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**VAT opportunities
and/or risks for associations**
Practical cases

Lore Germonpré, 27 september 2018

Accountancy & Advisory

ACCOUNTING & REPORTING TAX & LEGAL M&A & FINANCE
BUSINESS CONTROL & TECHNOLOGY STRATEGY & GROWTH

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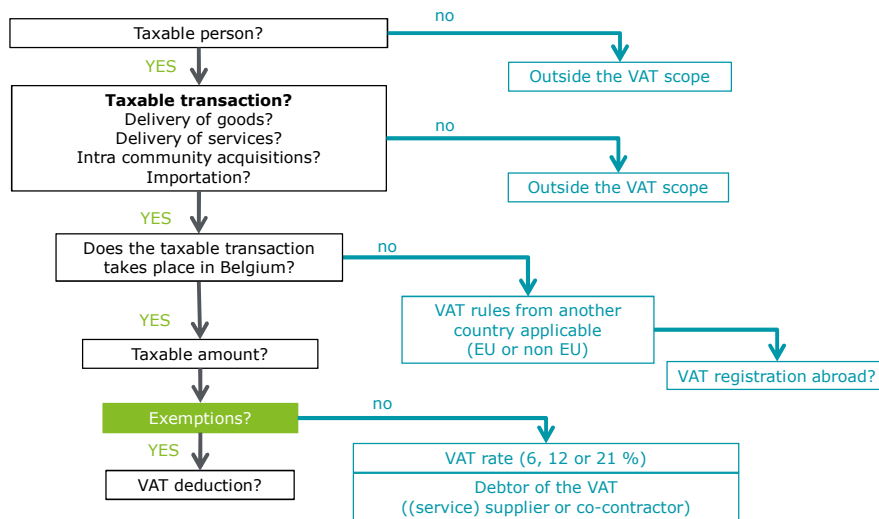
Divers topics

Taxability of associations

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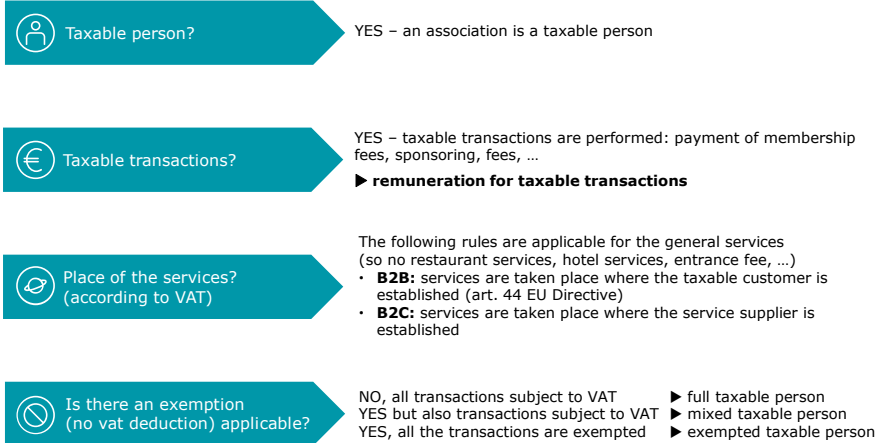
The working of the VAT system



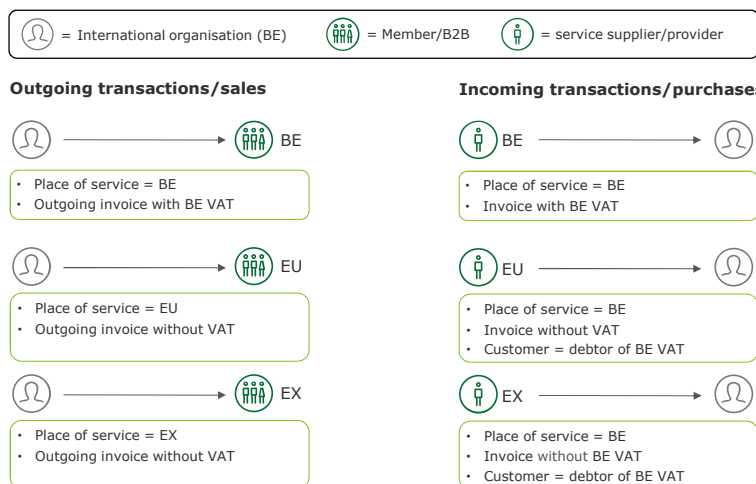
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VAT opportunities and/or risks for associations 4

VAT taxability associations General overview



VAT taxability associations Place of the services – general rule



VAT taxability associations Exemptions

Exemptions with VAT deduction

- e.g. intracommunity delivery of goods, export, delivery of goods to consular departments, international organisations, ...)
- outgoing invoices without VAT (included reference on the invoice)
- full right of VAT deduction on the corresponding incoming invoices

Exemptions without VAT deduction (article 44 of the Belgian VAT code)

According to article 44 §2, 11° a VAT exemption is applicable for services rendered, as well as for supply of goods that are closely linked to those services

- For the benefit of the common interest of the members
- In exchange for a contribution specified by the articles of the association
- By non-profit organisations
- That pursue syndical objectives as the main aim of the organisation (according to the European Court of Justice, this condition is met when the organisation **primarily** takes care of the common interest of the members and not their individual interest)

Practical cases

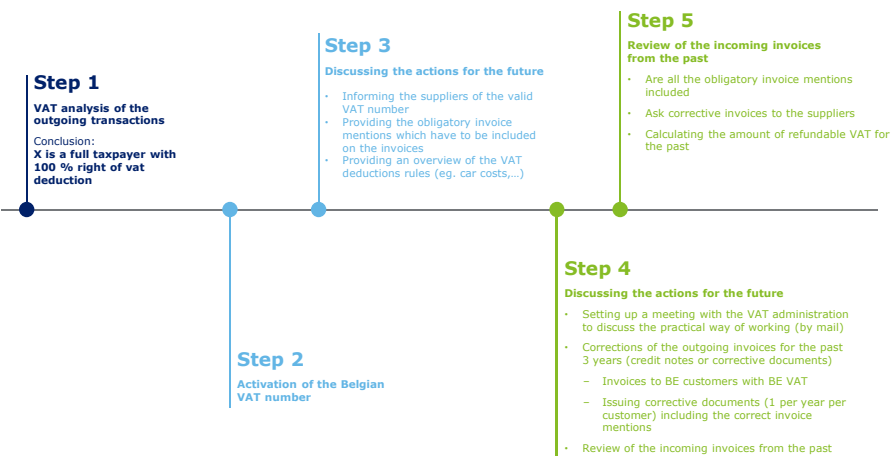
Practical case 1
 Financial gain – corrections of the past – situation



International non profit organisation based in Belgium acting as an umbrella organisation

- The members are national organisations and commercial companies (VAT taxable persons) established inside and outside of Belgium
- The VAT number was active seeing that the association submitted special VAT returns (to declare the payable Belgian VAT on services from foreign service suppliers)
- No submission of periodical VAT returns
- No VAT deduction on the incoming invoices

Practical case 1
 Financial gain – corrections of the past



Practical case 1

Financial gain – corrections of the past

Results

- Good preparatory work
The customer had a clear detailed overview of the VAT amount of the corrections which could be recovered
- Clear communication with the VAT administration
- VAT administration performed a vat refund audit



VAT amount of 109.752,88 EUR was refunded



Practical case 2

VAT risk



Non profit organisation based in Belgium acting as a representative in the sports sector

- The members are international organisations, taxable persons established in Belgium and private persons established in and outside of Belgium
- There was no Belgian VAT number active
- Outgoing transactions
 - Invoicing of membership fees
 - Delivery of goods and personal services to members (e.g. participation fees, ...)
 - Re-invoicing of costs
 - Grants / sponsorships
- No submission of periodical VAT returns
- No VAT deduction on the incoming invoices
- No payment of VAT on the incoming invoices from service suppliers established outside of Belgium

Practical case 2

VAT risk

1. Analysis

- Meeting with the customer
 - All the outgoing transactions/income resources have been clarified
- Result
 - The association is a mixed taxpayer (all transactions subject to VAT except the exempted immovable rent (minimal amount))



2. Actions for the future

- Applying for a Belgian VAT number
- Correct invoicing of the outgoing transactions
 - with BE vat to members/customer established in Belgium/private persons
 - without BE to taxable persons established outside of Belgium

3. Analysis of the consequences for the past

- The majority of the members/customers is established in Belgium ► transactions should have been invoices with BE VAT
 - Risk for 1 year: 580.000 EUR payable VAT + 20 % fines (121.000 EUR) + interests (0,8 %/month)
- The association received invoices from foreign service suppliers for which BE VAT was due (but was not paid)
 - Risk for 1 year: 20 % fines on the non paid VAT (25.500 EUR)
- VAT deduction on the incoming invoices for 1 year: 129.500 EUR

➔ **Financial risk = 580.000 + 121.000 + 25.500 – 129.500 = 597.000 EUR**

Practical case 3

Lobbying and individual projects

Non profit organisation based in Belgium acting as an organisation for defending and promoting of mental health

- The members are taxable persons and organisations established in Belgium and Europe
- There was no Belgian VAT number active
- Turnover
 - Invoicing of membership fees
 - Separate fees for advisory work
 - Sponsoring
 - Fees for specific projects paid by individuals or by a consortium
- Costs: invoices from administrator based in other EU company
- No submission of periodical VAT returns
- No VAT deduction on the incoming invoices
- No payment of VAT on the incoming invoices from service suppliers established outside of Belgium



Practical case 3

Lobbying and individual projects

1. Conference call with the customer

- Determining the aim of the organisation: lobbying and representing and defending the interests of all members
- Defining the transactions that were covered by the membership fee: conferences, seminars, sharing of knowledge
- Defining all activities which were covered by a separate payment: projects requested by one or more members and paid by them, advisory work, ...
- Defining the incoming invoices where Belgian VAT was due



The association is a mixed taxpayer: only the membership fees are exempt and the largest part of the turnover is subjected to VAT

Practical case 3

Lobbying and individual projects

2. Actions for the future

- Contact the administration in order to propose a plan for rectification (3 years) – avoiding penalties by informing the administration spontaneously
- Applying for a Belgian VAT number
- Correct invoicing of the outgoing transactions:
 - with BE vat to members/customer established in Belgium/private persons
 - without BE to taxable persons established outside of Belgium
- Determining the vat due on incoming invoices (invoices administrator)
- Determining the global vat deduction

3. Analysis of the consequences for the past

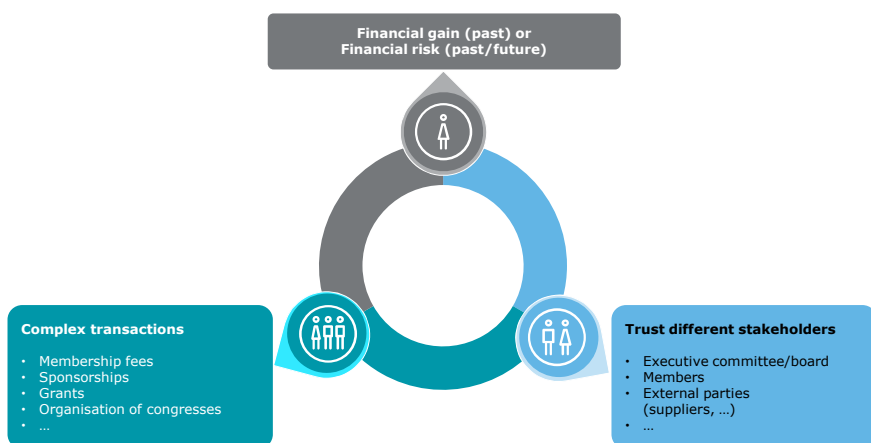
- Membership fees: exemption confirmed
- Individual projects and advisory work:

The majority of the customers is established in Belgium ► transactions should have been invoiced with BE VAT (VAT due, interests)

- How to invoice EU customers without VAT number? VAT is due in their country – the customer must contact his local administration and apply for a VAT number – the number must be communicated to the organisation and mentioned on the invoice
- The organisation should inform their members of these obligations and assist where required to avoid problems

Conclusion

Conclusion Correct VAT analysis of the outgoing transactions



Divers topics

Immovable rent – changes as from 01/01/2019

Optional taxable immovable rent

- New buildings
- B2B context
- Optional
- The renter has to use the building for its economic activities
- Revision period = 25 year



Short term rent

- Short term = max 6 months
- Not optional
- Not for immovable property used for habitation or for exempted transactions

Belgian implementation of the UBO register

What?

A central register managed by a department within the General Administration of Treasury containing data on Belgian companies and other entities (**associations**) and their underlying natural persons (ultimate beneficial owner)

Why?

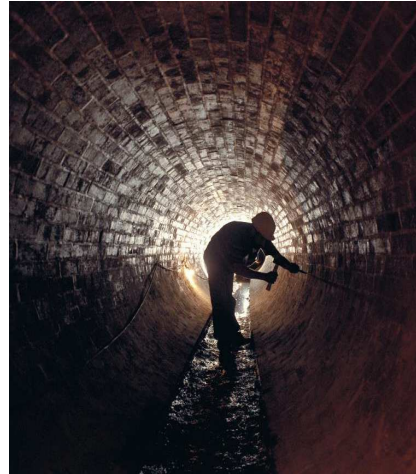
Implemented by the fourth Anti-Money Laundering Directive

When?

The data must be submitted to the register for the first time by 30 November at the latest

How?

On the platform MyMinFin (not available yet)



Contact

Deloitte Private | Accountancy & Advisory



Lore Germonpré
VAT Manager

Deloitte Private |
Accountancy & Advisory
Raymonde de Larocheaan 19A
9051 Gent

lgermonpre@deloitte.com

+ 32 9 393 75 35

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