

ATOZ VAT ALERT



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Cost sharing VAT exemption: not applicable in the financial and insurance sectors

The Court of Justice of the European Union ("CJEU") released on 21 September 2017 its judgments in three cases¹ relating to the scope of application of the cost sharing VAT exemption (also referred to as "Independent Group of Persons" or "IGP").

The key outcomes of these judgments can be summarised as follows:

- the VAT exemption is only applicable to services from IGP's whose members undertake an activity in the public interest (e.g. medical, education sectors, etc.);
- the VAT exemption does not apply to services from IGP's whose members are operating in the financial and in the insurance sectors. Therefore, these services should be considered as subject to VAT;
- these judgments should not have a retrospective application, considering the principles of legal certainty and non-retroactivity.

This narrow interpretation of the VAT directive by the CJEU should entail far-reaching consequences for Luxembourg financial and insurance players having implemented an IGP. Because the current Luxembourg IGP VAT exemption will no longer be applicable in those sectors, IGPs in place will have to be quickly reviewed and restructured. The implementation of a VAT group system in the Luxembourg VAT Law would be an alternative in order to maintain the attractiveness of the Luxembourg financial center.

¹*European Commission v. Federal Republic of Germany (C-616/15), Minister Finansów v. Aviva Towarzystwo Ubezpieczeń na Życie S.A. w Warszawie (C-605/15) and DNB BANKA' AS v. Valsts ienemumu dienests (C-326/15)*

Can we help? Do you have questions?



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