

The Ultimate Cookbook

FOR CULTURAL MANAGERS

VAT
IN AN INTERNATIONAL CONTEXT

2021

(an update of the 2017 edition)

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EFA RISE 2

The EFA RISE 2 project runs from 2017-2021 and aims to build an engaged, cross-generational, multidisciplinary and cross-sectorial community through ongoing activities such as the Festival Knowledge Centre, the Festival Places Portraits videos, the EFA Festival in Focus interviews, the Culture Commissioner Round Table and the annual Arts Festivals Summit. Events specifically targeted at young professionals include the *Ateliers* for Young Festival Managers and Production Managers and workshops with Pearle* on European legislation. To encourage cooperation in the community EFA will work with the Future Heritage Ambassadors, the In Situ Insight delegations to festivals and the Arts Festivals Council. The focus will go from the human capital at the centre of festivals to their connection with audiences and places, and will culminate with the connection between festivals and artists to build dialogue, empowerment and empathy. By acting on the quality of long term engagement EFA will have a long term impact on society.

EFA / PEARLE* partnership

In the frame of EFA RISE (2014-2017) and EFA RISE 2 (2017-2021), EFA teamed up with its Synergy Partner Pearle*-Live Performance Europe to improve general knowledge of the 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: <https://www.efa-aef.eu/en/initiatives/efa-rise-2/>
or <https://www.pearle.eu/activity/efa-rise-efa-rise-2-apr-2014-mar-2021>

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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. The cooperation continued in EFA RISE 2 from 2017 to 2021.

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 booklet.

Cross-border working, touring and international collaboration are found deep in the DNA of the live performance sector. Inside this cookbook 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 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 booklet 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.

The VAT legislation applies to the Member States of the EU, but has to be implemented by these Member States to make the rules effective. In case of differences between national law and the EU Directive, VAT can only be levied based on national law, but citizens and companies can refer to the EU Directive if this is more favourable for them.

For transactions with third countries other rules may apply which will be presented further in this booklet where relevant. This is especially relevant since 1 January 2021 when the UK has left the EU and became a third country, as Switzerland, Norway, the US and others are already for many years.



Who is subject to VAT?

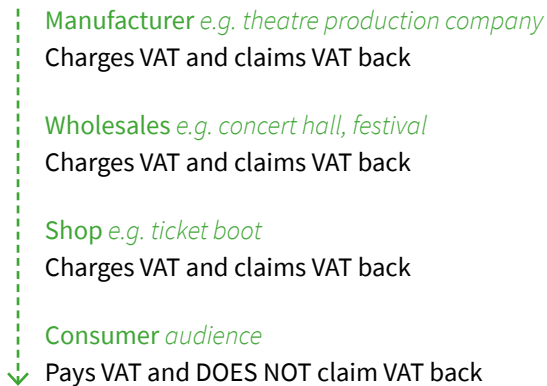
Taxable 'persons' for VAT purposes are companies and self-employed persons, because they are selling goods and rendering services for which they receive payments.

Employees (thus people receiving a salary for their work), are excluded from VAT, even if they are rendering services to others.



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.



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 in Section 3 of this booklet. 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 booklet.

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: https://ec.europa.eu/taxation_customs/vies/?locale=en or https://europa.eu/youreurope/business/taxation/vat/check-vat-number-vies/index_en.htm.
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 Member State, such as a consumer or a company which is not registered for VAT, is **subject to VAT in that other country**. Unless when the sale of goods is less than € 10.000 for all EU Member States together, because then the VAT of the residence state of the supplier still applies.

But the supplier does not have to register for VAT in the other EU Member States, but can use a One Stop Shop (OSS) system of the tax authorities in his own residence state to comply with the tax liabilities in the other EU Member States. Then the VAT rates of the other EU Member States can be applied and the VAT can be paid to the own tax authorities, who will pay this through to the other States.

Delivering goods outside the EU

This is 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. This is the case for the UK after the Brexit since 1 January 2021, as it is already for years for Switzerland, Norway, Iceland, the USA and other states.

Documentation as evidence

The supplier needs to prove that the goods have actually been removed, **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.

For example

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 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 Sweden 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.*



Practical Application

These basic rules apply **regardless of where the services** are rendered in practice.

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 Dutch freelance (self-employed) artist performs with a Belgian company which has a VAT number, then the Dutch 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 Netherlands.



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 the 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 Swedish tax 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 Italy while the conference itself takes place in Rotterdam. The Italian 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.*

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.

It might that the assistance of a local accountant or tax adviser is needed to comply with the local rules.

It seems that for VAT purposes it is easier to work with a local promoter who will take care of the VAT on the ticket sales, while between the two concert promoters the reverse charge system can be applied. But when this is not preferred, it is also possible for the concert promoter to take care of the VAT himself in the other EU Member State.

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 artists are:

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 31):

- 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 in Section 4 of this booklet.



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.

An overview of the use of lower VAT rates can be found in Section 4.

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, subcontractin

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** (although 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 in Section 4 because only 14 of the 27 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.

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.

As a result, VAT exemption is financially more advantageous if the VAT would have been charged at the normal rate, due to the possibility to deduct the input tax, but less advantageous if the VAT would have been charged at a low rate.

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.

The variations in rates and exemptions show that the harmonization of the VAT for cultural activities in the EU has not so far met with any success.

In border regions especially, such as the borders between Luxembourg-Germany-France-Belgium, Austria-Czech Republic-Slovakia and Austria-Slovenia-Croatia, these differences may lead to distortions on the market for culture and audiences.

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

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.

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.

ELECTRONIC SERVICES AND VAT

Special rules exist for VAT on electronic services within the EU. These are always taxable in the state where the customer is located, regardless of whether a business or consumer. This means that the reverse charge system does not apply to electronic services. And also that the tax rates of the states of the customers apply.

The definition of "electronically supplied services" is: 'Electronically supplied services' include services which are *delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology*.

An indicative list of the electronically supplied services in the directive mentions:

1. Website supply, web-hosting, distance maintenance of programmes and equipment;
2. Supply of software and updating thereof;
3. Supply of images, text and information and making available of databases;
4. Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events;
5. Supply of distance teaching

But there is no need to register in other EU Member States for the payment of the local VAT, because the tax authorities in the residence state offer a One Stop Shop system, in which all EU sales of electronic services can be administered and foreign VAT due is calculated. The this VAT is paid is to the tax administration in the residence state, which will take care that it is paid through to the other EU Member States.

Electronic services to third countries, not member of the EU, do not fall under the EU VAT, same as with the sale of goods and supply of services to third states.

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 in Section 4 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 30)
- 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 it 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.

USEFUL ADDRESSES AND LINKS

EU check VAT number

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

EU information including VAT rates, VAT invoicing rules

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

TIC - Tax information communication database

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

Links to national tax websites

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

GLOSSARY AND SOURCES

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 of 3 April 2003 Matthias Hoffmann

EUROPEAN FESTIVALS ASSOCIATION

The European Festivals Association (EFA) is a community dedicated to the arts, the artists and the audiences. EFA's main role in the permanently developing world of digitisation and globalisation is to connect festival makers so to inform, inspire and enrich the festival landscape. In this perspective, EFA is a festivals' service, knowledge and training provider; the oldest cultural network of European festivals set up in 1952! It was established to bridge the distance between organisations and all kinds of stakeholders and to create connections internationally. All this in function of the enrichment of a festival's own artistic offer and its organisational opportunities.

EFA is becoming a "We" story, linking people and organisations active in the arts management field. The EFA community including at its core its members as well as The Festival Academy Alumni, EFFE Labels and more take the joint responsibility to offer arts to audiences. It is a story that is reaching beyond Europe as it strives to consolidate interaction between continents, countries and cultures so that there can be mutual inspiration, influence and confrontation.

EFA guides the discourse on the value of arts festivals. A sector that is so unique and that shares a myriad of concerns on intellectual, artistic, material and organisational level deserves a strong umbrella organisation that supports local initiatives and gives arts festivals a unified voice.

The European Festivals Association is a trusted alliance of festival makers including:

- 80 EFA members; strong and long standing festivals and national associations of festivals coming from different countries in Europe and beyond,
- An ever growing group of 2.300 festivals in 45 countries registered on the FestivalFinder.eu website, among which 823 festivals received the EFFE Label 2019-2021
- 700 alumni of The Festival Academy, EFA's global peer to peer learning and capacity sharing programmes for young festival managers,
- 40 cities contributing and participating in the Festival Cities Initiative.
- EFA joined PEARLE* in 2005.

PEARLE*

LIVE PERFORMANCE EUROPE

Pearle*-Live Performance Europe is the European federation representing through its members and associations over 10 000 theatres, theatre production companies, orchestras and music ensembles, opera houses, ballet and dance companies, festivals, concert halls, venues, service providers 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 number of festivals, organisers, production companies in the live music and performing arts encompass cross-border cultural cooperation.

Too often when touring companies, venues, festivals, promoters and organisers work together on an international artistic programme, issues arise related to unexpected problems which occur due to different reasons: a lack of knowledge about the situation in or from another country, differences in administrative practices, papers that are missing or have not been foreseen, etcetera. For everyone working in the managerial side in the sector, these situations are recognizable and familiar. They are based on misunderstandings or wrong assumptions, but what is more regretful and a real pity is that they may result in performances not taking place, financial losses (which could have been avoided) or missed opportunities to save costs or generate additional income.

Under the auspices of legal experts with an in-depth understanding and knowledge of the sector, a series of booklets were designed under the EFA RISE project (2014-2017) on the following topics:

- Social security (March 2016)
- Taxation (March 2016)
- Copyright (March 2016)
- Value added tax (January 2017)
- Visas (March 2018)

Under the EFA RISE 2 project, the series is further completed with updates on:

- Visas (update May 2020)
- Social Security (update March 2021)
- Copyright clearance (update March 2021)
- Taxation (update March 2021)
- VAT (update March 2021)

Referred to among ourselves, by way of an inside joke, as the ultimate cookbook for cultural managers, the booklets aim to explain, in a way which is easy to understand and to read, what one should know and remember about specific theme, in other words what the ingredients are and how to cook the recipe by providing some tips.

EFA / PEARLE*

Partnership in the context of the EFA RISE and EFA RISE 2 projects.

EFA RISE 2 is supported between 2017 and March 2021 by the Creative Europe programme of the European Union

EFA - European Festivals Association

PEARLE* - Live Performance Europe



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