

Important changes to the interpretation of VAT Grouping rules

Irish Revenue have released their updated guidance on VAT grouping alongside specific guidance on the territorial scope of VAT groups.

The change in interpretation

To date, an entity with an establishment in Ireland could in principle join an Irish VAT group. Ireland then applied VAT grouping on a whole entity basis, in other words Irish Revenue treated the entire worldwide corporate entity as being in the VAT group. Therefore, if an Irish branch of an overseas entity (say a UK entity) joined an Irish VAT group with its Irish affiliate, the VAT group was deemed to include the Irish affiliate entity and the UK entity (and all of its domestic and overseas establishments). This is important because supplies between members of a VAT group are disregarded for VAT purposes and so, in this example if appropriately structured, any supplies by the UK entity Head Office to the Irish entity were not subject to VAT, even if rendered directly from that UK Head Office. The same applies for all other overseas entities, EU or non-EU.

This whole entity application was beneficial for Irish VAT groups that do not have full VAT recovery as they could receive services from overseas affiliates without incurring irrecoverable VAT. Essentially, the services were treated as being supplied between members of the same VAT group and, as such, disregarded.

The territorial scope of VAT grouping has been considered by the CJEU in a number of cases, most notably in the *Danske Bank* case, where the CJEU decided that the EU VAT Directive restricted membership of VAT groups to local establishments of entities only. Ireland has now effectively brought its interpretation of domestic VAT grouping provisions into line with the caselaw of the CJEU. Therefore, the Irish VAT group will be treated as a single taxable person (a single VAT entity) and that person will consist only of the entities or parts of entities that are established in Ireland. Therefore, there can now be, in principle, a supply of services for VAT purposes between an overseas head office (e.g. in the UK) and its VAT grouped branch in Ireland which has the potential to fall within the Irish reverse charge VAT mechanism.

There are still some matters that are not explicitly set out by Revenue. For example, it is not clear if Revenue will recognize a non-EU indirect tax group (such as a UK VAT group) as constituting a VAT group for EU VAT purposes or if the new *Danske Bank* principles will be applied to members joining existing VAT groups.

There is a transitional period. The new interpretation will apply to existing VAT groups from 1 January 2027. It will apply with immediate effect to VAT groups formed after 19 November 2025.

As this is merely a change of interpretation it does not require a specific amendment to Irish VAT law. Targeted anti-forestalling legislation might be introduced as we near January 2027 or Revenue might seek to use existing powers to remove a member from a VAT group where they perceive specific planning to gain a VAT advantage under the current rules.

Next steps

This change will lead to increased VAT costs arising on the provision of inbound intercompany services to a partially exempt Irish VAT group. This cost will potentially be exacerbated by recent CJEU jurisprudence on the VAT status of transfer pricing adjustments. As such it is important that groups that have used VAT grouping to mitigate the VAT cost on inbound inter-group services review their intercompany flows, model the additional costs that may arise and consider what alternative mitigations may be available.

The changes will also impact on the VAT recovery profile of some groups. With outbound intra-company charges from an Irish VAT group to a foreign branch of a member of that VAT group no longer disregarded, it should be possible to leverage those charges to support domestic VAT recovery. Therefore, there is an opportunity to revisit VAT recovery methodologies in light of the new interpretation.

The new VAT Grouping rules will apply to all business per the implementation timeline. Even full VAT recovery exists, Irish VAT groups should consider any additional administrative obligations resulting from the changes, such as the obligation for the Irish VAT group to report services to EU-based branches (e.g. VIES, ES1, etc.) and self-account for Irish VAT on reverse-charge services received from overseas establishments.

We would be delighted to work with you to help you assess the impact of, and respond, to this change.

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