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2. Taxable Persons

2.1. Group registration

For VAT purposes, Member States may extend the concept of “taxable person”, i.e. any person who independently carries out economic activities, to groups of taxable persons established in the territory of their country who, while legally independent, are closely bound to one another by financial, economic and organizational links.⁴ When those conditions are properly applied, VAT group treatment neutralizes the distinction between legal form and economic substance in that, even though they are legally independent, members of a commercial group of enterprises that actually function as a unitary commercial entity are treated as a single taxable person for VAT purposes.

Ideally, group treatment should entail all the joys and burdens of being a single entity, which implies, on the one hand, that intermediate supplies between the members of the group are ignored for VAT purposes,⁵ while, on the other hand, the tax authorities can hold each member of the group jointly and severally liable for payment of the VAT debts of the entire group.

In its judgment in *Ampliscientifica*⁶, the European Court of Justice (ECJ) observed that treatment as a group precludes its members from continuing to file VAT returns separately, since the group alone is authorized to file such returns. The overview below also indicates whether or not the Member State in question allows that the members of the group file their VAT returns separately.

VAT grouping is only available in the following Member States, under specific circumstances and conditions. In Latvia, the Ministry of Finance announced a new VAT Act on 17 April 2008, which, if enacted, is envisaged to come into force on 1 January 2010. The new VAT Act should include group registration.

From 1 January 2010, VAT grouping will be introduced in the Slovak Republic. The members of the group will be treated as a single taxable person and act under a single VAT identification number. The group must file a single VAT return and recapitulative statement (EC sales list). Applications for group registration can be made from 1 April 2009. If the application is made by 31 October, group registration takes effect from 1 January of the following calendar year, which means that the first VAT groups may come into existence on 1 January 2010. If the application is made after 31 October, group registration will take effect 1 year later. Transactions between the members of the group are not subject to VAT.

4. Under Art. 11 of Directive 2006/112 and Art. 4(4) of the former Sixth Directive.

5. That characteristic, which is inherent to treating the members of the group as a “single taxable person”, does however not apply to the grouping arrangements applicable in Italy, Romania and Spain.

6. ECJ judgment of 22 May 2008 in *Ampliscientifica Srl, Amplifin SpA v. Ministero dell'Economia e delle Finanze, Agenzia delle Entrate*, Case C-162/07.

2.1.1. Austria

Under the doctrine of *Organschaft*, legal entities (*Organgesellschaften*) are not considered to be independent if they and their decision-making process are controlled by another entity (*Organträger*, parent company). The financial link between the *Organgesellschaft* and *Organträger* is determined in terms of the *Organträger's* voting rights in the *Organgesellschaft*, not its holding of the shares in the *Organgesellschaft's* capital. The *Organgesellschaft* is considered to be economically linked to the other members of the group if its business activities are interconnected, supplementary or adjusted to those of the other members. The parties are linked to one another from an organizational perspective if the *Organträger's* decisions are legally binding on the *Organgesellschaft* (its power to appoint or dismiss the *Organgesellschaft's* directors is not sufficient). Under those circumstances, the *Organgesellschaft* and the *Organträger* are considered to form a single entity for VAT purposes. The *Organgesellschaft* must be a legal entity ("GmbH" or "AG"¹), not a partnership ("OHG" or "KG"²). The *Organträger* may be a natural or legal taxable person or taxable association. It may even be a non-resident entity. However, in that case, the effects of the *Organschaft* are limited to transactions between the resident *Organgesellschaften* and the Austrian fixed establishment(s) of the non-resident entity, if any.

The *Organschaft* comes automatically into effect when the criteria of relatedness are met. It is not possible to opt for group registration.

The members of the group are neither entitled to file VAT returns separately nor jointly and severally liable for payment of the VAT debts of the group.

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1. *Gesellschaft mit beschränkter Haftung* or *Aktiengesellschaft*.
 2. *Offene Handelsgesellschaft* or *Kommanditgesellschaft*.

2.1.2. Belgium

Provided that they are established in Belgium, legally independent taxable persons that are closely bound to one another from a financial, organizational and economic perspective may choose to be treated as a single taxable person for VAT purposes. Financial links exist, if there is, directly or indirectly, a *de jure* or *de facto* relationship of control between the members of the group or, if their capital is not subdivided in shares, the majority of the assets used for the purposes of the economic activities of the members of the group is, directly or indirectly, owned by the same person. Organizational links exist if, legally or effectively, the members of the group are, directly or indirectly, under common management, they organize their activities, in part or in full, in consultation with each another, or they are, legally or effectively, directly or indirectly, under the control of the same person. Economic links exist where the most important activities of the members are of the same nature, their activities are complementary, interdependent or form part of a common economic goal, or the activities of some members are, partly or in full, for the benefit of the other members. However, once a group has come into existence and where one of the members directly participates for

7.3.1. Admission to sporting events

The standstill exemption laid down by item 1 of Part B of Annex X to the VAT Directive, under which admission to sporting events may be exempt, only applies in Cyprus, the Czech Republic, Denmark, Finland, France,¹ Ireland, Lithuania, Luxembourg, Malta and Sweden.

In Cyprus, the Czech Republic, Finland, Lithuania, Luxembourg, Malta and Portugal, the exemption applies on the condition that admission is provided by a non-profit organization and, in Lithuania, the exemption is limited to admission of persons participating in the sporting event. In Denmark, the exemption is limited to admission to amateur sporting events and, in Italy, the exemption only applies in a few cases, under specific circumstances. In Sweden, the exemption applies on the condition that admission is provided by the state, a municipality or non-profit organization for the benefit of everyone.

1. In France, the exemption only applies to sporting events subject to a specific indirect tax.

7.3.2. Artists and liberal professionals

Under item 2 of Part B of Annex X to the VAT Directive, the Member States may exempt the services supplied by authors, artists, performers, lawyers and other members of the liberal professions. As regards the services of artists and performers, it should be noted that admission to shows, theatres, concerts and similar cultural events can also be exempt under Art. 132(1)(n) of the VAT Directive⁵⁷ or subject to the reduced rate under Annex III(7) to the Directive.⁵⁸

The exemption for the services of “lawyers and other members of the liberal professions” only applies in Belgium and Greece to services of public notaries, lawyers and bailiffs. In Greece, the services of mortgage registrars are also exempt from VAT. In France, a specific “registration threshold” of EUR 41,500 applies.

As regards the services of “authors, artists and performers”, the following Member States apply the following exemptions:

	Exemption for services of authors, artists and performers
AT	Services of actors, musicians, singers and choirs, if rendered by public legal bodies.
BE	Services of authors, artists and performers.

57. Art. 13(A)(1)(n) of the Sixth Directive (Art. 132(1)(n) of Directive 2006/112) provides for exemption for certain cultural services and goods closely linked thereto supplied by bodies governed by public law or by other cultural bodies recognized by the Member State concerned.

58. Annex H(7) to the Sixth Directive (Annex III(7) to Directive 2006/112) applies to admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities.

VAT Options Exercised by the Member States

	Exemption for services of authors, artists and performers
DE	Services of theatres, orchestras or choirs of the municipalities, federal states or government are exempt. Other associations performing similar services can benefit from the exemption provided that they obtain a certificate from the respective federal state that they fulfil the same cultural purpose.
DK	Services of authors, artists and performers.
EL	Unless the services are rendered to the public.
ES	Services of, inter alia, certain artists (i.e. painters, sculptors, designers, etc.), authors, contributors to newspapers and journals, making contributions of a literary, graphic or photographic nature, composers, playwrights, scriptwriters, and translators.
FI	Services of athletes, performing artists and public performers.
FR	No. However, a specific "registration threshold" of EUR 41,500 applies.
GB	Works of art supplied by the person who created it or his successors in title.
LV	Services of phonogram producers, performers and literary authors.
NL	Services of composers, writers and journalists.
PL	Certain services of authors and artists.
PT	Services of authors and editors relating to literary, scientific, technical or artistic works, and services of actors, conductors, musicians and other artists (acting individually or as a group) provided to event organizers.
SE	Services of performers and supplies of works of art by the person who created them, provided that the annual turnover is less than SEK 300,000 (EUR 27,668).

7.3.3. Supply of new buildings

Only in Malta are supplies of new buildings⁵⁹ and building land (item 9 of Part B of Annex X to the VAT Directive⁶⁰) exempt from VAT. In Greece, new buildings are exempt where they serve as the owner's main residence.

7.3.4. Passenger transport

Under item 10 of Part B of Annex X to the VAT Directive,⁶¹ domestic passenger transport is exempt from VAT or zero rated, as summarized below.

An exemption applies:

- in Denmark and Ireland, to all forms of domestic passenger transport;
- in Italy, to urban¹ passenger transport by taxi;
- in Latvia, to transport of schoolchildren by licensed carriers and financed by the local authorities; and
- in the Netherlands, to scheduled domestic ferry services.²

1. In Italy, "urban" means within towns and cities, or between towns and cities over a distance not exceeding 50 km.

59. For the definition of "new" buildings, see 2.2.

60. Item 16 of Annex F to the former Sixth Directive.

61. Item 17 of Annex F to the former Sixth Directive.