, as **Neil Morley** explains

On 15 December 2023 the First-Tier Tribunal (Tax Chamber) handed-down its judgment in *Bolt Services UK Limited v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01043 (TC).

The tribunal had been tasked with hearing an appeal¹ brought by Bolt Services UK Limited against a decision by the Commissioners for HMRC. It centred on the application of value added tax to mobile ride-hailing services.

Bolt is a licensed private hire operator². It had, in October 2022, sought an HMRC ruling whether the Tour Operator Margin Scheme³ (TOMS) applied, when acting as principal⁴, to its mobile ride-hailing services. Such services, namely, cover:

*...on-demand, private hire passenger transport services ordered and paid for through a smartphone application...*⁵

HMRC in February 2023 ruled Bolt's mobile ride-hailing services are outside the scope of the TOMS. Consequently, Bolt appealed and the tribunal herein considered the core question:

*...whether Bolt should account for VAT by reference to the total amount paid by the customer or on the margin, ie, the difference between the amount paid by the customer and the cost to Bolt of goods or services supplied by taxable persons and used directly to provide the service...*⁶

Submissions were heard from each party. Bolt contested it should be within the scope of the TOMS and, broadly, raised

a number of arguments:⁷

- (1) Mobile ride-hailing services are "supplied for the benefit of travellers".
- (2) Mobile ride-hailing services are "of a kind 'commonly provided by tour operators or travel agents'".
- (3) Mobile ride-hailing services should not be treated as outside the TOMS because to do so would lead to a "distortion of competition" between travel service providers.
- (4) Mobile ride-hailing services should not be treated as outside the TOMS because to do so would lead to a "breach of neutrality" between travel service providers.

HMRC maintained it should be outside the scope of the TOMS and countered with a number of alternative arguments:⁸

- (1) Bolt "is not a tour operator or travel agent".
- (2) Bolt "does not make supplies of a kind commonly provided by tour operators or travel agents".
- (3) Bolt "supplies fall outside the scope of TOMS because they are (i) in-house supplies or (ii) materially altered / further processed supplies".

Consideration, in addition to the above submissions, was given by the tribunal to key provisions within European Union Council Directives 77/388/EEC and 2006/112/EC.⁹ This

¹ Pursuant to s 83(1)(b) Value Added Tax Act 1994.

² See para 79, *Bolt Services UK Limited v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01043 (TC).

³ Pursuant to s 53 Value Added Tax Act 1994 and Value Added Tax (Tour Operators) Order 1987 (as amended).

⁴ See *Uber London Limited v Transport for London* [2021] EWHC 3290 (Admin) and, whilst subject to appeal, *Uber Britannia Limited v Sefton Metropolitan Borough Council & Others* [2023] EWHC 1975 (KB).

⁵ See para 1, *Bolt Services UK Limited v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01043 (TC).

⁶ See para 4, *Bolt Services UK Limited v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01043 (TC).

⁷ See para 8, *Bolt Services UK Limited v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01043 (TC).

⁸ Ibid.

⁹ See paras 12-16, *Bolt Services UK Limited v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01043 (TC).

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also included various case law decisions of the European Court of Justice.¹⁰ Ultimately, finding in favour of Bolt, the tribunal held:

*...the supply of mobile ride-hailing services, without any additional elements, to a traveller is a provision of travel facilities within the TOMS...*¹¹

Tribunal Judge Sinfield further stated, in the alternative, if “additional elements” are indeed necessary that, under established case law¹², “other services such as information and advice relating to holidays and the reservation of a journey would be enough”¹³. He therefore concluded:

...Bolt provides such other services, namely: the ability to arrange a journey with various options by using the Bolt app; help and assistance available 24/7 via the app or Bolt’s website as well as by email and telephone; and information and advice on certain places served by Bolt which can be found in articles on Bolt’s website and in its blog. I consider that, if required, such additional services

*are sufficient to bring the supply of mobile ride-hailing services within the TOMS...*¹⁴

It is clear, in the opinion of the tribunal, that the scope of the TOMS covers Bolt’s mobile ride-hailing services. Whilst also usefully suggesting practices, some of which are existing licensing requirements¹⁵, within the TOMS scope, it should be borne in mind this is a lower-tier tribunal and one focused, subjectively, on the services of a single business.

Moving forward, at the very least, licensed private hire operators already using the TOMS may wish to take note of this decision. Given HMRC has opened a consultation on potential VAT impacts in the private hire sector, and a Court of Appeal hearing on principal status in passenger contracts outside London is pending, it remains uncertain as to the final, wider, position on this issue.

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10 See paras 17-65, *Bolt Services UK Limited v The Commissioners for His Majesty’s Revenue and Customs* [2023] UKFTT 01043 (TC).

11 See para 112, *Bolt Services UK Limited v The Commissioners for His Majesty’s Revenue and Customs* [2023] UKFTT 01043 (TC).

12 See C-220/11 *Star Coaches s. r. o. v Finanční ředitelství pro hlavní město Prahu* (2012).

13 See par. 113, *Bolt Services UK Limited v The Commissioners for His Majesty’s Revenue and Customs* [2023] UKFTT 01043 (TC).

14 Ibid.

15 See Local Government (Miscellaneous Provisions) Act 1976, Private Hire Vehicles (London) Act 1998, etc.



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