VAT treatment of event organisation services (3/9/19)

On 22 January 2019, the Senate of the Latvian Supreme Court issued judgment SKA-76/2019 on case A420538012 concerning the VAT treatment of conference organisation services supplied by an Estonian company. The Supreme Court's findings about the principles for charging VAT on event organisation services is contrary to a ruling the State Revenue Service (SRS) posted on their website on 13 July 2018. This article compares the judgment and the ruling in terms of arguments for measuring the taxable amount of a supply in substantially similar circumstances.

The Supreme Court heard a dispute between the SRS and an Estonian-registered service provider over a refund of VAT on expenses incurred in Latvia when supplying a conference organisation service to a taxable person registered in another EU member state. Since the supplier treated the service as supplied in the customer's country of VAT registration (Estonia), the supplier was not registered for Latvian VAT and reclaimed input tax from the SRS under Directive 2008/9/EC.[1]

Since the conference was held in Latvia, the supplier had acquired hotel accommodation, catering and conference facility hire services from Latvian VAT-registered traders, and he had paid Latvian VAT on those services.

The SRS refused a refund of Latvian VAT on the grounds that the supplier was liable to register for Latvian VAT because his invoice to another Estonian company for conference organisation services included hotel accommodation, catering and conference facility hire services, which are linked to real estate and therefore treated as supplied in Latvia. This means the supplier cannot recover input tax under the directive.

Having assessed the substance of the transaction, the Supreme Court ruled in favour of the supplier on the grounds that the conference organisation service should attract VAT as a single service, and it is therefore treated under the general rule as supplied at the customer's permanent address. The Supreme Court stated that the conference organisation service is the main service, which is made up of multiple interlinked ancillary services that per se are not what the customer wants, but they are supplied for achieving a single overall purpose. Since the Estonian company's services are interlinked and objectively create a single, economically indivisible service, whose splitting would be artificial, the Supreme Court finds that none of the ancillary services (hotel accommodation, catering or conference facility hire) may be considered a standalone service.

In our practice we have seen SRS letters expressing the opinion that when event organisation services are supplied to taxable persons established in other member states or third countries, the supplier's invoices should separately show services, such as hotel accommodation, that are treated as supplied in Latvia, and Latvian VAT should be charged on them. This is because the SRS believes that according to their economic substance those services are not linked closely enough to the organisation of various events to objectively create a single, economically indivisible service.

According to the SRS ruling of 13 July 2018, if a taxable person supplies a single event organisation service and includes accommodation, catering and facility hire in its costs, the invoice issued to a taxable person

established in another member state should separately show any services whose place of supply should be determined separately under the VAT Act. Thus, based on the SRS opinion, an invoice for an event organisation service that is issued to a taxable person registered in Belgium should separately show the event organisation service, which attracts Belgian VAT, and it should also separately show the facility hire services, event ticket purchases and hotel accommodation services, which attract Latvian VAT. Although the ruling's background says it is a single service under a single contract and only the supplier's estimate gives the value of each element of the service, the SRS does not evaluate the customer's goals or whether he is ever interested in acquiring standalone elements of the service.

So the VAT treatments of substantially similar transactions by the SRS and by the Supreme Court are not the same. Yet the Supreme Court's assessment is consistent with judgments made by the Court of Justice of the European Union (CJEU) on similar issues. This means that traders seeking the SRS opinion on the VAT treatment of event organisation services and their constituent costs are advised to refer to the CJEU's case law and the Supreme Court's judgment of 22 January 2019.

[1] Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State