

VAT: The European Commission calls for a harmonised application of the VAT grouping rules

The European Commission has today adopted a Communication setting out its position on VAT grouping schemes. The EU VAT legislation gives Member States the option, for the purpose of administrative simplification, to regard as one single taxable person those who, while legally independent, are closely bound to one another by financial, economic and organisational links. The Communication includes guidelines which aim at ensuring a correct, coherent and uniform application of the VAT grouping option.

László Kovács, Commissioner responsible for Taxation and Customs Union said: "The practice has shown that the VAT grouping scheme although being a simplification measure for operators, could lead to tax evasion. For that reason the Commission proposes clear guidelines on how to apply in practice this scheme".

The Communication adopted today sets out the Commission's view on how the provisions of Article 11 of the VAT Directive¹ should be translated into practical arrangements whilst respecting the basic principles of the Community VAT system and ensuring that the effects of using the option scheme remain restricted to the Member State applying it. The Communication includes the following aspects:

- Only taxable persons may join a VAT group. Additionally, a taxable person should only be able to join one VAT group at a time.
- The group is itself a taxable person subject to the same rights and obligations as any other taxable person and all the provisions of the VAT Directive as well as the rulings by the European Court of Justice apply to it.
- The group, as a single taxable person, should be identified for VAT purposes by a single number.
- Only companies or fixed establishments physically present in the Member State that has introduced the VAT grouping scheme may be members of a VAT group. A VAT grouping scheme should be open to all sectors of economic activity in the Member State which introduces such a scheme.
- The financial, economic and organisational links must exist simultaneously.
- The VAT group's right to deduct input VAT shall be determined on the basis of the transactions of the group as such with third parties.
- One of the most important consequences of forming a VAT group is the "disappearance" from a VAT perspective of transactions between the members of the group, i.e. transactions for consideration between the individual members of the group. These transactions are considered non-existent for VAT purposes.
- It is of utmost importance that Member States take all necessary measures to prevent tax evasion or avoidance, as well as abusive practices, through the use of their national VAT grouping schemes. No unjustified advantage or unjustified harm should arise from the implementation of the VAT grouping option.

¹ Council Directive 2006/112/EC

Background

The VAT grouping option has been available to Member States since the 1970s. The Commission has taken note of an increased interest from Member States to make use of this option. There are now 16 Member States which have introduced VAT grouping schemes into their national legislation. It has become evident that there are wide divergences between the VAT grouping schemes implemented by Member States.

The Communication can be found at this web link:

http://ec.europa.eu/taxation_customs/index_en.htm