



The Ultimate Cookbook

FOR CULTURAL MANAGERS

VAT FOR ARTISTS
IN AN INTERNATIONAL CONTEXT

2016

EFA RISE

The EFA RISE project runs from 2014-2017 with activities which act on exchange of expertise on audiences, management models, artistic and policy making choices (working groups, think tanks, conferences), development of skills (atelier and technical workshops with Pearle), incentive to cooperation (Artistic Collaborations WG) and engagement in policy making (Round Table with Culture Commissioner, Conferences).

EFA / PEARLE* partnership

In the frame of EFA RISE, EFA teamed up with its Synergy Partner PEARLE*-Live Performance Europe to improve knowledge on legal and managerial aspects of Cross-border cultural cooperation.

The partnership on capacity building in the context of internationalisation, cross-border cooperation and mobility encompasses workshops, booklets and four video announcements (visit www.efa-aef.eu or www.pearle.ws)

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Let's
cheer for
a simpler
legislation for
live performance

Prologue

The European Festivals Association (EFA) and Pearle*-Live Performance Europe have teamed up to improve knowledge on legal and managerial aspects on cross-border cooperation within the EFA RISE project, funded by the Creative Europe Programme from the European Union from 2014 until 2017.

Between April 2015 and March 2017, under the experienced guidance of legal and academic experts, several seminars and practical workshops were organised on a wide range of issues which either have a cross-border dimension or are of common interest to many cultural managers across Europe. Participants were invited in advance to bring their questions along. Both theoretical approaches and practical cases with suggestions for solutions are now compiled in this brochure.

Cross-border working, touring and international collaboration are found deep in the DNA of the live performance sector. Inside this "cook book" you will find that we have provided all the necessary ingredients and a number of recipes for cooking this "value added taxes on goods and services delivered by artists" dish. As for all dishes you can add spices, flavours or other ingredients, depending on your taste and needs.

We thank Dr Dick Molenaar of All Arts Tax Advisers and the Tax Law department of the Erasmus University Rotterdam and Bert Nijsten of the VAT-helpline who patiently explained VAT rules at workshops organised for EFA and Pearle* when undertaking cross-border cultural cooperation by different types of companies and organisations. Our thanks go to Dr Molenaar for authoring this brochure, added by examples and tips by Bert Nijsten.

Introduction

The activities of artists are very often not limited to their own country. Nowadays artists (and other cultural professionals) are highly mobile and readily accept a job offer or an activity abroad. Let's think for example of: the dancer on tour with a group for several weeks in different countries; the actor engaged by a theatre company in one country and invited as a guest dramaturge in another country; the musician playing in several orchestras and music ensembles in different countries, while rehearsing in yet another country; a pop group creating its own music, releasing albums, downloads and streams, and performing in various countries; the painter with an exhibition touring different countries, and many more.

All these situations show that this sector is vibrant and highly mobile and is not defined by borders. In all such situations it is possible that one will have to deal with the Value Added Tax, VAT, the tax that is added when goods or services are bought and sold. It follows that there will be some practical matters needing to be properly addressed.

In this brochure we will help you to understand the consequences of VAT in an international context and explain what you must do to comply with the European rules.



What is Value Added Tax (VAT)?

Value added tax (VAT) is a **tax** on all goods and services bought and sold within the EU.

Output VAT is the value added tax you calculate and charge on your own sales of goods and services if you are registered in the VAT Register. Output VAT must be calculated on sales both to other businesses and to ordinary consumers. VAT on sales between businesses must be specified in a sales document.

Input VAT is the value added tax added to the price when you purchase goods or services liable to VAT. If the buyer is registered in the VAT Register, the buyer can deduct the amount of VAT paid from his/her settlement with the tax authorities.



How is it calculated?

VAT is calculated on the **value added** to goods and services by a **trader at each stage of the production and distribution chain**. Contrary to sales taxes outside of the EU, VAT is a multi-stage tax charged at each stage of the supply chain.



How does the state collect the tax?

VAT is collected through a **system of partial payments**. It allows taxable persons (businesses identified for VAT purposes) to deduct from the VAT due from them the amounts of VAT which they have paid out for business purchases in the preceding (production) stage as “input tax”. This system ensures that the tax is neutral for taxable persons, regardless of the number of transactions.



The role of the European Union

VAT legislation has been harmonised to a great extent by the EU VAT Directive, although this Directive also contains some options and leaves room for exceptions and national interpretations, as a result of which national VAT legislations can still differ. The current (Sixth) VAT Directive is 2006/112/EC of 28 November 2006, which has been amended by several later Directives.



Who is subject to VAT?

According to the EU DIRECTIVE 2006/112/EC of 28 November 2006 a ‘Taxable person’ is **any person who, independently, carries out in any place any economic activity**, whatever the purpose or results of that activity.

- “**Any person**” means: physical person, legal person, incorporate, non-incorporate, institution, firm, club, association, non-profit institutions,..
- “**Independent**” means: not employed or not linked to an employer by a contract of employment
- “**Economic activity**” refers to the activity undertaken as producer, trader, supplier of services, ...



Remember!

Employees (people receiving a salary for their work), are excluded from VAT, when rendering services to others in the frame of their contract. While taxable persons for the VAT are companies and self-employed persons.



Who pays VAT?

Ultimately, VAT is paid by the **final consumer** because the supplier adds the VAT to the price of the goods or services. The supplier pays the VAT to the local tax authorities (after deducting the VAT incurred from its suppliers), but the final consumer cannot reclaim this VAT. This means that, in the end, VAT is in reality a consumer tax.

Manufacturer

e.g. theatre production company

Charges VAT and claims VAT back

Wholesales

e.g. concert hall, festival

Charges VAT and claims VAT back

Shop

e.g. ticket boot

Charges VAT and claims VAT back

Consumer

audience

↓ Pays VAT and DOES NOT claim VAT back



Is VAT always payable?

No. There are transactions (goods or services) which fall under a category exempt from VAT, for example for certain public interest activities such as medical care and school education, specific insurance cover, financial services and for some cultural services. The latter will be explained page 24 of this brochure. The advantage is that with a VAT exemption the price for the consumer will be lower, but the disadvantage is that with exemption it is not possible to deduct any VAT paid on the inputs for that VAT- exempt taxable person.

The following examples will make this clearer

For example

VAT-taxable organisation or person

A production house makes use of the services of a freelance/self-employed accountant for its bookkeeping. The accountant charges €1.000 at the end of the month. In Belgium e.g. the applicable standard VAT-rate on such services is 21%. The invoice of the accountant is in this case €1.210 (€1.000 + €210 VAT).

Because both are VAT-taxable organisations or persons, the actual cost for the production house is only €1.000, as it can deduct the VAT. The accountant has also an income of €1.000, as he has to pay the VAT received to the VAT administration in his country.

If for example, the accountant buys office furniture for a total amount of €121 (€100 for the goods + 21% VAT), then the accountant (upon proof of the invoice of the supplier) can deduct the VAT on his VAT declaration, which means that the actual cost for him is only €100.

Thus, when the accountant declares the VAT-transactions on the basis of the invoiced amounts (in our example the invoice to the production house) together with the goods and services that he bought, he will have to pay €210 minus €21 = €189 to the VAT administration or agency responsible for collecting the VAT.

Example of a non VAT-taxable organisation or person (like an employee, organisation receiving subsidies,...)

Let's look again the above example, but here the accountant is an employee working at the production house. The cost for the production house to employ the accountant is €1000. But as mentioned above employees are exempt from VAT.

If this employee buys office furniture for personal use, there's no VAT refund possible, because he is the final consumer. The furniture will cost him €121.



VAT in the EU

The EU VAT Directive does not fix what VAT rates must be applied by the EU Member States. However it does mention 15% as a minimum rate, with the option for EU Member States to set lower VAT rates (with a minimum of 5%) for certain goods and services.

VAT rates differ widely in EU Member States, which apply standard rates between 15% and 27% and lower rates between 5% and 10%.

The EU VAT Directive has listed **options** for the use of a **lower VAT rate**, including **admission to cultural performances and the services of performing artists**, which will be discussed in this brochure.

Accordingly, with a low VAT rate the price for the consumer will be lower, at the same time it will not have a negative impact on the deductibility of the VAT paid on the inputs for the taxable person. This might make a low VAT rate more profitable than exemption for persons and institutions working in the cultural sector.



Remember!

A taxable person is subject to VAT.

Who is a Taxable person? Any person who, independently, carries out in any place any economic activity.

Who pays? The final consumer (can be a private person or a company or organisation).

Is everything taxable? No. Some transactions are exempt (for example in relation to culture).

Cross-border supplies

of goods and services



Consumer tax

Because the VAT is a tax levied on consumers, cross-border supplies of goods and services should be brought under the **VAT of the country of the consumer**. This means that a VAT zero rate should be applied in the country of the supplier and that the recipient in the other country should file and pay the VAT to the tax authorities there. The EU introduced this principle in its VAT Directives: in 1993 for the sale of goods and in 2010 for the supply of services with the possibility to transfer the VAT to the other country following an administrative procedure (the 'reverse charge system'). But there are strict terms and conditions to be followed, so if the correct use of the VAT zero rate cannot be proven (i.e. by supporting documentation), the local tax authorities may enact a VAT assessment on the supplier, possibly accompanied by penalties and interest.



Remember!

There is a difference in the application of VAT between **goods** (physical) and **services** (non-physical).



Cross-border supply of goods

Delivering goods to another **VAT-registered person/company in the EU**

The supply of goods by a company from one EU Member State to a company in another EU Member State is **subject to zero per cent VAT in the first country**, when the goods are really sent to the other country. These cross border supplies between EU Member States are called 'intra-Community supplies'.

Steps to take

- 1) To apply zero-rated VAT, a supplier must have **written proof** that the goods have been transported to a recipient in another EU Member State with a **valid VAT registration number**.
- 2) This number can be checked on the EU website: http://ec.europa.eu/taxation_customs/vies/?locale=nl <http://ec.europa.eu> (or search with 'EU check VAT number').
- 3) It is necessary to print the result of the check and keep it with the invoice for the cross-border sale of the goods.
- 4) The VAT number of the recipient also needs to be mentioned on the invoice.

For example

*A German company sells an audio equipment system to a music venue in France. The German company needs the **written proof** of the VAT registration number of the music venue in France. The German company can then issue an invoice with VAT rate at zero.*

Delivering goods to another **non-VAT registered person/company in the EU**

The sale of goods to a **non-taxable person** in another EU country, such as a consumer or a company which is not registered for VAT, is **subject to VAT in that other country**.

This means that the supplier needs to register for VAT there ('distance selling').

The only **exception** to this is when the sales figures in that country remain **under a certain threshold**, because then the supplier can choose to levy the VAT in his own country. This threshold is not the same for every EU country, but varies from €35.000 per year in most countries, such as Austria, Belgium, France and Ireland to £70.000 in the UK and €100.000 in Germany, Luxembourg and the Netherlands (see the full list in the currencies of each country on www.vatlive.com / EU VAT / Distance selling EU VAT thresholds).

Smaller companies very often stay under this threshold per country, where medium size and bigger companies can easily go over but have the resources to file VAT returns in another country.

For example

Coming back to the example quoted above. If the French music venue is a non-taxable company (because it is public institution or public body), the German company has to register for VAT in France and as a consequence the VAT rate applicable in France to audio equipment will apply.

Delivering goods outside the EU

This is different from the so-called 'export' of goods, which is the supply of goods to a country outside the EU.

In that case, the zero rate applies to all sales, whether to companies or consumers, and no foreign VAT numbers or for VAT registration numbers are needed. When goods are sent outside the EU, EU VAT will no longer apply to them.

Documentation as evidence

The supplier needs to prove that the goods have actually been transported, both within and outside the EU. This can be done through providing some of the following documentation as evidence, which needs to be stored with the supplier's bookkeeping department: freight notes / customer orders / correspondence with customers / sales invoices / packing lists / bank statements. A combination of these documents provides stronger evidence than a single document.

In his **VAT return** the supplier must mention both **intra-Community supplies and exports**, so that the tax administration in his country is informed about the cross-border sale of the goods. **For the intra-Community supplies**, a **special 'listing'** is also needed, with which the supplier informs the tax authorities about the amount of sales per foreign VAT number. The tax authorities will check whether this VAT number is valid and will exchange this information with the other EU countries, so that they can verify whether the recipient has mentioned the invoice as intra-Community purchase in his VAT return there. This listing is obligatory, because tax authorities really are matching the information.

Importing goods from outside the EU

The import of goods from outside the EU and the purchase of goods from other EU countries also need to be mentioned in the VAT return, because **VAT is due** when the goods come from another country. Again, this is because the **VAT is a consumer tax** and therefore needs to be transferred to the country where the consumption will take place.

For example

A piano is bought directly from Japan and imported for use by an orchestra in Hungary. VAT will be due in Hungary, but as the orchestra is a non-taxable entity it will not be able to deduct the VAT.

Taxable persons can compensate for this with the deduction of the same amount of VAT as input tax, so that final result is zero. Countries do not ask for specific listings for purchases from other countries.

A record company in Hungary buys a piano from a Japanese company. The record company can deduct the VAT due, thus the actual price of the piano is free of tax.

The administrative procedure has existed since 1993. Before then, cross-border sales of goods had to be reported at the border when leaving the country and again when entering the next country, where approval was needed to apply the zero rate in the country of the supplier and the transfer of the VAT to the country of the recipient.

This part is
of specific
interest to festivals,
event organisers,
production
companies, ...



Cross-border supply of services

For **cross border services**, the 'place of supply' rules of Chapter 3 of the VAT Directive 2006/112/EC determine **which tax jurisdiction is allowed to levy VAT**.

The VAT Directive makes a **comparison** of the cross-border rules for goods, especially for the administrative procedure, but there are also **national differences**.

The reason for this is that, while services are usually not physically transferred from one country to another, foreign services are still used for goods and services sold to consumers in that other country, so the VAT should be transferred to that country to remain in line with the principle of the consumer tax. It was not before 2010 that a workable system for fixing the place of supply of services was introduced.



Then what are the rules covering services?

The basic rules for the place of supply are that services to:

- Other taxable persons (companies) in another country are deemed to be rendered in that other country (Article 44 VAT Directive). This is called **B2B** (business to business).
- Non-taxable persons are deemed to be rendered in the country of the supplier, without a threshold (Article 45 VAT Directive). This is called **B2C** (business to consumers).

For example

—> A Portuguese writer works for a company in Belgium and gives a workshop in Spain. The company in Belgium (which is the buyer of the service provided by the writer) is the place where the service takes place and where the VAT is charged.

—> A German artist performs in a festival in the UK where he charges for tickets independently and directly to the audience. In that case the German VAT tax will apply to the price of the tickets sold to the audience. The reason is that the German artist and the audience are both non taxable persons.



Thus

These basic rules apply regardless of WHERE the services are rendered in practice (in other words the so-called place of supply of services).



Practical application

This means that when an artist performs in another country for a company which has a valid VAT number, the artist's fee will be zero-rated for VAT, regardless of where the performance has taken place. The VAT will be transferred to the company abroad which will need to mention in its VAT return the purchase of the service and also the VAT due on that service (reverse charge system). But this company will be able to deduct the VAT as input tax at the same time in its VAT return, which leads to a result of zero. With this system, the VAT has been brought over to the country of the recipient, but is still neutral for taxable persons. In contrast with the sale of goods, no evidence needs to be provided to prove the actual place where the service is utilised.



In other words...

When a British freelance (self-employed) artist performs with a Belgian company which has a VAT number, then the British artist will be zero-rated for VAT. The VAT will be applied to the Belgian company, but the Belgian company can deduct it by declaring it in the VAT return. In this way the VAT is brought back to the UK.



Administrative requirements

The same administrative procedure applies as for the sale of goods.

The supplier of the intra-Community service needs to mention the turnover in his VAT return, in order that the tax administration in his country is informed about the cross-border sale of the goods.

Also the special 'listing' is needed on which the supplier mentions the amount of sales per foreign VAT number.

→ The tax authorities will check this VAT number and will inform the other EU countries, so that they can verify whether the recipient has mentioned the invoice plus the applicable VAT in his VAT return there.



Attention

This listing is essential because tax authorities really do check the information contained in it.

The **recipient of services** from other EU countries also needs to **mention the foreign invoices in the VAT return**, because VAT is due when the services come from the other country. Taxable persons can compensate this directly with the deduction of the same VAT as input tax, so that final result is zero.



Exceptions to the basic rules

Some exceptions to these basic rules in the EU Directive on the place of service supply (as listed below) which are also applicable to artists and their companies:

Intermediaries (Article 46 of the VAT Directive): the place of their services supplied to non-taxable persons is the place where the underlying transaction is supplied. For services to taxable persons the basic rule of Article 44 has to be followed.

Immovable property (Article 47): the place of services connected with immovable property is the place where the immovable property is located. This exception includes the services of experts and real estate agents, accommodation in the hotel sector and other sectors with similar functions, the rights to use immovable property and services regarding construction work, such as architects and on-site supervision.

Passenger transport (Article 48): this is the place where the transport takes place, proportionate to the distances covered (regardless whether the service is rendered to taxable or non-taxable persons). The result for cross-border transport will be that VAT from various countries will be charged.

Admission to cultural, artistic, sporting, scientific, educational, entertainment and similar events (Article 53): this is the place where such events actually take place (regardless of whether taxable or non-taxable persons attend the events).

Services related to cultural, artistic, sporting, scientific, educational, entertainment or similar activities, such as fairs and exhibitions, to a non-taxable person (Article 54): this is the place where such activities actually take place.

Restaurant and catering services (Article 55): this is the place where the services are physically carried out (regardless of whether taxable or non-taxable persons use these services).

Short-term hiring of transport (Article 56): this is the place where the means of transport is actually made available to the customer (regardless of whether taxable or non-taxable persons use these services).

For example

Article 47

—> A Swedish theatre touring company books 20 rooms for a performance in Madrid, Spain. The touring company will pay the VAT in Spain, because that is the country where the hotel is based. Once the touring company is back in Sweden it can reclaim the VAT by sending the hotel invoice to the administration responsible for international VAT.

Article 53

—> An Italian theatre has a sponsor from France (the sponsorship deal includes 200 tickets to performances for his business relations). The Italian theatre will charge the tickets with VAT applicable in Italy.

—> A cultural manager attends a conference organised from an organiser's office in the UK while the conference itself takes place in Rotterdam. The British organiser has to charge VAT on the entrance tickets at the rate applicable in the Netherlands.

Article 54

—> a number of Belgian artists are performing at a private event in France; consequently that performance is subject to French VAT.



Attention

Read the following carefully if you are organising events abroad or touring abroad

These exceptions can make it complicated for service suppliers within the EU, because they may have to register for VAT purposes in one or more other countries when they provide their services there.

This is the case, for instance, for a concert promoter organizing a concert in another EU country.

This concert promoter needs to register with the tax administration in the other country, file tax returns and pay the VAT to the authorities there. This leads to more administrative work and expenses than with the reverse charge system.

From the other way round, it is also complicated for companies visiting another EU country and using one of these services under the exceptions, because the 'reverse charge system' cannot be used and VAT needs to be charged in that other country.

Companies therefore need to pay foreign VAT, but VAT should be neutral to them, so they should have the right to reclaim this VAT in the other EU country. This procedure was simplified in 2010, because the refund application can now be done electronically by companies in their own country and will be sent through by the tax authorities to the other EU country, which means that it has become a 'one-stop-shop system'. Even so, it is more work than the reverse charge system.

Low VAT rates

Every EU Member State has a so called 'normal' or 'standard' VAT rate, but the EU VAT Directive 2006/112/EC gives EU Member States the option to bring specific goods and services under a VAT rate that is lower than the normal rate.

This has been mentioned in Article 98 of the VAT Directive and specified in its Annex III.

Member States are not obliged to use the lower rate but may choose to do this. This option may be justified on the grounds that the EU finds those goods and services so important for the citizens of the Member States that they should not be taxed at the normal rate, but can be taxed at a lower rate.

The options for the lower VAT rate applicable to culture are the following two:

Annex III

List of supplies of goods and services to which the reduced rates referred to in Article 98 may be applied

(7) admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities

(9) supply of **services by** writers, composers and performing artists, or of the royalties due to them

There is **no guidance from the EU about these options**, so it is up to the EU Member States to interpret the text and choose whether or not to transfer them into the national VAT law. The EU Member States may make use of these options as follows (see page 27):

- 19 from 28 apply the low rate to the admission to shows, etc.
- 11 from 28 apply the low rate to the supply of services by writers, composers and performing artists, etc.

The overview can be found on page 27 of this brochure.



About low VAT-rates for culture

This difference between the two options is understandable, because the use of the low rate for **admissions directly affects the consumers (the audience)**, who pay less for the tickets for performances and other cultural events. **This is a tax incentive** to encourage consumers to go to cultural activities. This option has proved to be effective in the countries using the low VAT rate.

On the other hand, the **low VAT rate for writers, composers and artists** is often charged to companies which are VAT-registered and so are able to deduct this VAT as input tax to achieve VAT-neutrality. In such case the impact is negligible. However, when the performances or other artistic services are directly delivered to consumers or to VAT-exempt companies the low VAT rate will have a positive effect.

There are
many variations,
including
the use of
a VAT exemption,
which will be
discussed
in the following part.

VAT exemptions

The EU VAT Directive 2006/112/EC also provides for many exemptions for goods and services. These are partly obligatory and partly optional for EU Member States.

The reason for these exemptions is that the EU Member States find these goods and services so important that citizens should not be prevented from making use of them through the levy of VAT. The exemptions, such as for health care and education, are listed in Title IX of the Directive and the exemption for cultural organizations can be found in Article 132(1)(n):

Exemptions for certain activities in the public interest

Article 132

1. Member States shall exempt the following transactions:

(n) the supply of certain cultural services, and the supply of goods closely linked thereto, by bodies governed by public law or by other cultural bodies recognised by the Member State concerned

Examples of services and goods: ticket sales, publicity, catering, sales of books or cds, subcontracting

Supporting the arts through VAT-exemption

This text provides countries with the cultural exemption in their own VAT legislation, thereby allowing them a lot of room for manoeuvre. First, it mentions the supply of 'certain' cultural services (the Directive itself does not give guidance about which services should be included or excluded), and second, only cultural bodies which are recognised by the country are able to make use of the exemption. Thus it makes the obligatory exemption optional in practice, which can be seen in the table on page 27 because only 14 of the 28 EU Member States are using this exemption for cultural organizations, and many of them also only make partial use of it in combination with low and normal rates of VAT.

Pros and cons of VAT exemption

When countries are using the VAT exemption, they often bring subsidized concert halls, theatres, museums and other cultural institutions under this exemption. The result is that these institutions do not need to charge VAT to their visitors and therefore their ticket prices may be lower than normal.

While this makes the entrance more affordable, this effect is partially mitigated by the loss of the deductibility of the input tax, which is connected to the exemption.

Because of that, the costs will be higher for an exempted cultural institution than if they had been entities liable to pay VAT.

A large portion of the costs will be salaries on which no VAT is due, but there are still many other direct and indirect costs from which VAT cannot be deducted.

The result is that an exemption is financially more advantageous than VAT at the normal rate, but often less advantageous than VAT at a low rate, because then the input tax can still be deducted.

A conflict between VAT systems arises when an artist or company is a taxable person in his/its country but the recipient in the other country is VAT-exempt there.

The solution for this may be that the exemption in that other country can also be applicable to the foreign artist or company, which is the case in, for example, Germany and France. The European Court of Justice has decided this in the Matthias Hoffmann case of 3 April 2003, C-144/00.

The result is that the reverse charge system applies in the country of the artist or company (supplier), which means that the service is zero-rated there, but after the service has been brought over to the other country, no VAT is due there because of the exemption. In that case, no listing is needed in the country of the supplier. The artist or company retains full deductibility of input tax of the expenses in his country.

There may be other situations where the performance organizer's exemptions cannot be transferred to the artist; in such cases, the VAT will be an extra cost. But that will not make any difference for artists from the country itself, nor for artists from other countries, because the VAT needs to be levied in the country where the consumption will take place, in accordance with Articles 45 and 54 of the VAT Directive.

Tax rates

and exemptions for culture in EU countries

These are the VAT rates and exemptions in the EU Member States for the year 2016

The table shows the variations in rates and exemptions of the VAT for cultural activities in the EU and in the Euro-zone.

In border regions especially, such as the borders between Luxembourg-Germany-France-Belgium, Austria-Czech Republic-Slovakia and Austria-Slovenia-Croatia, one could argue that these differences lead to distortions on the market for culture and audiences. However the pure market mechanism such as for comparable goods do not work in the same way for culture. Moreover the amounts are so limited that it hardly has effect on economy.

	VAT rate		Admission for shows	Artists, writers, composers
	General	Low		
Austria	20%		10% / 13%	low / exempt
Belgium	21%		6% / 12%	low (6%) / exempt
Bulgaria	20%	9%		normal / exempt
Croatia	25%		5% / 13%	low / normal
Cyprus	19%	5% / 9%	low (5%) / exempt	low (5%)
Czech Republic	21%		10% / 15%	low (15%)
Denmark	25%	-		normal / exempt
Estonia	20%	9%		normal
Finland	24%	10% / 14%	low (10%)	low (10% / exempt
France	20%	2.1% / 5.5% / 10%	low (5.5%) / normal / ex	low (5.5%) / ex
Germany	19%	7%		low / exempt
Greece	23%		6% / 13%	normal / exempt
Hungary	27%		5% / 18%	low (18%) / normal
Ireland	23%		4.8% / 9% / 13.5%	low (9%) / exempt
Italy	22%		4% / 5% / 10%	low (10%)
Latvia	21%	12%		normal / exempt
Lithuania	21%		5% / 9%	normal / exempt
Luxembourg	17%	3% / 8%	low (3%)	normal
Malta	18%		5% / 7%	low / normal
Netherlands	21%	6%		low
Poland	23%		5% / 8%	low (8%)
Portugal	23%		6% / 13%	low (13%) / normal / exmpt.
Romania	20%		5% / 9%	low (5%)
Slovakia	20%	10%		normal / exempt
Slovenia	22%		9.5%	low (9.5%)
Spain	21%	4% / 10%	normal / exempt	normal
Sweden	25%		6% / 12%	low (6%)
United Kingdom	20%	5%		normal

Subsidies and VAT

Many cultural institutions receive funding from their local or national governments or from other private or public funds. In general, these funds can be called subsidies which are normally not taxable for VAT because the recipient does not supply services to the provider of the subsidy. This means that there is no direct 'supply of service – payment' connection between the two parties involved and therefore no VAT is applicable.

Subsidies as sole income source or not

If subsidies constitute the sole income source, then the recipient would not be active as an economic trader (taxable person) and therefore would not be entitled to reclaim any VAT due on its expenses (input tax). But if income sources normally include not only subsidies but also the sale of goods or services, thereby incurring VAT to be charged (or 'reverse charged' for cross-border work), then the recipient of the subsidies will be active in the economic market as a taxable person for VAT purposes, and therefore entitled to deduct the input tax on the expenses.

If all projects are closely connected with each other, the full input tax can be reclaimed, while only the earnings from the supply of goods and services are liable for VAT, the subsidies not being taken into account. If projects are different from each other, have no real connection and if some projects would not have VAT-liable earnings, then neither the input tax of those projects nor a portion of the overhead expenses may be deducted.

Subsidies are only VAT taxable if a government, or private or public fund, receives a service or good in direct return, or if there is a price subsidy having a direct effect on the price of the goods or services. But, as a general rule, subsidies are not liable to VAT, even when they are applied to specific activities.

Tips

These are a number of questions that can help you to determine if VAT plays a role in what you are buying, delivering, supplying, acquiring,...



Is it considered valuable?

Meaning, is there an agreement or contract by which one party supplies goods and/or services, whereby the other party gives something in return (money, in general but not necessarily, it can also be in kind).

If yes → taxable transaction | If no → non-taxable transaction



Is the person/institution/firm/club/association a taxable person?

Meaning, any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity.

If yes → VAT is due



What's the nature of the transaction?

What → has an impact on VAT-rate

- Supply of goods (national, intra-community or import) ? (tangible goods)
- Supply of services ? (any transaction which does not constitute a supply of goods)

Where → defines in which Member State the VAT is due

When → defines when the VAT is due

- Time of supply or payment



Are there exemptions?

Exemptions must be strictly interpreted, since they are an exception to the rule that all transactions are submitted to VAT. Each transaction must be carefully examined

- If exempted → non-taxable transaction
- If not exempted → taxable transaction (at the appropriate rate in the appropriate country)



What's the taxable base and appropriate VAT-rate?



KEY elements which you shouldn't forget to mention on your invoice:

- Date of issue
- Unique sequential number identifying the invoice
- Customer's VAT identification number (if the customer is liable for the tax on the transaction)
- Customer's full name & address
- Supplier's full name & address
- Description of quantity & type of goods supplied or type & extent of services rendered
- VAT rate applied
- VAT amount payable
- The value amount of the goods or services
- The total VAT and the total amount of value of the goods and services
- The bank account number on which the payment is due

If applicable:

- Date of transaction or payment (if different from invoice date)
- Breakdown of VAT amount payable by VAT rate or exemption
- Unit price of goods or services – exclusive of tax, discounts or rebates (unless included in the unit price)



CONTACT the tax office in your country for the administrative formalities to comply with, including:

- Declaration of output and input VAT to the tax administration in your respective country
- Period in which the declaration on VAT is happening (monthly, quarterly)

Summary

The Basic Principle

Within the EU, VAT is a consumer tax, but levied from companies and self-employed persons. The latter are under the obligation to charge VAT on every sale of goods or services and can reclaim the VAT due on their purchases, so that they only have to pay the balance to the tax administration and remain themselves VAT- neutral. However, consumers will have to pay the VAT due on their purchases and cannot reclaim it, so the tax will ultimately be charged to them. Employees are kept out of the VAT system. The VAT rules within the EU are coordinated in the VAT Directive 2006/112/EC.

Cross-Border Supplies

Cross-border supplies of goods and services follow this same principle, which means that, as far as possible, the applicable VAT rate should be that of the country of the recipient. The only exceptions to this rule are cross-border sales of goods to consumers below a certain threshold, cross-border services to consumers and for some exceptions for specific services. These exceptions make the VAT system somewhat complicated, but any other system would be just as complicated.

The Reverse Charge System

The reverse charge system is very helpful in case of cross-border sales of goods and the supply of services between taxable persons, because then the transfer of the VAT to the country of the consumer can be settled administratively. But, to ensure the reliability of this system, both supplier and recipient need to follow strict rules. Therefore VAT numbers need to be exchanged and verified, VAT returns need to be filed correctly and separate listings with turnover per VAT number need to be sent to the local tax administration.

Incentives for the Cultural Sector

→ the low VAT-rate

The cultural sector is able to make use of two profitable options provided for in the EU VAT Directive for the lower VAT rate, although some EU countries have chosen not to implement them in their national VAT legislations. In the particular case of applying low rates of VAT for admission to shows and live performances makes the ticket prices cheaper for consumers and therefore it is easier to attract

audiences. The low VAT rate has no influence on the deductibility of input tax on the expenses.

—→ VAT-exemption

Title IX Chapter 2 of the VAT Directive provides for a number of obligatory broad exemptions from VAT, but in practice it has been found that the exemption provided in Article 132(1)(n) for the supply of cultural services and linked goods is regarded as optional. In the table on page 27 above it can be clearly seen that this exemption is invoked by only by half the EU Member States and even then not for every cultural expression. One positive outcome from this exemption is that when no VAT needs to be charged, the price to the consumer is reduced, but on the negative side it is not possible for the provider to deduct the input tax. This often makes VAT exemption less profitable than charging a low VAT rate.

A Special Note on Subsidies

Subsidies are normally not liable to VAT, because no service is being provided directly to the government or private or public fund. But if subsidies provide the sole income, then there is no economic trade, therefore the input tax on the expenses is not deductible. The case is different when in addition to a subsidy there is normally also the sale of goods and services, because then normal economic trading conditions apply and the input tax becomes deductible. This circle is completed when there is a close connection between all projects of the cultural institution or company.

Annex

Festivals, organisers, theatres, concert halls and others come across specific items in relation with VAT. By way of example the terms mentioned refer to the Belgian VAT legislation to make the example clear. Please check with the VAT legislation in your respective country :

1. Ticket sales (admission, season tickets, ...): is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies according to art 44, § 2, 9°, when it concerns a concert or play and when the institution is recognised by the competent authority and when the income received is exclusively intended to cover the costs thereof.

2. Allowance/fee/payment received from a third party organiser in return for a performance (a commission on touring shows, in the meaning of A-B circuit): is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies according to art 44, § 2, 8°, when it concerns services to (various) organisers by (various) artists.

3. Allowance/fee/payment received as subcontractor from main contractor, for example the band receiving the payment from an impresario and not directly from the concert venue (in the meaning of A (band)-B (impresario)-C(exempt from VAT organiser) circuit): is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. However in the case of subcontractor exemption will not apply because the condition of direct relationship between organiser and band is not fulfilled.

4. The sale of programs at a concert or show: is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. Art 44, § 2, 9° exempts the organisation of performances of dramatic work, ballet or films, exhibitions or conferences (as well as the supply of goods closely linked to these services) by institutions recognised by the competent authority. A condition is that the income received is exclusively to cover the costs thereof.

5. The sale of CDs or books: is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. Does exemption apply? NO. Because it is neither a service to an organiser or publisher nor is it part of the organisation of a performance or so. Thus VAT will apply.

6. The storage of articles of clothing, garments in the cloakroom: is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies according to art 44, § 2, 9°, when it concerns a concert or play and when the institution is recognised by the competent authority and when the income received is exclusively intended to cover the costs thereof.

7. Revenues from the sales of beverages and snacks in the foyer: is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. Does exemption apply? NO. Because it is neither a service to an organiser or publisher nor is it part of the organisation of a performance or so. Thus VAT will apply. (however in some countries, such as Belgium, a bar run by the organiser of a performance is exempt under specific conditions).

8. Publicity or sponsorship (in the meaning of receiving visibility/publicity): is it taxable or not?

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. Does exemption apply? NO. Because it is neither a service to an organiser or publisher nor is it part of the organisation of a performance or so. Thus VAT will apply.

9. Sponsorship in the meaning of patronage (mécénat): is it taxable or not?

- In principle: it is not taxable with VAT as it concerns it non-taxable transaction. The condition that the supply or acquisition must be for (valuable) consideration is not fulfilled.

10. General subsidies or a donation: is it taxable or not?

- In principle: it is not taxable with VAT as it concerns it non-taxable transaction. The condition that the supply or acquisition must be for (valuable) consideration is not fulfilled.

11. Expenses not charged or costs reimbursed

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. Does exemption apply? That depends. For example musician A charges his fee to musician B and musician B charges his fee (including the fee of musician A) to the organiser C. In the relation A – B VAT is due (because B is not an organiser). In the relation B – C VAT is exempt (art 44§2, 8°). If A charged C directly this fee would be exempt as well.

12. Amounts paid to participate in a fundraising dinner: is it taxable or not?

a) In the case the sum paid is a compensation for the dinner

- In principle: it is taxable with VAT (see the applicable rate on page 27)
- BUT! It is not taxable if exemption applies. Does exemption apply? NO.

b) In the case the sum paid is a donation

- In principle: it is not taxable with VAT as it concerns a non-taxable transaction. The condition that the supply or acquisition must be for (valuable) consideration is not fulfilled

13. Co-productions: is it taxable or not? The answer will depend on:

- The legal relationship (content of the contract) between the partners
- The VAT rules applicable in the respective country of the partners
- The kind of services or goods supplied

Therefore the taxable nature of each transaction has to be determined on a 'case by case' basis.

Usefull addresses and links

EU check VAT number

http://ec.europa.eu/taxation_customs/vies/

VAT thresholds in EU countries

www.vatlive.com

EU information including VAT rates, VAT invoicing rules

https://ec.europa.eu/taxation_customs/business/vat_en

TIC - Tax information communication database

http://ec.europa.eu/taxation_customs/tic/

Links to national tax websites

http://ec.europa.eu/taxation_customs/national-tax-websites_en

Glossary

VAT - Value Added Tax

EU - European Union

B2B - Business to Business

B2C - Business to Consumer

Good - Any tangible property, including gas, electricity, heat, refrigeration ..

Service - Any transaction which does not constitute the supply of a good (and certain other transactions)

VAT return - A VAT return shows how much VAT is due on Sales (output VAT) and how much VAT can be reclaimed on Purchases (input VAT) dictating how much is then paid or reclaimed from the tax office for a given period

Reverse charge mechanism - The Reverse Charge moves the responsibility for the recording of a VAT transaction from the seller to the buyer of a good or service. That way it eliminates or reduces the obligation for sellers to VAT register in the country where the supply is made. If the supplier incurs any local VAT on costs related to the service or goods supplied under the Reverse Charge, they may recover them through an EU VAT reclaim

Place of supply of goods or services - the place where goods or services are actually delivered or taking place

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services

Case C-144/00 Matthias Hoffmann case of 3 April 2003

European Festivals Association

The European Festivals Association (EFA) has been uniting distinguished music, dance, theatre and multidisciplinary arts festivals from Europe and beyond for more than 60 years since its foundation in Geneva, Switzerland, in 1952 as a joint initiative of the eminent conductor Igor Markevitch and the great philosopher Denis de Rougemont.

As the umbrella organisation for arts festivals across Europe and beyond EFA has grown from 15 festivals into a dynamic network representing about 100 music, dance, theatre and multidisciplinary festivals, national festival associations and cultural organisations from 40 countries. EFA's members are the core element that make the Association an open, influential, international place for any festival that wants to be part of a bigger festival community.

Festivals have been working across borders and cultures since the dawn of festivals, before Europe was a project of unity, before Europe was a space that aimed to facilitate cross-border exchanges.

EFA brings festivals together to inspire one another, fosters an exchange of knowledge, helps festivals to speak with one strong voice to shape policy developments, increases networking opportunities, and keeps festivals informed about issues at stake in the festival and cultural world, all under the flag of artistic excellence and internationalisation.

EFA and its members are connected by common beliefs that guide and strengthen the work of festivals in their local contexts. EFA joined PEARLE* in 2005.

www.efa-aef.eu

Pearle* Live Performance Europe

Pearle*-Live Performance Europe is the European federation representing through its members and associations some 7,500 theatres, theatre production companies, orchestras and music ensembles, opera houses, ballet and dance companies, festivals, concert halls, venues and other organisations within the performing arts and music sector across Europe.

Pearle*-Live Performance Europe acts as a forum for exchanging information of relevance to members, for sharing experiences in cultural management and technical skills, for supporting and assisting the formation of employers' associations, in addition to serving as the body to make representations to the European Commission and any other authorities whose deliberations may affect the work of the Performing Arts in Europe.

The Performing Arts Employers Associations League Europe, or Pearle* is an international not-for-profit organisation in compliance with Belgian law.

The aim of this non-profit making international non-governmental organisation is the establishing of a stable environment by supporting sustainability and promotion of the Performing Arts across Europe.

Its objects are as follows:

- the exchange of information, experiences and ideas of common interest to members working in the Performing Arts sector
- the obtaining of information concerning all European issues relating to members' interests
- facilitating collective decisions in areas of common interest
- expressing Pearle*'s views in discussions with bodies whose activities are relevant to Pearle*
- lobbying in accordance with collective decisions reached by the members' representatives to EU and other authorities
- carrying out all activities connected with the above mentioned activities.

A substantial part of the activity of contemporary artists, festivals, venues, touring and production companies, in the live music and performing arts encompasses cross-border cultural cooperation.

Too often when working together on an international artistic programme, unexpected problems arise based on misunderstandings or wrong assumptions about European legislation and procedures ruling bureaucratic aspects needed for this international cooperation to be the best collaboration it can be. This happens for different reasons: a lack of knowledge of the situation in or from another country, differences in administrative practices, forms which are missing, unclear and hermetic language in official texts, etc. For everyone working on the managerial side in the sector, these situations are recognizable and known. What is more regretful is that they may result in performances not being able to take place, financial losses (which might have been avoided) or missed opportunities to save costs or have additional income.

Under the auspices of legal experts with an in-depth understanding and knowledge of the sector, a series of booklets are designed to help you navigate these important procedures on the following topics:

- Social security
- Taxation
- Value added tax
- Copyright

Calling it ourselves as an inside joke, **What you didn't know about Europe - The Ultimate Cookbook for Cultural Managers**, the booklets aim to explain in an easy to read and understandable way what one should know and remember of each specific theme, in other words, what are the ingredients and how to cook the recipe by providing some advice or warnings.

EFA /PEARLE* partnership in the context of the EFA RISE project
EFA - European Festivals Association
PEARLE* - Live Performance Europe



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