

Society' canteens: how about VAT?

A football club or a brass band running a canteen are found almost in every Belgian village. Under certain conditions these canteens are VAT exempt. As from 1 January 2017 the rules change. Time to take a look at the new rules and examine whether your society can still apply the VAT exemption.

How about today? The rules as they apply today

Certain transactions are explicitly exempt by the VAT Code. Suppliers of such transactions do not have to charge VAT, the consumers do not have to pay VAT. Often sectors are involved which are considered as socially valuable: social work, sports, culture. No VAT is charged on the entrance to a museum or the membership fee for a sports club.

In most cases the organizer should be a not for profit organization. When you buy a ticket from a commercial concert organizer you will have to pay VAT.

Since organizers cannot make profit, they have to look for other means to finance their activities. This can be done by organizing ancillary activities. These ancillary activities are sometimes also VAT exempt. A classic ancillary activity of sport clubs is the canteen, where after the training or the game sporters and supporters can have a drink. The problem is that running such a canteen is in principle not VAT exempt.

Fortunately the tax authorities, even today, take a flexible position. Running such canteen is VAT exempt if ...

- the canteen is only accessible for persons effectively visiting the premises, e.g. sporters, visitors, spectators. The canteen can only be accessible during the opening hours of the premises (sports club, museum) and there can be no direct access from the street to the canteen;
- the operator of the canteen cannot perform any other activities and can only supply light meals;
- the canteen may not lead to any distortion of competition with other commercial businesses. Therefore the income generated by the canteen cannot exceed 5.580€, or when the threshold is exceeded not exceed 10% of the total revenue of the operation.

New rules as from 2017

New rules will apply as from 2017. The good news is that the VAT exemption for canteens remains in place. Only the conditions are modified.

The VAT exemption for canteen still applies for: (i) hospitals and psychiatric institutions, (ii) old people's homes or institutions for the disabled, (iii) institutions linked to sport and physical education, (iv) musea, monuments, nature reserves, gardens and zoos and (v) organizers of plays, ballet, films, expositions, concerts or conferences.

Additionally the canteen should be ran on the premises of the institution itself (e.g. in the museum). This means, as is the case today, that the canteen can only be accessible by sporters/visitors/spectators, their visitors or invitees and the institution's staff. It is remarkable that the fact that the canteen is only accessible by the said persons should no

longer show from the fact that it is not accessible outside opening hours nor from the outside. The operator can demonstrate this based on other factual elements.

Finally the exempt transactions (sports, culture) should remain the most important activity of the institution. The income from the canteen cannot exceed 10% of the exempt turnover of the institutions. Occasionally exceeding the threshold of 10% (once during a period of five calendar years) with 1% is accepted by the tax authorities.

When one or more conditions are no longer fulfilled, the institution can no longer apply the VAT exemption as from 1 January following the year in which the conditions were no longer fulfilled. An institution no longer complying with the conditions on 2 January 2017 can still apply the exception for the rest of the year.

Special cases: youth houses and public welfare service centers

For youth housing an administrative tolerance applies.

Canteens of public welfare service centra are VAT exempt if they do not exceed the annual turnover of 80.000€. In case this threshold is exceeded, the institution should take contact with the competent VAT office. The control office will determine whether there is distortion of competition and whether the operation of running the cafeteria should be subject to VAT.

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