

VAT on event organiser activities (2) 1/24/22

This article completes what we wrote last week.

A single compound service or multiple independent services

If in organising events, the organiser deals with third parties in his own name, then for VAT purposes he will be treated as a customer for those third parties and as a supplier to his own customer. In that case, the service providers (hotels, transport companies, lecturers etc) will invoice their services to the event organiser, who will then invoice the service (services) to his customer.

The invoicing and VAT treatment depends on whether the event organiser is considered to be supplying a single compound service or multiple independent services. In the case of multiple independent services, the VAT treatment of each service should be assessed on its own. Services that are supplied separately may create a significant administrative burden on the supplier having to invoice services that are treated as supplied outside Latvia (e.g. foreign accommodation services).

Neither the VAT Act nor the Cabinet of Ministers' rules lay down criteria for determining whether a supply involves a single compound service or multiple independent services, so we are relying on findings made by the Court of Justice of the European Union (CJEU):

- Each service should be primarily treated as separate and independent.
- A single compound service is taken to mean several economically linked services of which one is the main service and others are ancillary services, or several services that are so closely interlinked that to split them would be artificial and contrary to their substance and economic nature as well as the customer's goal. A service is considered to be ancillary if it alone is not the customer's goal but rather a means of receiving the main service in the most comfortable way.

It is important to examine the elements that make up the transaction. If the event organisation service involves organising and running the entire event (creating the event programme, planning costs, organising, coordinating and running the event, finding and booking the necessary service providers, including transport, catering and accommodation for the event) then we believe the service of organising and running the event is likely to be the main service, supported by a number of ancillary services that in themselves are not the customer's goal. All other services, including catering, transport and accommodation, together with the main service, objectively constitute a single, economically indivisible service whose splitting would be artificial.

As always, each situation may be different and we need to assess each transaction on its merits.

What we also need to assess is whether in this particular situation the service qualifies for the general VAT treatment under section 19(1) or (2) of the VAT Act, or whether the transaction has the characteristics of business covered by the special scheme for travel agents, and whether there are grounds to believe that the service itself is an entertainment/education/culture event.

An education, entertainment or culture event

In the context of events, we always need to assess whether the service, according to its economic substance, is an event organisation service or whether we are talking about the event itself. Under section

20(1) of the VAT Act and article 53 of the VAT directive (2006/112/EC), services and ancillary services that are associated with ticket purchases for culture, arts, sports, science, education, entertainment or other events of a similar nature (e.g. trade fairs and exhibitions) and supplied to a taxable person, are treated as supplied where those events actually take place.

Neither the VAT Act nor the Cabinet of Ministers' rules define the terms "event" and "associated with ticket purchases". Education, entertainment or culture events constitute a single, compound service whose key elements are hiring the lecturer, the venue, and possibly some ancillary services (such as snacks and refreshments during the event). In her conclusions of 10 January 2019 on the CJEU's case C-647/17, Advocate General Eleanor Sharpston states that an event is a meeting of persons organised and planned for them to watch or take part in that activity or for a certain period of time. The activity within the meaning of an event must occur at a particular place and during a certain period of time, as well as on a particular topic. It is not necessary for events to be at least partly available to the public at large or received by unidentified (non-anonymous) customers. Any activities that lack at least one of these features are not covered by the term "event".

The term "ticket purchase" under Regulation No. 282/2011 means only services whose main feature is granting the right to attend an event. Thus, if the service provider controls the number of persons admitted to an event by charging an admission fee, the event is likely to be an education or culture event that involves ticket purchases.

Advocate General Eleanor Sharpston has stated in relation to this case that ensuring an event as such, that is, supplying a service that involves organising the event, is not covered by article 53 of the VAT directive (section 20(1) of the VAT Act). For example, if the service involves preparing a seminar for resale, or for an employer wishing to provide his staff with internal training, or for the owner of a conference centre wishing to distribute this event, then the service should be assessed according to the general principle (section 19(1) of the VAT Act). However, if the employer having acquired the event organisation service finds that the conference facilities booked for the event can accommodate more people than his headcount, and he decides to sell the remaining seats to one or more taxable persons and charges a fee for each participant, the service is treated as supplied where it actually takes place.

If the event is not the main element but is just one of several elements of the compound service, for instance, a business trip involving training/entertainment, catering, accommodation and transport, the service is likely to fall under section 19 of the VAT Act.

Travel services

If the main element of the event organiser's service is organising travel (providing travel opportunities), the service might be considered a travel service.

According to the CJEU's case law, a company does not have to be a travel agent or tour operator in order to qualify for the special VAT scheme for travel services. The special scheme is equally available to a company that is not a travel agent or trip organiser but carries out identical transactions as part of a different business. The CJEU's case law implies that the services supplied by travel agents and trip organisers commonly include a number of services, especially transport and accommodation, supplied within and outside the member state in which the travel agent's registered office or permanent establishment is located. The trip organiser uses goods and services supplied by other persons to ensure the tourism service supplied to the traveller.

Accordingly, in each particular case we need establish whether the event organiser is making any transactions that are essentially identical with a travel agent's or tour operator's transactions.

If the main part of the event organiser's service is to offer a service that involves the customer's staff staying in the destination country, transport services and, for instance, the provision of tickets for an event, and in order to supply his service, the event organiser mostly uses services supplied by other taxable persons, i.e. airlines, hotels and concert promoters, then the event organiser could be subject to VAT under section 136 of the VAT Act. The taxable amount of the tour operator's tourism service is the difference between the entire amount (excluding VAT) paid by the customer and the tour operator's actual costs incurred on goods and services supplied by other persons as long as those transactions directly benefit the traveller. The standard rate of Latvian VAT is charged on the service, yet the invoice for it will not show VAT separately. If the customer is a taxable person, he cannot deduct this input tax. If a tourism service is supplied within and outside the EU, then the part of the service supplied outside the EU may be zero-rated for VAT.

If, however, travel-related services using third-party services do not constitute the main part of the event organiser's compound service compared to his other services, and those travel-related services in themselves are not the customer's goal but rather a means of receiving the event organiser's main service, and the travel service is only ancillary to the company's own services, there are no grounds for charging VAT under section 136 of the VAT Act. In that case VAT is chargeable under section 19(1). The event organiser could try to recover VAT paid in other member states in organising the event.

We have noted before that Latvia does not have clear guidelines on the VAT treatment of a service that includes travel elements and essential services supplied by the event organiser. In this situation, certain member states permit the taxable person to split off the travel-related part of the service (transport, accommodation and tickets for a culture event) from organising the event. The event organisation attracts the general VAT treatment but the travel part of the service is eligible for the special scheme for tour operators.

As stated earlier, the special scheme for tour operators applies only if the event organiser offers the travel package in his own name, using goods and services supplied by other taxable persons to ensure the service.