

Future of VAT Roundtable Cross Border Rulings



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CBR test case

Why is it important?

- National VAT laws often differ across MS due to local interpretation or implementation of EU VAT law
- Proper functioning of the Single Market requires VAT system that provides legal certainty and level playing field – the same transaction can only be taxed once
- Test case is a great initiative to bridge the gap between EU VAT law and national VAT law and an alternative to impractical, costly, slow and uncertain court proceedings
- Platform for expanding communication and co-operation between MS



Legal framework

In house training services

Art 44

The place of supply of services to a taxable person acting as such shall be the place where that person has established his business.

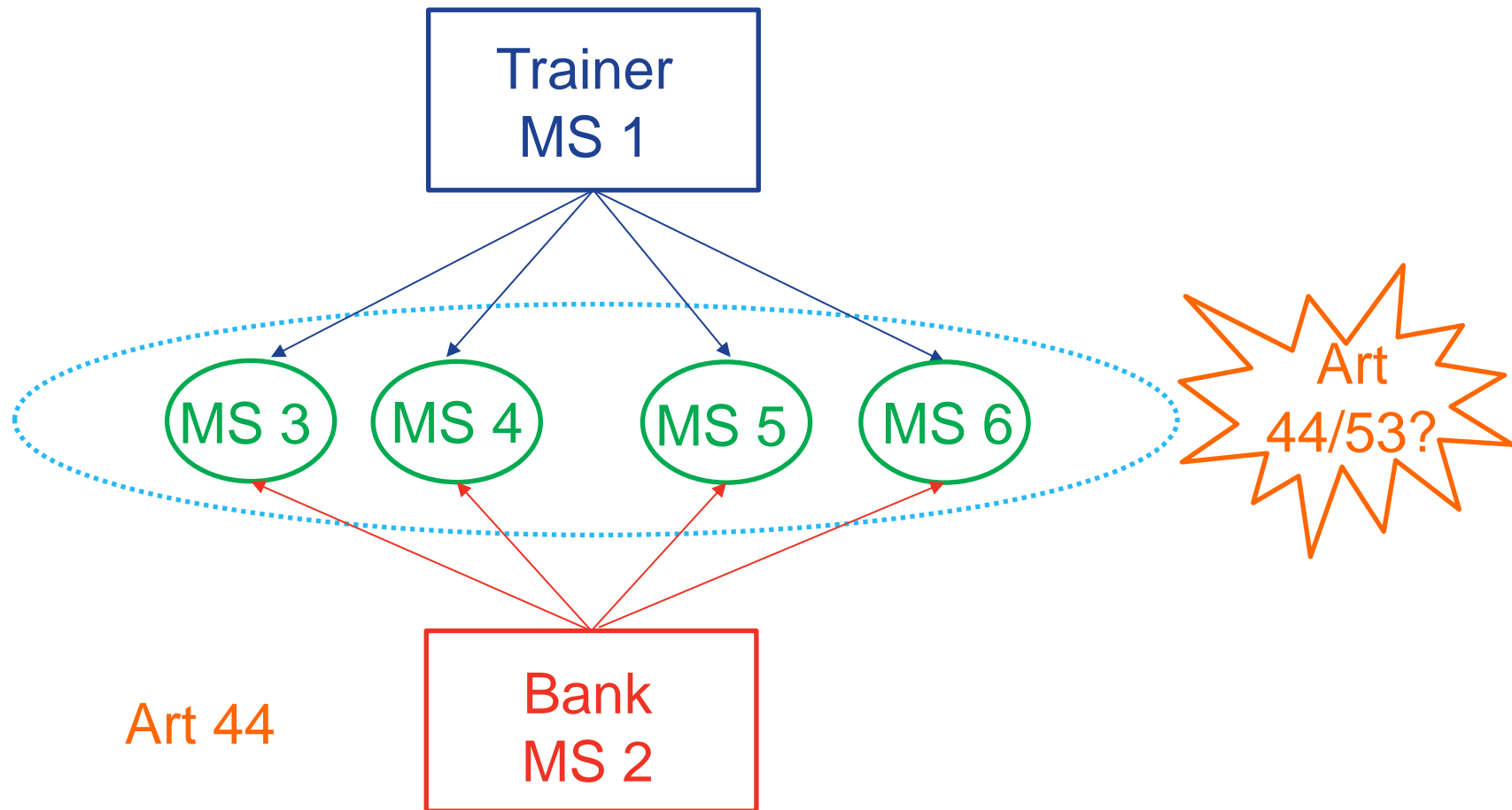
Art 53

The place of supply of services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events, such as fairs and exhibitions, and of ancillary services related to the admission, supplied to a taxable person, shall be the place where those events actually take place.



Our experience

Transaction overview



What is the place of supply of services invoiced by Trainer to Bank? MS of recipient (Art 44) or Place of event (Art 53)?

Our experience

Summary

- In January we filed CBR requests in 4 MS – service performed in 4 different countries, but with identical fact pattern with same customer, supplier, services
- 2 requests filed in English, 2 in local language
- 1 response with MS agreeing received by the end of January (legal certainty, no double taxation)
- 2 responses with MS disagreeing received in May (no legal certainty, double taxation)
- 1 response not finalised yet, request for additional information – looking potentially like MS will disagree

Our experience

What went well?

- Responsive and upfront exchange of views
- Willingness to engage with us to understand the issues and to collaborate with MS counterparty to resolve matter – good understanding of how the test case should work
- 1 response with MS agreeing received within 3 weeks
- 1 MS willing to consider issue even though outside scope of test case (transactions with legal effects in the past)
- List of MS contacts available to business

Best practice – good understanding of test case, open relationship, willingness to engage and attempt to resolve,

Our experience

What could be improved?

- Confirmation of receipt of request and timing of expected response?
- Full understanding of how the test case should work?
- Full engagement between all the parties?
- Responses after 4 months
- 2 responses with MS disagreeing - not in itself an issue, but where do we go now?

Administration of regime should improve but where do we go if no agreement reached?