



UIA
ASSOCIATIONS
ROUND TABLE

UIA Associations Round Table - Europe

Tuesday 12 November 2013
Pullman Hotel at Brussels Midi

Report on workshop: VAT

Facilitators: **Bird & Bird**

Brent Springael, Head of the Tax Department
and
Sylvain Lemaire, Associate in the Tax Department

Attendance: morning = 22; afternoon = 28

A Slide presentation was continuous during the workshop.

Sylvain started the presentation followed by Brent who did the second half and answered the participants' questions.

Due to the complexity of the subject, Brent decided to answer participants' questions as they arose. This was very interesting as it permitted participants to consider things from various angles and eventually ask questions related to their own needs.

The challenge in this type of presentation is to keep track of time which was done for both sessions.

Three Key Points were developed during the presentation:

VAT for Associations (VAT Status of Associations - European point of view)

Invoicing/not invoicing

Why is it important to handle the invoicing obligation properly?

There are mainly three categories of risk for the organization as well as for the members:

- financial risk: liability to pay the VAT that was not invoiced properly or that was unduly deducted
- administrative sanctions can amount to up to two times the amount that was due or that was unduly deducted
- criminal sanctions: if you do not properly fulfill your VAT obligation you may be fined between € 250,000 and € 1,250,000, as well as condemned to prison for eight days to three years

What is the reasoning and procedure to follow in order to avoid those risks?

- The first step is to determine your status from a VAT perspective. There are regular tax payer/exempt tax payer/non taxable persons
- The second step is to determine the status of your member.
- The third step is to determine the financial means of your association.

The question arose what is a service? The answer is simple and is whatever you supply that is not a good is a service.

Is there a direct link between the service rendered or the goods supplied to the members and the money received? If the answer is negative then it is not subject to VAT.

It is important to define precisely which activities are funded with the membership fee, and which are not. If some goods/services are funded by the membership fee and some are not, this would be a mixed VAT situation.

Care is needed because there are differences in VAT rules in several European Countries: Germany, Italy, Sweden, Switzerland are examples.

VAT status of your members

It is important to know whether the member is a tax payer or non tax payer in their country.

How to we get the relevant information from the member? The best option is to send them a questionnaire to define their VAT status, VAT number and VAT treatment in their country.

An important distinction to be made in order to decide which VAT rules to apply is if the member is:

- a non taxable person: in which case your own VAT rules are applied
- a tax exempt VAT payer: in which case VAT rules of the country of the member are applied

An important point is to check the validity of the VAT number communicated by the member. This should be done each time an invoice is issued and this can be done on the VIES website of the EEC.

Deduction of the VAT charges by the supplier

For the regular tax payer: 100 % of the VAT may be deducted.

For the exempt tax payer: no VAT paid may be deducted.

For the mixed tax payer: look at the proportion of the taxable activities compared to the total and apply this percentage to the VAT paid.

Sometimes it may be more interesting to analyze the cost structure and identify the cost that is directly linked to the taxable income and this VAT can then be deducted. This choice has to be requested from the tax authorities.

A last topic presented was the VAT treatment for subsidies. From a VAT perspective there are three types of subsidies:

- subsidies linked to prices
- subsidies that are linked to the activity of the association
- fake subsidies: in this case the organization receives a subsidy but has to render a service in return. A typical example is FOST PLUS who receives subsidies but renders services such as publicity on waste management.