

As from now lawyers should charge VAT

There have been quite some discussions, but it was decided after all. As from 1 January 2014 lawyers are not longer VAT exempt and should charge VAT on their services. There are a number of consequences. Both for the lawyers as for his client. Some explanation ...

New rule: 21% VAT

As from 1 January 2014 lawyers should charge VAT on their services. The standard VAT rate of 21% applies.

The VAT is due on the consideration which the lawyer charges for his services. VAT is also due on costs which are recharged by the lawyer to his client. However this does not apply in case a third party charges the lawyer in the name and for the account of his client. In such case this is deemed to be an advance, on which no VAT is due.

But exceptions apply

Pro deo services are zero-rated.

Some other services remain VAT exempt. It concerns services which are related with other (still) exempt services. Such services are:

- services of debt negotiation;
- family negotiators;
- guardian (ad hoc);
- temporary administrator;
- lecturer and/or author.

Exigibility of the VAT

VAT is due when the service is completed. When a service is completed, depends on the nature of the service. In general, the following rules apply:

- advice: the service is completed when the 'advice' is given: when this occurs orally, it is on the moment itself, for written advice this is when the advice is actually communicated to the client;
- assistance in legal proceedings: when the judgment is definitive.

The lawyer can off course choose to send interim invoices. In such case he is performing continuous services, for which the VAT is due at the end of each interim period.

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Transitional measures

For services which were rendered at the end of 2013, but which has not been paid for, the VAT authorities drafted transitional measures. Different situations may occur:

- if the service was already partially performed on 31 December 2013, but not completely, the VAT exemption can still be applied, if at the latest on 14 February 2014 a detailed invoice is issued, on which it is shown which part can be attributed to 2013;
- if a service was completed for private individuals before 1 January 2014, but is paid for (partially) in 2014, the VAT exemption can also be applied, provided that a detailed invoice is issued before 14 February 2014;
- when provisions have been paid before 1 January 2014 relating to specific services, no VAT is due. For pending files for which a contract was entered into before 1 January 2014, the advances for services performed in 2014 can only be invoiced without VAT when the advance does not exceed 25% of the total fee.

Lawyers can now also deduct VAT

Lawyers becoming subject to VAT also means that they can deduct the VAT paid of the goods and services used for their taxable activity. They can also (partially) recover the VAT they have paid earlier ('historical VAT'):

- VAT paid on goods and services not being capital goods and which are not used on 1 January 2014;
- for capital goods which still exist on 1 January 2014 and for which the five - or fifteen - year revision period has not expired.

Consequences for clients

For clients this has as a consequence that their invoice amount will be higher since VAT will be charged. Especially private individuals will have a disadvantage. Entrepreneurs using the lawyer's services in the scope of their taxable activity can of course deduct the VAT they have paid on these fees.

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