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DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

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**VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)
WORKING PAPER NO 948 REV**

**CONSULTATION
PROVIDED FOR UNDER DIRECTIVE 2006/112/EC**

ORIGIN: Luxembourg
REFERENCE: Article 11
SUBJECT: VAT grouping

1. INTRODUCTION

The Luxembourg authorities wish to consult the VAT Committee on the introduction of the VAT grouping scheme into their national legislation, in accordance with Article 11 of the VAT Directive¹.

The Luxembourg provisions on VAT groups will enter into force on 31 July 2018, the date from which it will be possible to apply for registration under a VAT grouping scheme.

The text of the consultation submitted by Luxembourg with the relevant national legislation is attached in annex.

2. SUBJECT MATTER

Article 11 of the VAT Directive provides the Member States with an option to introduce a VAT grouping scheme into their national legislation to regard as one single taxable person any persons established in their territory who are bound to one another by financial, economic and organisational links.

The very wording of Article 11 makes it clear that a VAT grouping scheme can only be implemented after the VAT Committee has been consulted². The prior consultation of the VAT Committee must also be requested for any substantive amendments to an existing VAT grouping scheme.

The Commission services are of the opinion that, in order to give full meaning to this provision, and in particular to allow a genuine discussion in the VAT Committee, such a consultation should take place sufficiently in advance of the date of publication of the national rules.

2.1. Guidelines agreed by the VAT Committee

The VAT Committee has in the past discussed several issues as regards the application of this provision³, and has also agreed guidelines on some of them. Those discussions should be taken into account when assessing the transposition into Luxembourg law of Article 11 of the VAT Directive.

In particular, the VAT Committee has agreed guidelines⁴ as regards the territorial scope of VAT groups, following the ruling of the Court of Justice of the European Union (CJEU) in *Skandia America*⁵:

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006).

² CJEU, judgment of 5 July 2008, *Ampliscientifica*, C-162/07, EU:C:2008:301, paragraph 18.

³ See for example Working papers Nos 813, 845 and 879.

⁴ [Guidelines](#) resulting from the 105th meeting of 26 October 2015; Document A – taxud.c.1(2016)7465801 – 886 (p. 205).

⁵ CJEU, judgment of 17 September 2014, *Skandia America*, C-7/13, EU:C:2014:2225.

- "1. *The VAT Committee by a large majority agrees that in case of a legal person comprising a main establishment (hereinafter "head office") and a fixed establishment (hereinafter "branch") within different territories, only the entity (head office or branch) physically present in the territory of a Member State that has introduced the VAT grouping scheme may be considered to be "established in the territory of that Member State" for the purposes of Article 11 of the VAT Directive, and thus able to join a VAT group there.*

In that respect, a large majority of the VAT Committee is of the view that the branch of a company with its head office in a third country or another Member State may, independently of its head office, become a member of a VAT group in the Member State in which the branch is established. The VAT Committee also agrees at large majority that the head office of a company with its branch in a third country or another Member State may, independently of its branch, become a member of a VAT group in the Member State in which the head office is established.

2. *The VAT Committee by a large majority confirms that by joining a VAT group pursuant to Article 11 of the VAT Directive, an entity (head office or branch) becomes part of a new taxable person for VAT purposes – namely the VAT group – irrespective of the legal person to which it belongs. The large majority of the VAT Committee also confirms that the treatment of a VAT group as a single taxable person precludes the members of the VAT group from continuing to operate, within and outside their group, as individual taxable persons for VAT purposes.*
3. *The VAT Committee, with a large majority, agrees that a supply of goods or services by one entity to another entity of the same legal person such as "head office to branch", "branch to head office" or "branch to branch", where only one of the entities involved in the transaction is a member of a VAT group or where the entities are members of separate VAT groups, shall constitute a taxable transaction for VAT purposes, provided that the conditions laid down in Article 2(1) of the VAT Directive are met.*

In that regard, it is the view of the large majority of the VAT Committee that for such a transaction to be taxable, it is irrelevant whether the goods or services are supplied from a third country to a Member State or vice versa, or between two Member States.

4. *The VAT Committee by a large majority agrees that a supply of goods or services between an entity of a legal person (head office or branch) established in a Member State irrespective of whether that Member State has introduced a VAT grouping scheme, and a VAT group in another Member State which includes another entity of the same legal person (branch or head office) shall constitute a taxable transaction for VAT purposes, provided that the conditions laid down in Article 2(1) of the VAT Directive are met."*

Moreover, following the ruling of the CJEU in *Commission v Ireland*⁶ and *Commission v Sweden*⁷, the VAT Committee agreed the following guidelines⁸ on the type of persons who can become VAT group members:

"The VAT Committee almost unanimously agrees that although Article 11 of the VAT Directive does not preclude non-taxable persons from being included in a VAT group, a Member State availing of this option shall not be obliged to admit non-taxable persons as members of a VAT group but may restrict the application of the VAT group scheme by excluding such persons as members provided that the principle of neutrality is respected".

The VAT Committee has also discussed the meaning of "financial, economic and organisational" links which those wanting to be members of a VAT group must have in accordance with Article 11 of the VAT Directive based on Working paper No 918, although no guidelines have been agreed so far.

3. THE NATIONAL LEGISLATION ON VAT GROUPS

The essential elements of the Luxembourg legislation that transposes Article 11 of the VAT Directive are described as follows:

- (1) Any persons (whether or not taxable for VAT) established in Luxembourg who are closely bound to one another by financial, economical, and organisational links can be regarded as a single taxable person, namely, the VAT group.
- (2) The financial, economic and organisational links must exist simultaneously and are described as follows:
 - i. the financial link is deemed to exist where there is a relationship of control, direct or indirect, between the persons forming the VAT group (defined as corporate control that mainly occurs when a company holds the majority of voting rights of another company). The existence of this link must be certified by an auditor and renewed annually;
 - ii. the economic link is deemed to exist if one or more of the following forms of cooperation exist: the principal activity of the group members is of the same nature, or the activities of the group members are complementary or interdependent or pursue a common objective, or one member of the group carries out activities which are wholly or in part for the benefit of the other members;
 - iii. the organisational link is deemed to exist where the applicants: 1) are, *de jure* or *de facto*, directly or indirectly, under the same management structure, or 2) coordinate their activities wholly or in part, or 3) are, *de jure* or *de facto*, directly or indirectly, under the control of one person.

⁶ CJEU, judgment of 9 April 2013, *Commission v Ireland*, C-85/11, EU:C:2013:217.

⁷ CJEU, judgment of 25 April 2013, *Commission v Sweden*, C-480/10, EU:C:2013:263.

⁸ [Guidelines](#) resulting from the 101st meeting of 20 October 2014; Document C – taxud.c.1(2015)46844 – 824 (p. 181).

- (3) A person can be a member of only one VAT group. Any participation in the scheme as a member is binding for a period of two years (renewable if the conditions are still met).
- (4) The VAT grouping scheme is optional for businesses. However its creation is subject to the condition that all the persons who meet the conditions to be part of the group exercise the option for the scheme ("all in all out" rule). The mandatory membership can be avoided on the twofold condition that: a) the non-participation in the VAT group shall not lead to tax savings for the person concerned or for the group, and b) the person is not involved in the production and distribution chain with other members of the group.
- (5) Any person, although eligible for the VAT grouping scheme, whose participation in the group as member would lead to distortions of competition because of his economic activity (e.g. incidental or not linked to the main activity of the group) is excluded from the scheme. If the person making supplies which could be seen as distortive is not excluded from the VAT group, the VAT group should instead charge VAT on such supplies made by that person to other members.
- (6) A person, designated among the group members as "group representative" will be responsible for the rights and obligations of the VAT group. However, all group members are jointly and severally liable for the payment of VAT, interest and penalties due.
- (7) The group representative shall be the member who has the control over the other members (e.g. the parent company) or, in the absence of that, the member with the highest turnover. However, the members may designate with justification another member as representative of the group if such a member is more appropriate to perform the task.
- (8) The group representative must submit a declaration for the formation of the VAT group containing, *inter alia*, the organigram of all members with details about the economic flows among them, a detailed statement explaining the existence of the links (including certification of auditors as regards the presence of the financial link), individual subscriptions of the members, details about the eligible persons who have decided not to be part of the group in accordance with the requirements mentioned in point 4.
- (9) When the VAT group is formed, the possibility to apply in parallel the exemption scheme for small enterprises or the flat-rate scheme for farmers is excluded.
- (10) The VAT group internal transactions are assimilated to supplies between entities of the same legal person and then are disregarded for VAT purposes.
- (11) Each transaction between group members gives rise to the issue of a special document which, although it is not relevant for VAT, has to contain all the information required for invoicing, such as the nature, the value, the place and the date on which the transaction is made.
- (12) The VAT group will be identified for VAT purposes by means of an individual VAT identification number to use in its relations with the tax administration while

each group member will be identified by an auxiliary VAT identification number to use in the relations with their contracting parties. In particular, the auxiliary VAT identification number of a group member must be mentioned in the invoice relating to supplies with third parties in which such a member is the supplier or the recipient.

- (13) The VAT group must submit for each group member a distinct recapitulative statement and communicate in its annual VAT return the total turnover relating to the internal transactions of each group members.

4. THE COMMISSION SERVICES' OPINION

The Commission services have the following remarks concerning the Luxembourg VAT grouping scheme subject to the present consultation.

4.1. Territorial scope of the VAT grouping scheme

The very wording of Article 11 of the VAT Directive restricts the territorial scope of a VAT grouping scheme implemented by a Member State to persons established in the territory of that Member State.

According to the VAT Committee guidelines on the territorial scope of VAT groups, agreed by a large majority, the notion of "*persons established*" for the purposes of Article 11 has to be interpreted as only referring to entities physically present in the Member State that has introduced the VAT grouping scheme. Thus, the territorial scope of Article 11 coincides with the VAT jurisdiction of the Member State having implemented the VAT grouping scheme and also with the VAT identification requirements provided for there.

The Luxembourg VAT grouping scheme is consistent with this interpretation as only persons established in Luxembourg could become members of a VAT group there. Moreover, from the explanatory memorandum of the draft law, it is clear that establishments located outside of Luxembourg cannot be part of a VAT group there.

However, it is not clear whether in the case of a legal person comprising a head office and a branch, where the branch belongs to a VAT group in Luxembourg and the head office is located in another Member State or outside the EU, the supply from the foreign head office to the Luxembourg branch would be treated as a supply made by a third party to the VAT group and so taxable for VAT purposes.

It should be recalled that one of the effects of joining a VAT group is that, for VAT purposes, a single legal entity comprising a head office and its branch which are physically present in different territories shall be dissociated and the entities become two separate taxable persons if one of the entities is a member of a VAT group⁹.

⁹ See paragraphs 2 and 3 of the VAT Committee guidelines mentioned in section 2. See also *Skandia America*, paragraphs 29 and 30.

Furthermore, in order to avoid differences in application of the VAT grouping scheme among Member States, it is necessary that the interpretation of Article 11, despite its optional nature, is given an autonomous and uniform interpretation¹⁰.

The Luxembourg delegation is invited to clarify this point.

4.2. Who can be member of a VAT group

According to case-law of the CJEU, "persons" being able to form a VAT group in accordance with Article 11 of the VAT Directive may cover both taxable and non-taxable persons¹¹, as well as legal persons and entities without legal personality¹².

In particular, in the *Laurentia + Minerva* judgment, the CJEU held that national legislation which reserves the right to form a VAT group solely to entities with legal personality and linked to the controlling company of that group in a relationship of subordination is incompatible with the VAT Directive, except where such limitation is necessary and appropriate to prevent abusive practices.

Moreover, in its ruling *Commission v Sweden*¹³, the CJEU stated that the application of Article 11 is not, according to its wording, made subject to conditions other than those provided for therein. Nor does it enable the Member States to impose other conditions on economic operators in order to form a VAT group, such as carrying out a certain type of activity or being part of a particular sector of activity, unless such conditions can be justified as an anti-avoidance measure.

It is clear that under the Luxembourg VAT grouping scheme, any person, whether or not a taxable person for VAT purposes, can be a member of a VAT group. Moreover, the scheme does not seem to be limited to certain economic activities, although it has been clarified in the explanatory memorandum of the draft law that its implementation has become necessary for the operators of the financial and insurance sectors after the judgments of CJEU on cost-sharing arrangements¹⁴.

However, the Commission services would like to know whether entities other than companies, such as limited partnerships or foundations, could be eligible for VAT group membership and, if that is the case, how these entities could be said to meet the financial link requirement established in the national legislation. According to Article 60ter(2)(a) of the national draft law, the financial link requirement is indeed defined only by reference to a direct or indirect participation of one company in the voting rights of another company.

¹⁰ See *Commission v Sweden*, paragraphs 34-35.

¹¹ CJEU, judgment of 9 April 2013, *Commission v Ireland*, C-85/11, EU:C:2013:217; judgment of 25 April 2013, *Commission v Czech Republic*, C-109/11, EU:C:2013:269; judgment of 25 April 2013, *Commission v Denmark*, C-95/11, EU:C:2013:268; judgment of 25 April 2013, *Commission v United Kingdom*, C-86/11, EU:C:2013:267; and judgment of 25 April 2013, *Commission v the Netherlands*, C-65/11, EU:C:2013:265.

¹² CJEU, judgment of 16 July 2015, joined cases *Larentia + Minerva* and *Marenave Schiffahrt*, C-108/14 and C-109/14, EU:C:2015:496.

¹³ See also CJEU, judgment of 25 April 2013, *Commission v Finland*, C-74/11, EU:C:2013:266.

¹⁴ CJEU, judgment of 4 May 2017, *Commission v Luxembourg*, C-274/15, EU:C:2017:333; judgment of 21 September 2017, *DNB Banka*, C-326/15, EU:C:2017:719; and judgment of 21 September 2017, *Aviva*, C-605/15, EU:C:2017:718.

The Luxembourg delegation is invited to clarify this point.

4.3. Consequences of joining a VAT group

The main effect of implementing a VAT grouping scheme is that, persons who join the group, in particular companies, cannot be treated anymore as separate taxable persons for VAT purposes but must be part of a new single taxable person, which is the VAT group itself. It follows that treatment as a single taxable person precludes group members who are thus closely linked from continuing to submit VAT declarations separately and from continuing to be identified, within and outside their group, as individual taxable persons, since the VAT group alone is authorised to submit such declarations. This effect has been confirmed by the CJEU in *Ampliscientifica*¹⁵.

As clarified in the 2009 VAT Grouping Communication¹⁶, the VAT group is subject to the same rights and obligations as any other taxable person and all the provisions of the VAT Directive apply to it. Thus, the obligations fall on the VAT group as such, not its members. The single VAT identification number of the VAT group is to be used, for example, when issuing invoices for supplies of goods or services made by any of the group members to third parties, as these supplies are deemed to have been carried out by the VAT group itself, not by the individual member. In the same way, supplies of goods and services by third parties to one or more of the members of the group are considered to have been made to the VAT group itself. Thus, the relevant invoice must mention the VAT identification number of the group according to Article 226, point (4) of the VAT Directive.

As already mentioned, in its guidelines agreed following the *Skandia America* Court's ruling, the VAT Committee confirmed that "*the treatment of a VAT group as a single taxable person precludes the members of the VAT group from continuing to operate, within and outside their group, as individual taxable persons for VAT purposes*".

It follows from Article 60ter(15) of the national draft law that forming a VAT group entails the termination of the activity of each group member which is VAT registered for the purpose of removing its individual obligation to submit the VAT return. On the other hand, according to Article 60ter(13) of the draft law an individual VAT identification number will be allocated to the VAT group (to use in the relation with the tax administration, mainly, to submit the group's VAT return and pay VAT) as well as to each of its members (to use in the relations with contractual parties, in particular, for invoicing and recapitulative statements).

It results therefore that the VAT grouping scheme as designed by Luxembourg would not confer the VAT group an external significance as single taxable person in the relations with third parties. On the contrary, all group members would be allowed to act as taxable persons and use their VAT identification numbers as regards the external supplies in which they are involved (it is also unclear whether their VAT identification numbers would be effective in the VIES). Notwithstanding the importance of monitoring the group members' transactions, this treatment does not seem to be in line with the principle that the

¹⁵ CJEU, judgment of 22 May 2008, *Ampliscientifica*, C-162/07, EU:C:2008:301, paragraph 19.

¹⁶ Communication from the Commission to the Council and the European Parliament on the VAT group option provided for in Article 11 of Council Directive 2006/112/EC on the common system of value added tax (COM(2009) 325 final).

VAT group is the only existing single taxable person *vis-à-vis* both tax administrations and third parties.

From the explanatory memorandum of the national draft law, the Commission services however understand that the VAT group is the only person who will have access to the tax administration's web portal to claim VAT incurred in other Member States. Also the VAT group would be allowed to register in the MOSS by means of a specific identification number (any establishments of group members in other Member States would no longer be considered for the purposes of such a scheme, e.g. for reverse charge VAT liability).

Nevertheless, doubts remain as regards the continuation of the "VAT status" of each group member (e.g. it is not clear whether the cash accounting provision would continue to apply to the members individually or to the group as a whole).

The Luxembourg delegation is invited to clarify these points.

4.4. Anti-avoidance measures

The second paragraph of Article 11 of the VAT Directive allows Member States to adopt any measures needed to prevent tax evasion or avoidance.

As stated in the 2009 VAT Grouping Communication, since no unjustified advantage or unjustified harm should arise from the implementation of the VAT grouping option, it is important that Member States make use of this option and take all necessary measures to avoid abusive practices, put into effect through the use of their national VAT grouping schemes.

Luxembourg VAT grouping includes a number of anti-avoidance provisions, among which the mandatory membership of all persons who meet the conditions for integration in the VAT group, a minimum mandatory period of two years for the membership, the exclusion from the scheme of persons who perform activities that would cause distortion of competition. In addition, the scheme entails a number of administrative obligations for VAT groups and their members, given that, for example, all the transactions between the members must be monitored.

The Commission services would like to know, in particular, how the provisions set out in paragraphs (6) and (7) of Article 60*ter* would work in practice and whether they are intended to address specific situations of abuse. In particular, the Commission services would appreciate a clarification as regards which scenarios could give rise to distortions of competition and why such cases are not explicitly excluded from the scope of VAT grouping¹⁷.

In the comment of paragraph (7) of Article 60*ter*, Luxembourg refers to activities supplied by a VAT group member to other members as potentially being distortive where such activities are different in nature from the main economic activity of the group (i.e. such activities seem to be considered "ancillary" to the main activity of the VAT group). Could there be a contradiction between excluding such persons from VAT groups and the definition of the economic link between VAT group members? In this respect, the

¹⁷ For instance, the CJEU validated a sectorial restriction of VAT groups adopted by Sweden and Finland in order to combat tax evasion or avoidance in *Commission v Sweden* and *Commission v Finland*.

economic link is deemed to exist, amongst others, if one member of the group "carries out activities which are wholly or in part for the benefit of the other members".

While the adoption of anti-avoidance measures is important, such measures have to be well-founded and targeted to the risk which is being tackled, so that VAT groups are not unjustifiably made dependent upon fulfilment of conditions other than those strictly following from the wording of this provision. Moreover, it is important to note that anti-avoidance measures and the additional requirements should not become a source of complication for the economic operators or undermine the simplification purpose of VAT groups, which is the reason why Luxembourg introduces such a scheme (section I.C of the explanatory memorandum of the draft Luxembourg legislation).

The Luxembourg delegation is invited to clarify these points.

5. DELEGATIONS' OPINION

Delegations are invited to give their opinion on the issues raised.

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Consultation by Luxembourg

Article 11 of the VAT Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

Introduction in national legislation of the VAT group option

In accordance with Article 11 of Directive 2006/112/EC, the Luxembourg authorities wish to consult the VAT Committee on the introduction of the VAT group option based on the aforementioned article of Directive 2006/112/EC.

In general terms the relevant draft law provides for these arrangements to be implemented as follows:

- taxable and non-taxable persons established in the territory of the country and closely bound to one another by financial, economic and organisational links can be considered as a single taxable person (hereafter, ‘VAT group’);
- definition of economic, financial and organisational links;
- anti-abuse measures such as, in particular, the mandatory inclusion in the VAT group of any person who meets the relevant conditions and whose omission could produce an unfair tax advantage; the establishment of a minimum period of membership of the VAT group of two calendar years; the exclusion from the arrangements of any person performing an activity that might produce distortions of competition;
- definition of relations with the tax administration, among the members themselves and with third parties;
- assigning of an individual VAT identification number to the group and of an auxiliary VAT identification number to each group member, to be used by the member to monitor its transactions;
- summary statements to be submitted individually under the various auxiliary identification numbers; establishment, by the VAT group, of a statement compiling the turnover produced by each individual member with the group’s other members, in order to allow the monitoring of transactions carried out among the members. This statement will be attached to the annual summary return for control purposes.

The draft law makes provision for its entry into force on 31 July this year.

Please find enclosed the text of the draft law in question.

Draft law amending and supplementing the amended Law of 12 February 1979 on value added tax

Draft text

Article 1. Article 7 of the amended Law of 12 February 1979 on value added tax is deleted.

Article 2. In Chapter VIII of the same Law, a new Section 9 is inserted, which reads:

‘Section 9 – VAT group

Article 60b. 1. Persons established in the territory of the country and closely bound to one another by financial, economic and organisational links may choose to be considered as a single taxable person, or ‘VAT group’.

2. The following are considered to be closely bound to one another:
 - a) in financial terms, persons among whom there are direct or indirect links of control based on relationships established pursuant to Article 1711-1(1)(1) of the amended Law of 10 August 1915 on commercial companies;
 - b) in economic terms, persons using one or more of the following three forms of cooperation:
 - 1) the members’ main activity is similar in nature; or
 - 2) the members’ activities complement or influence each other or pursue a common economic goal; or
 - 3) a member’s activity is performed in full or in part for the purpose of the other members’ economic activities;
 - c) in organisational terms, persons
 - 1) who are, in law or in fact, directly or indirectly, under common management; or
 - 2) who organise their activities fully or partly in consultation with one another; or
 - 3) who are, in law or in fact, directly or indirectly, under the control of a single person.
3. A person may be a member of only one VAT group.
4. Any involvement in the VAT group must cover a period of at least two calendar years.
5. Transactions between VAT group members shall be regarded as having been conducted by one and the same legal person.
6. A VAT group shall be established on the condition that all persons meeting the legal conditions to be part of group choose to join the scheme.

Nevertheless, a person can choose not to join the VAT group subject to the following two conditions:

- that choosing not to join the VAT group does not or would not result in a VAT saving for the VAT group or the person not participating in it that would not have been produced otherwise;
- that the person is not an integral part of the economic ties between the VAT group members.

7. Any person who, despite meeting the membership conditions of the VAT group defined in paragraph 1, performs a sole activity which, by its nature, is not specific to the group's core activity, and which normally is not carried out, at least not on a similar scale, within an undertaking carrying out an activity comparable to that of the VAT group, shall be excluded from the group if that person's integration within it results in a distortion of competition.

In cases where such a person is not excluded from the VAT group owing to other activities that do not distort competition, the VAT group shall be liable for the tax on transactions which do distort competition. These transactions shall therefore be regarded, depending on their nature, as subject to the provisions of Articles 13 and 16.

8. The implementation of the VAT group scheme shall exclude the simultaneous application of the following:

- the small-business exemption scheme under Article 57(1);
- the flat-rate taxation scheme for agriculture and forestry under Articles 58 to 60.

9. The VAT group shall continue the personality of the incoming member with regard to the adjustment of the taxable amount and the input tax relating to the transactions carried out by the incoming member prior to entering the VAT group.

A member who withdraws shall be expected to assume the rights and obligations of the VAT group relating to the adjustment of the taxable amount and the input tax relating to the transactions it carried out and declared while part of the VAT group.

10. For the implementation of the rights and obligations arising under this Law, a VAT group shall be represented by its member responsible for monitoring, within the meaning of paragraph 2(a), the other members or, failing that, the member with the highest turnover or income.

However, the members may appoint another member if the latter is in fact best qualified to ensure compliance with the criteria referred to in paragraphs 1 to 6 if that person has unconditional access to the fiscally relevant data of the other members and has all the resources they need to perform this task on a continuous basis. Reasons must be given for the appointment of the representative.

If the representative is prevented from fulfilling their duties on legal or practical grounds, the members shall appoint a replacement. The replacement of a representative shall be declared to the Administration within three working days.

11. The representative shall submit the declaration notifying the constitution of a VAT group. In particular, the statement shall include:

- the full organisational chart of the group of undertakings;
- the full organisational chart of economic exchanges between the members of the group of undertakings;
- a detailed list of persons satisfying the conditions for membership of the VAT group pursuant to paragraph 1, specifying, for each of these persons, the nature of the links with the other members;
- a detailed list of persons choosing not to participate in the VAT group pursuant to paragraph 6(2), specifying, for each of these persons, the nature and scale of their economic ties with the various effective members of the VAT group;
- the options for applying the scheme, subscribed to by the members;
- the declarations through which persons meeting the conditions under paragraph 1 and those of paragraph 6(2) declare their non-participation in the VAT group.

The completed and duly documented declaration shall take effect on the first day of the month following the expiry of a period of fifteen days beginning on the day of receipt by the administration.

The VAT group's members shall assume collective responsibility for the accuracy of the data provided.

12. The existence of close financial ties among members, as defined under paragraph 2(a), shall be certified by a company auditor, authorised to act in their professional capacity pursuant to the amended Law of 18 December 2009 on the audit profession, or by an accountant, authorised to act in their professional capacity pursuant to the amended Law of 10 June 1999 on the organisation of the profession of accountant.

The corresponding certifications shall be attached to the declaration notifying the constitution of a VAT group. They shall be renewed annually and transmitted to the administration by the date established in Article 64(7) and (9), relating to the submission of the annual return.

13. The VAT group shall be identified for tax by an individual identification number, which it will use in its dealings with the administration, and as many ancillary identification numbers as there are members, which the latter will use in their dealings with their co-contracting partners.

14. For any person who, after the VAT group has been constituted, satisfies the conditions referred to in paragraphs 1 and 2, the representative shall declare, within fifteen days of the day on which those conditions are met, the entry of that person into the VAT group, or, provided that person satisfies the conditions referred to in paragraph 6, subparagraph 2, its decision not to join the VAT group.

For any member who no longer satisfies the conditions referred to in paragraphs 1 and 2 the representative shall declare within the aforementioned period, starting from the day on

which the conditions are no longer met, the withdrawal of that person from the VAT group.

By way of derogation from subparagraph 1, the entry into the group of a person referred to therein may be deferred in the context of a business restructuring. The declaration referred to in paragraph 1 must be made before the last day of the eleventh month following the month during which the conditions referred to in paragraphs 1 and 2 are met. Entry into the VAT group shall take effect from the day of receipt of the declaration.

15. On the effective date of the declaration notifying the constitution of a VAT group or entry into an existing VAT group, the members already identified for VAT purposes in their own right shall automatically be deemed to have ceased activity for the purposes of their own reporting obligations.

16. Any withdrawal by a VAT group member shall take effect on the date from which that member no longer satisfies the conditions for membership of the group, or, where withdrawal takes place pursuant to paragraph 6, subparagraph 2, from the date of receipt of the declaration of withdrawal.

Persons who continue their activities after leaving the VAT group, either as a taxable person or as a non-taxable legal person, shall continue to be identified individually, upon express request in the declaration of withdrawal or by request submitted before this takes effect.

17. The VAT group shall be dissolved when the penultimate member leaves.

18. Any transaction falling within the scope of this scheme and exchanged among the VAT group's members shall require a specific document to be drawn up, unless the transaction is the subject of a document serving as an invoice within the meaning of Article 63. The specific document shall contain all the required invoicing details to indicate the exact nature, scope and valuation of the transaction as well as the location at and date on which the transaction took place.

A transaction invoiced as defined in Article 63 shall include a clear reference to the implementation of this scheme.

19. By way of derogation from Article 63, the invoice shall be issued with the name, address and auxiliary identification number of the VAT group member making the taxable transaction.

Similarly, invoices drawn up relating to transactions performed for the VAT group shall include the name, address and auxiliary identification number of the receiving member.

20. The summary statements to be drawn up pursuant to Article 64*bis* shall be deposited by the VAT group, separately, on behalf of and bearing the auxiliary identification number of each individual member.

The period covered by the summary statements on the transactions listed in Article 64*bis*(1), first and second indents, shall be drawn up on the basis of the relevant turnover produced by the VAT group.

21. The VAT group shall annex to the annual return to be submitted pursuant to Article 64(7) the total amount of the transactions carried out by each member for each of the other members of the VAT group.

22. If a member joins or leaves the VAT group during a tax period within the meaning of Article 64, the VAT group shall submit, for that same period, a summary statement of suppliers and providers identified for VAT purposes in another Member State whose supplies made under the member's auxiliary identification number are subject to the rules corresponding to Article 64*bis* in that Member State.

Paragraph 1 shall not apply if the member joining or leaving has not been identified for VAT purposes individually during the part of the period under consideration during which it had not yet joined or was no longer a member of the VAT group.

23. The VAT group's members shall be jointly and severally liable for value added tax, default interest, fines and charges payable as a result of transactions relating to the period during which those persons were members of the group.

24. The VAT group shall communicate books, invoices and other documents through the representative appointed in accordance with paragraph 10. However, the competent administration may demand that the members of the VAT group communicate the books, invoices and other documents that concern them.

25. Any declaration to be made under this Article shall be transmitted to the administration in the appropriate manner it prescribes'.

Article 3. Under Article 77(1) and (3) of the same law, the term '60*ter*' is added following the term '60*bis*'.

Article 4. Under Article 28 of the same law, a paragraph 3 is added, as follows:

'3. By way of derogation from paragraph 1 and to prevent tax evasion or avoidance, the taxable amount for supplies of goods and services referred to in paragraph 1(a) for beneficiaries with whom they have family or other close personal relations, and organisational, property, membership, financial or legal ties, shall be the open market value in the following instances:

- a) where the consideration is lower than the open market value and the recipient of the supply or provision does not have a full right of deduction under Chapter VII;
- b) where the consideration is lower than the open market value and the supplier or provider does not have a full right of deduction under Chapter VII and the supply or provision is subject to an exemption under Article 44;
- c) where the consideration is higher than the open market value and the supplier or provider does not have a full right of deduction under Chapter VII.

For the purposes of applying the first subparagraph, legal ties may include the established relationship between an employer and employee, the employee's family and other closely connected persons'.

Article 5. In Article 32(1) of the same law, the words ‘within the meaning of Article 31’ are replaced by ‘within the meaning of Article 28(3) and Article 31’.

Article 6. In Article 53(2), subparagraph 1, of the same law, the words ‘and the services which have characteristics similar to those normally attributed to capital goods’ are inserted after the words ‘In the case of capital goods’.

Article 7. This Decision shall enter into force on 31 July 2018.