

TAX ALERT

VAT exemption for chargeback premiums subsidiaries

insurance to the euro the euro

A VAT exempt insurance operation is a provision whereby the insurer undertakes, in return for prior payment of a premium, to provide the insured, in case of materialisation of the risk covered, with the service agreed upon conclusion contract (CJEU 252-1999 aff. 349/96, Card Protection Plan).

A taxable person who is not an insurer, and, as part of a policy of which he is the holder, procures for his customers, who are the insured, insurance cover, by using a insurer that supports the risk covered, performs an insurance transaction within the meaning of VAT (ECJ 25-2-1999 aff. 349/96 supra, and CJEU 8-3-2001 aff. 240/99, Skandia). The insurance services relating to the cover of a well can not be treated differently depending on whether such services are supplied directly to the lessee by an insurance company or the latter gets such coverage through an entity related that provides it with an insurer to charge back the cost to the lessee for an unchanged amount (ECJ 17-1-2013 aff. 224/11, BZG Leasing).

Accordingly, the administration has finished its doctrine and specified (BOI-RES-000058, 11-12-2019) that a negotiator company enters into a group insurance agreement by which it provides to other companies in the group insurance coverage through an insurer that supports the risk covered, performs an operation to insurance for the purposes of VAT.

Consequently, and provided that the share relating to each subsidiary is invoiced in euro for euro, these benefits are exempt from VAT. Money collected by the parent company to its subsidiaries pursuant to the provision of insurance for the account are not taxed.

However, a company that negotiates and signs a standard contract that all the group companies are subscribers, makes no insurance transaction. Similarly, this reasoning can not be applicable in case the chargeback made by the subscriber to policyholders be higher than the premium amount that is billed by the insurer (ECJ 17-1-2013 aff. 224 / 11 supra).

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