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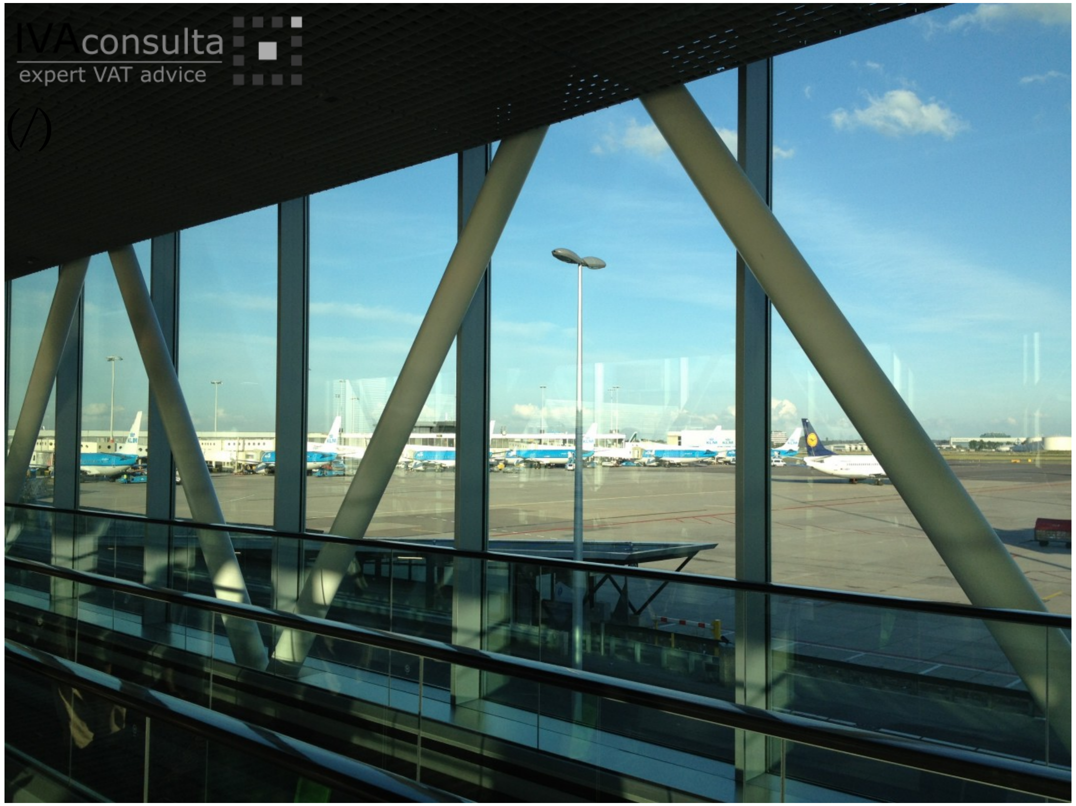

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The congress activity and, in general, the provision of services relating to events such as cultural, artistic, sporting, scientific, educational, entertainment or similar can be rather complex from their VAT regime point of view.

Many of the circumstances likely to occur in this sector of activity may result into to completely different scenarios from a VAT point of view. Examples of such circumstances are:

- The service provider being the organizer of the event himself, appearing in his own name but on behalf of a third party or just

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operating in the name and on behalf of this third party that is actually organizing the event.

- The country where the event takes place being different from the one where the service provider, the organizer or the attendees are established.
- The single or multiple nature of the services involved.
- The VAT status -B2B or B2C- of the persons receiving the services.
- The affection to business of the services received.
- The possibility that the services may qualify for a special VAT treatment (ie margin scheme of travel agencies, cultural or educational exemptions or reduced VAT rates).

As VAT advisors we are much aware of these complexities and of their implications, not only for the service provider but for the companies or individuals receiving the same, which may be affected by the burden of having to manage the VAT formalities (ie if the service qualifies for the reverse charge rule) or by the higher cost that would result for the case from the fact that the right of deduction is jeopardized.

The COVID-19 and the digitalization of the congress sector and events in general triggered by this crisis has given rise to an additional issue adding to this complexity. I refer to the difficulty of determining the place where the virtual event is considered to occur from a VAT point of view, given the

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special location rule applicable to admission services and to B2C event related services, including organization, according to articles 53 and 54 of Council Directive 2006/112 / EC that regulates the VAT common system).

Since taking place virtually, on-line events are not occurring physically which constitute a problem when having to apply the abovementioned special VAT location rule and give rise to a number of questions, namely:

- Can virtual events be considered electronically supplied services so the VAT location rule applying to those services prevailing?
- Otherwise, which is the territory where an on-line event takes place:
- Where the organizer is established?
- Where the people actually providing the service are established?
- Where the people attending the event are established?

These are the questions raised by the General Attorney (GA) in his conclusions (http://curia.europa.eu/juris/celex.jsf?celex=62017CC0568&lang1=en&type=TXT&ancre=) on the ECJ Geelen case C-568/17, where Philippine persons did on-line performances to Dutch viewers (the “entertainment” service to which the case relates) hired by a Dutch company that broadcasted their performances.

Under these circumstances the Judgment (http://curia.europa.eu/juris/document/document.jsf?docid=197593&doclang=EN) of the ECJ supports the GA position that considers the Dutch company to be the provider of the service and The

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Netherlands, where the same is established, the VAT location place, dismissing other variables such wherefrom the performances actually take place (The Philippines) or the place where the viewers were located.

It must however be mentioned that:

- The reasoning of the GA is much conditioned by his being aware of the interim nature of its conclusions given new OSS scenario since June 2021 resulting from Directive 2455/2017, where a generalization of the “place of consumption principle” would remove the burden it now Represents it terms the managing of the VAT formalities. I wonder if the arguments of the GA, grounded in its his interpreting the objectives of the VAT legislator when introducing the special location rules for “entertainment” services and similar, could be maintained after the OSS comes into force.
- Although the Geelen case do actually refers to B2C transactions, the arguments of the GA could also be extended to B2B. The GA reaches the same conclusion either for the case that the on-line performances qualify as an “entertainment service” or for the case they are treated as an electronic service, namely: the location place is where the Dutch company is established. The ECJ did actually consider the on-line performances to be "entertainment" but accepting the argument of the GA as to the place where those activities actually take place "being the territory where the company broadcasting them was established.

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