

What is a VAT group?

This year the concept of a 'VAT group' exists exactly ten years in Belgian tax law. In this article we take a look at what a VAT group is and how it should be treated for tax purposes.

A VAT group

A VAT group is a group of taxable persons for VAT purposes (henceforth VAT payer(s)) which are (i) **legally independent**, but (ii) are **closely bound to one another by financial, economic and organisational links** and therefore (iii) can be regarded as a **single VAT payer**. In order to have a Belgian VAT group, all members should be VAT payers established in Belgium.

Forming a VAT group is **optional**: a group VAT payers meeting all conditions is not obliged to form a VAT group. The individual 'members' have in principle the choice whether or not to be part of it. A member can also voluntarily withdraw from the VAT group, but only as from 1 January of the third year after entering the VAT group.

What does it mean 'closely bound to one another by financial, economic and organisational links'?

In order to form a VAT group the different VAT payers should demonstrate that they are closely bound to one another by financial, economic and organisational links. This means:

- **financially**: the shareholder structure and mutual control and voting rights are considered;
- **organisational**: common management of the members;
- **economically**: the activities of the members - similar activities or otherwise supplementary or complementary activities.

In case a member has a direct participation of more than 50% in another VAT, these conditions are deemed to be fulfilled.

Most important consequences

The two most important tax/VAT consequences are:

- The transactions made by one member of the VAT group for another member fall outside the scope of VAT (**internal transactions**) - they should mutually not charge VAT. For transactions with third parties, it is clear that VAT is due (**external transactions**).
- The rights and obligations concerning VAT are determined at the level of the VAT group: a.o. deduction of VAT, invoicing obligation, filing VAT returns, ...

How long will the VAT group exist?

Above we indicated that there should be close financial, economical and organisational links in order to have a VAT group. This condition applies at the start of the VAT group, but should also be fulfilled during the existence of the VAT group. In other words, if the close links disappear, the VAT group will cease to exist. This can be the case e.g. when economical conditions change, such as change in shareholder's structure, other management appointed.

A member can be obliged to leave the VAT group when it no longer fulfills the conditions to be a member, or when it is going through an insolvency procedure.

Consequences of stopping and/or leaving

When (a) member(s) leave(s), a revision should be made for capital goods. In other words, the earlier deducted VAT should be reviewed. Both the leaving member as the VAT group should go through this exercise. Possibly a part of the deducted VAT will have to be repaid to the treasury, since the conditions for VAT deduction are no longer fulfilled.

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