

A Dutch ensemble comes to perform in the UK. Does the group need to charge VAT on their performance fee?

Tax case: A Dutch ensemble comes to perform in the UK. Does the group need to charge VAT on their performance fee?

Answer: A Dutch ensemble does not have to charge Dutch VAT on their fees for performances in the UK. I will explain why:

1. UK promoter is registered for VAT

Then the UK promoter can provide the Dutch ensemble with its UK VAT number, which the Dutch ensemble needs to mention on its invoice. The Dutch ensemble can leave out the Dutch VAT, which means 0% btw, because under the reverse charge system, the VAT is been transferred to the UK promoter. This is mentioned in Art. 6(1) of the Wet op de omzetbelasting in the Netherlands and comes from Art. 44 of the EU VAT Directive.

The Dutch ensemble needs to verify the UK VAT number on the EU website http://ec.europa.eu/taxation_customs/vies/?locale=nl. I advise them to make a PDF of the result and keep this attached to the invoice.

Furthermore, the Dutch ensemble has to mention this income at question 3b of the Dutch btw-aangifte (VAT return) + make an ICP opgaaf (listing).

The UK promoter will have to report the import VAT, but can reclaim this as input tax at the same time, so his balance is nil.

2. UK promoter is not registered for VAT

Then the main rule would be that Dutch VAT would be applicable for this income, but this is overruled by an exception in the VAT rules that artistic services for a non-taxable person are deemed to be rendered at the place where the actual activities are taking place. When the performance is in the UK, then the service for VAT purposes is also in the UK. This means that no Dutch VAT is due (0% btw), but UK VAT applies. This is mentioned in Art. 6e(1) of the Wet op de omzetbelasting in the Netherlands and comes from Art. 53 of the EU VAT Directive.

In this situation, the administrative rules are not applicable, so need to mention a UK VAT number on the invoice and also nothing on the btw-aangifte and or ICP-opgaaf. The service falls outside the Dutch VAT system.

The UK promoter may have to report the import VAT and cannot reclaim this because it is exempted, but then the result is the same as for UK services and VAT.

Conclusion: no Dutch VAT on any performance in the UK, but the administrative consequences depend on the VAT status of the UK promoter. And the 0% Dutch btw (VAT) does not have any influence on the input tax on the expenses of the Dutch ensemble, because that will still be deductible as normal.

With best regards,

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