

VAT opportunities and/or risks for associations + VAT impact of the new rules of short term rent as of 1/1/2019

- VAT impact of a correct analysis of your outgoing transactions – not always negative!

An (international) association is qualified as a taxable person according to the VAT law, even when the outgoing transactions are all exempt from VAT (e.g. membership fees) or not subject to VAT (e.g. grants...).

This implies that the rules according to the VAT legislation are also applicable to associations. An incorrect application of the VAT rules could on the one hand lead to big financial risks e.g. in case Belgian VAT was charged incorrectly, this VAT + 20% fines + interest could be claimed).

On the other hand, applying the correct rules and rectifying past incorrect transactions could lead to a big financial gain (e.g. rectification of the incorrect invoicing of membership fees).

Membership fees are only exempt from VAT in case **strict conditions** are fulfilled. One of the conditions is that the syndical objective (representation towards third official parties) has to be the **main goal** of the association towards the members. In case the main goal consists in knowledge sharing, publicity aims, networking aims..., the membership fees are in principle **fully subject to VAT**.

Supposing that all the outgoing transactions are subject to VAT (Belgian VAT or VAT of the country of the customer), the VAT paid on the corresponding incoming transactions is fully deductible (except for the general exceptions (e.g. restaurant costs)). By applying simple corrections of the outgoing invoices for the past 3 years (credit notes or corrective documents), all the VAT (except general exceptions) on the incoming invoices from the past 3 years is deductible! This could lead to financial gains up to thousands of euros.

A correct VAT analysis of the complex and diverse outgoing transactions for associations is decisive, certainly seeing that an incorrect implementation could lead to a financial risk or gain and the fact that the association has a large responsibility towards its members, executive committee and other third parties.

- Short term rent – changes as of 01/01/2019

The rental of immovable property, located in Belgium, for a period of no longer than 6 months will be subject to 21% Belgian VAT as of January 1st, 2019.

This new regime for short term rental will not apply for the rent of immovable property used for habitation and rent to any person who will use the property for their VAT-exempt activities (according to article 44 §2 of the Belgian VAT code).

This new regulation could have an impact if:

- Associations rent meeting rooms... to third parties (taxable persons) for a short period seeing that this could result in a changing VAT taxability and VAT deduction.
- Third parties are renting meeting rooms to associations who have no or a limited right of deduction (the charged VAT could be an extra cost).