

SUMMARY OF REPLIES ON MEMBER TO MEMBERS QUESTION REGARDING VAT RATES ON TICKETS FOR ONLINE PERFORMANCES

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The question was raised whether the low VAT rates, which exist for (physical) performances, can apply when selling tickets for online/streaming of performances or whether it is considered as an electronic service (for which full rate applies).

According to the [VAT Council directive 2006/112/EC](#), member states can provide for low VAT rates for “admission to shows, concerts, ...”. The directive does not specify in the case of performances whether there should be a connection with the building where the event takes place requiring the physical presence of the audience or not, thus leaving room for interpretation.

According Council directive 2008/8/EC (amending the 2006 Directive) on the place of supply of services telecommunications, broadcasting and **electronically supplied services are always taxed in the country where the customer belongs** – regardless of whether the customer is a business or a consumer. This means that different rates apply depending of the place where the customer (non-taxable persons without a VAT number) is based.

The definition of "electronically supplied services" is given in Article 7(1) of the [VAT Implementing Regulation](#): ‘*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

As this may still be unclear, the implementing directive (art 7) further specifies the services which fall and do not fall under the definition.

In the list which are considered not to fall under the scope is mentioned:

(t) tickets to cultural, artistic, sporting, scientific, educational, entertainment or similar events booked online

On another account, the EU also takes into consideration the burdens to fulfil VAT obligations by micro-entreprises. [Council directive \(EU\) 2017/2455](#) amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods states that:

(art 58 replaced)

Paragraph 1 shall not apply where the following conditions are met:

(a) the supplier is established or, in the absence of an establishment, has his permanent address or usually resides in only one Member State;

and (b) services are supplied to non-taxable persons who are established, have their permanent address or usually reside in any Member State other than the Member State referred to in point (a);

and (c) the total value, exclusive of VAT, of the supplies referred to in point (b) does not in the current calendar year exceed EUR 10 000, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

The Commission has a [guidance note for micro businesses](#) on the rules with regard electronically supplied services.

RESULTS OF THE MEMBERS SURVEY

A question was raised with members in January to gather feedback on the way in which the VAT law is interpreted in their respective country in relation to sale of tickets for online performances.

In the **Netherlands** the branch federation of pop-podia and festivals asked the government for clarification, after an initiative by the government in the first lockdown to allow low VAT for online sports lessons, but they didn't receive a reply yet.

In **Iceland**, which exempts VAT for (physical) live performances, authorities were originally going to define online live streaming for full VAT rate (and the argument was that it would be classified like Netflix and such streaming companies) but after loud protest from artists, companies and art associations, the authorities decided to define online live performances like physical live performances – with no VAT.

In **Bulgaria** the government allows (or hasn't fined anyone yet) to sell the tickets for online performances in the same way as for physical performances. In a similar manner in **Czechia** the same low (10%) VAT rate is applied in both cases.

Also in **Slovenia**, an exception applies to all cultural services and tickets (including for live streaming) for cultural events from public institutions or those cultural institutions that are enlisted with the state.

In **Spain** however full VAT rate is applicable to online performances, whilst low VAT rate applies for physical performances. A similar interpretation of the finance ministry is put forward in **Poland**.

At the end of the spectrum are countries where it doesn't make a difference as full VAT rate applies anyway, regardless whether it concerns sale of the tickets for physical and online performances, such as it is the case in **Hungary**.

Interestingly in **Finland** a difference is made based on whether it concerns a live streaming or not, as follows:

- a) If you sell a ticket to a LIVE web stream of a performance, the same lower VAT-rate as for normal live theatre or orchestra performances (10 % in Finland) applies to these online tickets as well; but
- b) If you sell "a ticket" to a show that is not actually performed live, regardless of how the whole arrangement is titled or described, the normal VAT rate of 24 % applies.

Another interesting interpretation (especially in the current context of Covid) is by the tax authorities in **Belgium**, which is based on the fact whether or not there is a physical audience present, or is mixed (physical and at the same time streaming). Normally full VAT rate applies to online performances, but the question was raised whether the VAT rate had to be adapted for tickets sold at low VAT rate but where the public could no longer be physically present. The tax authorities accepted for this to be unchanged as it was the intention of the audience to be physically present but due to the Covid measures could not do so.

The reasoning is based on the fact that a ticket gives one physical access to a venue, whilst for a streamed performance it is considered as an electronic service, subject to the full rate.

TO CONCLUDE, from the answers received there is a scattered approach in different member states. If online/streamed events are classified as an electronic service there also consequences for international selling as it is the VAT rate of the country where the customer is based that has to be applied.