

The graphic features a blue background on the left with the text 'ATOZ VAT ALERT' in white. To the right, a hand in a dark suit sleeve is drawing a black line graph with an upward-trending arrow. Below the arrow are six vertical bars of varying heights, some with diagonal hatching. The bars are drawn in black outlines, with the first two filled with blue and the others with black hatching.

ATOZ VAT ALERT

The Luxembourg VAT group is coming

19 April 2018

On 13 April 2018, the Ministry of Finance communicated the draft bill n°7278 to the Parliament. This draft bill proposes to implement a VAT group regime into the Luxembourg VAT landscape.

The new regime, subject to the consultation of the EU VAT Committee and legislative process, is a positive signal sent to financial and insurance sector players which have been impacted by the limitation of the scope of the VAT exemption for IGPs.

Interest of the VAT group

The implementation of a VAT group means that various legally independent persons closely bound by financial, economic and organizational links, are considered as one single VAT taxpayer. Since the members are considered as a single VAT taxpayer, the transactions among them would no longer be subject to VAT.

In practice, supplies of goods and services between members of the VAT group would fall outside the scope of the VAT.

This regime will be mostly beneficial to companies with a limited or nil VAT deduction right, mainly banks, insurance and fund management companies for the financial sectors as well as holding and financing companies. The setup of VAT groups would thus lower the non-deductible VAT costs incurred by these companies on services rendered between members.

The VAT group will be provided with one VAT number and the filing of VAT returns will be consolidated at the level of the group.

Conditions to set up a VAT group

Luxembourg entities are allowed to create a VAT group provided that the three following links are demonstrated simultaneously by the members:

- Financial link. This is either a direct or indirect link, which shows a control by one company over the members of the group, as defined by reference to the corporate law (consolidation for accounting). This link is evaluated notably with reference to the shareholders' or members' voting rights and will have to be certified by an auditor or chartered accountant.
- Economic link. The activities of the members should be (1) of the same nature or (2) complementary or (3) for the benefit of the activity of the others members of the group.
- Organisational link. De jure or de facto, directly or indirectly, members should (1) be under a common management or (2) organise their activities in close cooperation or (3) be under the control of the same person.

Entry into force – expected timing

The draft bill foresees the entry into force of the VAT group on 31 July 2018. This timing is nevertheless subject to the state of progress of the legislative process.

What's next?

Thanks to a broader scope of the VAT group draft law, the opportunity to set up a VAT group is not limited to companies having implemented an IGP or a silent partnership in the past.

In order to determine whether it would be in your business's favour to form a VAT group, the following factors should be assessed:

- Are the financial, economic and organisational links requirements met?
- What would the impacts of the implementation be? A cost / benefit analysis needs to be conducted. The potential consequences on the VAT deduction right of some members also have to be carefully analysed as well as the joint VAT liability of the members of the group.

This draft bill is highly welcomed and aims at reinforcing the attractiveness of the Luxembourg marketplace by introducing a level playing field among EU Member States where 16 EU countries have already implemented this regime.

We would be pleased to assist you with, notably, the review of the links to be met between the potential members as well as to perform an impact analysis. If you would like to discuss the interest for your business to set up a VAT group, please feel free to contact Thibaut Boulange.

Can we help? Do you have further questions?



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