

The VAT Trap

What should you do to get it right?

Matthieu Berkx (Deloitte) and Caroline Mackenzie (Congrex)

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meet*



30 November - 2 December 2010
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Introduction

Caroline Mackenzie, Congrex

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Question

Where is your organisation located?

- A Outside of Europe
- B In Europe – outside EU
- C In Europe – in EU
- D Don't know!

Question

How would you rate your VAT knowledge?

- A I think I have a good understand of how VAT needs to be managed
- B I have some idea about VAT management
- C I have little knowledge about VAT management
- D I have little knowledge but I know where to go for advice
- E I have no idea and I don't know where to get advice

Question

Do you seek professional VAT advice when planning your conference?

- A Yes always
- B No never
- C Only occasionally
- D Never thought about it

Agenda

What is VAT?

Matthieu Berkx, Deloitte NL

- Current VAT rules 2010
- Change VAT rules 2011
- Different services related to organising conferences within EU
- VAT registration in different EU countries
- Recovery of input VAT

Q & A

Questions about VAT

What does VAT stand for?

- A Vendor's Additional Tax
- B Value Added Tax
- C Value Associated Tax
- D None of the above

Questions about VAT

What is the highest VAT rate in the EU?

- A 23%
- B 24%
- C 25%
- D 26%

Questions about VAT

Which EU countries have the highest VAT rate?

- A Sweden, Germany and Belgium
- B France, the Netherlands and Slovakia
- C Hungary, Sweden and Denmark
- D Spain, Italy and Romania

What is VAT?

Value Added Tax

- EU tax
 - Consumption tax assessed on value added to goods and services
 - Cost for final consumer
 - Cost for business/association that cannot (fully) reclaim VAT
 - Foundations, public bodies (no VAT entrepreneur)
 - Banks, insurance companies, hospitals, etc. that supply VAT exempt services
- Different implementations in EU member states
- Countries outside EU can also have VAT or similar taxes

VAT rules (2010)

- EU Members have agreed a range of VAT changes (“VAT Package”) with effect from 1 January 2010
- The VAT Package is one of the biggest changes to the EU VAT system in recent years
- The intention of these changes is to ease administrative burden, increase tax harmonisation and avoid «VAT rate shopping»
- Main change:
 - Changes to the place of supply rules for services

VAT rules (2010)

What does this mean for businesses / associations?

Good news

- Simplifications
- Greater certainty and standardisation across the EU

Bad news

- New compliance requirements
- Still some exceptions to the main rule exist

VAT rules (2010)

General rule place of supply of services

- VAT status of the recipient is important

Recipient is VAT entrepreneur	Service is VAT taxable in country where recipient is based
Recipient is private individual/ non-VAT entrepreneur	Service is VAT taxable in country where supplier of service is based

→ VAT entrepreneur is any person who performs business (economic) activities for compensation on a regular basis

→ Includes anyone with a valid VAT number

VAT rules (2010)

Exceptions to general rule place of supply of services

- Depending on the nature of the service supplied
- Place of supply where services are physically carried out, irrespective of where the supplier or customer is based

– **Exhibitions, conferences or meetings**

- Services ancillary to the above services which includes the organisation of such services
- Cultural, artistic, sporting, scientific, educational or entertainment services
- Restaurant and catering services
- Short-term lease of vehicles

VAT rules (2010)

Exceptions to general rule place of supply of services

- Place of supply with respect to services related to immovable property, is where the immovable property is located

VAT rules (2010)

Administrative changes

- Reporting of EU sales of services in VAT return
- Periodical listing of EU Sales of services
- Application of reverse charge mechanism
- Simplified procedure to recover VAT incurred in other EU country

Change VAT rules (2011 and further)

1 January 2011	<ul style="list-style-type: none">• Organising conferences under main B2B rule• Exception for admission service• VAT treatment of B2C situation remains the same
1 January 2013	<ul style="list-style-type: none">• Change of VAT treatment of B2C for means of transport
1 January 2015	<ul style="list-style-type: none">• B2C changes in relation to telecommunications, broadcasting and electronic services• One-Stop-Shop (“OSS”)

Change VAT rules *(2011 and further)*

From 1 January 2011 distinction between the organisation of conferences and giving admission to events

B2B situations

- Organisation = place of supply where the customer is based
- Admission = place of supply where the conference takes place

→ No changes with respect to organisation of conferences and giving admission in B2C situations

Registration/admission and cancellation fees

Registration/admission fees

- Status attendee: VAT entrepreneur or private individual
- VAT registration in country conference might be required

Cancellation fees

- Could qualify as damage compensation
- If no direct relation to supply of service
 - Not taxable for VAT purposes

Question

A Spanish association organizes a conference in Germany. In which country will VAT be due?

- A Germany
- B Spain
- C Both Germany and Spain
- D That depends

Question

A Spanish association organises a conference in Germany. What VAT will a German supplier charge to the Spanish association?

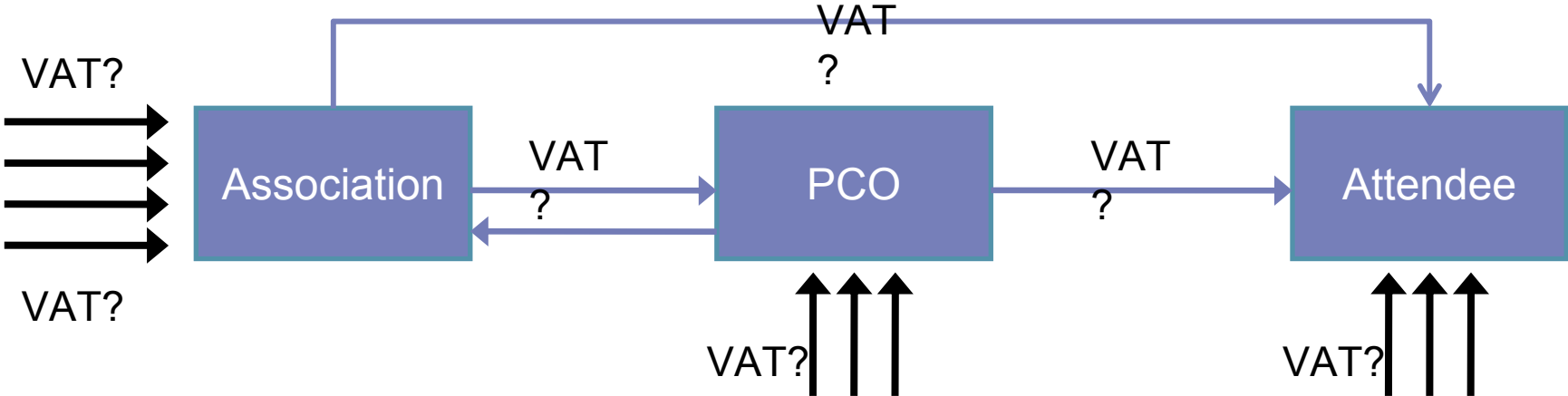
- A Local German VAT
- B Spanish VAT
- C None (levy of VAT shifted to Spanish association)
- D That depends

Question

An American association organises a conference by a third party/PCO in the Netherlands. In which country will VAT be due?

- A The Netherlands
- B USA
- C Both the Netherlands and USA
- D That depends

Example

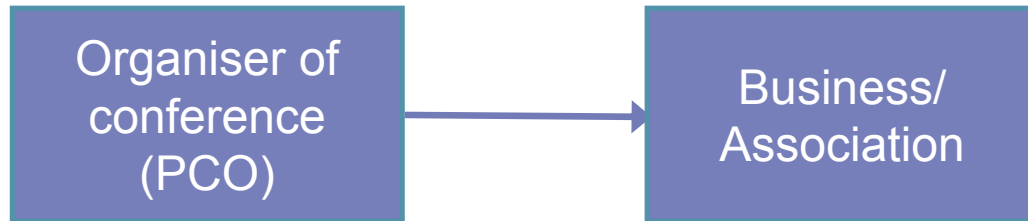


- Management fee
- Lease of floor space to exhibitors
- Accommodation for attendees
- Tours and transport for attendees
- Gala dinner

Recharge of costs:
General/bulk or separate?

VAT aspects of organising conferences

Management fee



Organisation of conference outsourced to third party e.g. PCO

2010: Exception to general rule, VAT taxable in country where conference actually takes place

2011: General rule place of supply, VAT taxable in country where recipient is based (B2B situations)

→ If recipient is based outside EU, in principle out of scope of VAT

VAT aspects of organising conferences

Lease of floor space to exhibitors

- Could qualify as lease of immovable property
 - VAT taxable in country where immovable property is located
 - In principle VAT exempt
 - Limitation to reclaim input VAT
 - Option for VAT taxable lease depends on national VAT law
 - Special regulations in national VAT law
 - Lessor (e.g. PCO) is in principle liable for VAT due
- **The wording of contracts with exhibitors can be determining for the VAT treatment**

VAT aspects of organising conferences

Accommodation for attendees

When Congrex / PCO provides hotel services to attendees

- Contract between hotelier and PCO
- VAT taxable in country where immovable property is located
- Possible VAT registration obligation
- Reduced VAT rate might be applicable

When Congrex / PCO only acts as agent / intermediary

- Contract between hotel and attendee directly
- In general no VAT obligations for PCO regarding hotel services
- VAT treatment of commission depends on local VAT rules
 - In some countries service is related to immovable property
 - In other countries general place of supply rule applies

VAT aspects of organising conferences

Tours and transport for attendees

EU Tour Operator Margin Scheme (“TOMS”)

- Special VAT scheme for businesses that sell travel services
- Services VAT taxable in country where organizer is established
- VAT on margin (sales values minus costs)
- No reclaim of input VAT on costs
- Unable to specify VAT on invoice
- Extra cost for attendees that are entitled to reclaim VAT

→ Not in every EU country EU TOMS is applied in same manner

VAT aspects of organising conferences

Gala dinner



- Restaurant and catering services
- VAT taxable in country where physically carried out
- Possibly reduced VAT rate applicable
- Input VAT on catering costs in several EU countries not recoverable
- Possible double charge of VAT

→ Avoid double taxation by changing contractual relationships

VAT aspects of organising conferences

Recharge of costs



- Recharge costs of third parties (subcontractors)
- VAT treatment depends on type of services provided

General service versus separate services

VAT aspects of organising conferences

Recharge of costs

General service / bulk of services

- VAT taxable in country where recipient is based (only in B2B situations)

Separate services

- VAT treatment differs per type of service
- VAT registration might be mandatory in country where conference is held

VAT aspects of organising conferences

Sub-conclusion

VAT treatment of services depends on:

- Type of services provided
- Who are attendees and where are they based
- Local VAT rules of country where conference takes place
- Contractual relationships between parties
- Own business and commercial objectives

VAT registration

Different per EU country

- Registration process (may be time consuming)
- Language
- Periodical compliance obligations
- If not correctly registered, fines may be imposed by local tax authorities

Benefit of VAT registration

- Recovery of input VAT in general easier and quicker

Recovery of input VAT

Without VAT registration

Business/associations based within EU

- Foreign VAT refund submit request electronically at own national tax authorities (as of 2010)
- Deadline 30 September
- Deadline refund VAT 2009 postponed to 31 March 2011

Recovery of input VAT

Without VAT registration

Business/associations based outside EU

- 13th Directive refund request in EU country where VAT is incurred
- Simplified registration requirement for VAT refund purposes
- Reciprocal agreement with home country required
 - e.g. Germany, Greece, Italy, Spain, Poland, Portugal

Conclusion

VAT is challenging, but manageable

**Start in time determining VAT
consequences!**



Question and Answers

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Question

How many of you would now consider getting external VAT advice?

- A Yes – definitely
- B Yes – I may consider for some events
- C I'm still undecided
- D No I don't think so

Team



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