

VAT ALERT

Implementation of a VAT Group in France

On 28th September, 2020, the French Government unveiled the Draft Finance Bill for 2021, including the implementation of a VAT Group into French law (Article 45 of Draft Finance Bill 2021). This Draft Finance Bill will be debated during the fall before the French Parliament and the final text will be adopted and available by mid-December 2020.

With this article, France intends to transpose the VAT Group regime provided for under the EU VAT Directive 2006/112/CE and already in force into 20 other Member States.

The Draft Finance Bill for 2021 plans to introduce into French domestic law this VAT Group regime which allows to consider as a “single taxable person” any persons established in France who, while legally independent, are closely bound to one another by financial, economic and organizational links (for instance, for stake in share-capital of at least 50%).

The VAT Group regime makes it possible to ignore all supplies of goods and services between group entities and to report only transactions with third parties (in other words, with parties out of the VAT Group). Therefore, the regime allows a single VAT return to be filed, consolidating all of those third-party transactions.

Indeed, the members of the VAT Group will be jointly and severally liable for VAT, but only one designated representative will be in charge of VAT matters (return, payment, refund). The group must be established for a minimum period of 3 years.

For the purpose of determining the deduction rights of the single taxable person, each member will be considered as a sector of activity of the group.

This optional regime will reinforce the VAT neutrality on groups’ organizational choices, particularly in sectors that carry out tax-exempt transactions (banking, insurance...), and will simplify the VAT management.

In the same time the implementation of the VAT Group will be accompanied by a reduction of the scope of the VAT exemption under Article 261 B of the French Tax Code. According to the CJEU rulings (CJEU, 21/09/2017, C-605/15, Aviva and C-326/15, DNB Banka), only autonomous groups of persons, whose members are either non-taxable or taxable persons carrying out exempt activities in the public interest, benefit from this exemption scheme. From 1st January 2023, the scope of this exemption will be limited, to persons operating in the public interest sector.

The Draft Finance Bill plans to implement the VAT Group as of 1st January 2022 to allow the option to be exercised before 31st October and a first application on 1st January 2023.



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