

Item 5

Policy paper

Revenue and Customs Brief 3 (2018): changes to the VAT exemption for cost sharing groups

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Contents

1. [1. Purpose of this brief](#)
2. [2. Who should read this Brief](#)
3. [3. What is the Cost Share Exemption \(CSE\)](#)
4. [4. Explanation of changes](#)
5. [5. What happens next](#)
6. [6. Action required](#)

1. Purpose of this brief

This brief and the related VAT information sheet explain the immediate changes that are taking place in HMRC's policy following recent judgments in the 4 cases:

- Commission v Luxembourg - Case C 274/15
- Aviva Towarzystwo Ubezpieczeń na Życie S.A. w Warszawie (Aviva) - Case C 605/15
- DNB Banka AS (DNB) - Case C 326/15
- Commission v Germany – Case C 616/15

It also explains other matters and tells you about other areas that are under review and that may change later.

This brief should be read by existing cost sharing groups (CSGs) in conjunction with [VAT Information Sheet 02/18](#). The VAT information sheet explains what transitional arrangements are in force for CSGs that have applied the exemption correctly based on earlier guidance. It also explains where current guidance is amended by this brief.

2. Who should read this Brief

This brief should be read by UK businesses in the finance, insurance and other sectors who have implemented a cost share group (CSG), or are thinking of implementing a CSG, and have relied on HMRC's published guidance in the [Cost Sharing Exemption Manual](#), CSE1000 to CSE3000.

Accountants, consultants and others who provide VAT advice to the businesses referred to above should also read this brief.

3. What is the Cost Share Exemption (CSE)

As explained in the [Cost Sharing Exemption Manual](#), (CSE1000), the cost sharing exemption (CSE) applies when 2 or more organisations (whether businesses or otherwise) with exempt or non-business activities join together on a co-operative basis to form a CSG. A CSG is a separate, independent entity, set up to enable its members to supply themselves with certain qualifying services at cost and exempt from VAT.

As a result a ‘co-operative self-supply’ arrangement (a term the EU Commission use) is created. Because the CSG is a separate taxable person from its members, it’s able to make supplies for VAT purposes to its members. This exemption allows small providers who can’t afford to acquire assets on their own account to benefit from the same overall VAT position as larger providers who can afford to purchase the assets themselves. Thus the more members of a CSG there are, the greater the potential savings and lower the costs per member of operating the relevant CSG.

The CSE applies only in very specific circumstances and won’t cover all shared service arrangements.

4. Explanation of changes

The immediate effects of the judgments are as follows.

(a) The CSE will be restricted to members who engage in the exempt activities in the following Exemption Groups in Schedule 9 of the VAT Act 1994, with effect from the date of issue of this brief.

Exemption groups:

- postal service (Group 3)
- education (Group 6)
- health and welfare (Group 7)
- subscriptions to trade unions and professional bodies (Group 9)
- sport (Group 10)
- fund raising by charities (Group 12)
- cultural services (Group 13)

The judgments don’t cover non-business activities and therefore CSGs engaged in these activities are unaffected by this change.

There’ll be interim measures for existing CSGs that have operated the previous guidance correctly.

Housing associations can continue to apply the CSE for the time being until HMRC gives more guidance.

In any case of avoidance or abuse, HMRC will apply the guidance from the court from the date of the judgments.

(b) HMRC policy will be amended to restrict the CSE to members located in the UK. It'll no longer be permitted to apply the exemption for transactions with members located in other EU member states. The CSE has not been permitted for members located outside of the EU, and this will remain the position.

(c) A CSE won't be permitted where an uplift has been charged on transactions for transfer pricing purposes. It'll remain the position that the CSE won't be permitted in any other case where exact reimbursement can't be evidenced.

5. What happens next

HMRC is considering the impact of the judgments on:

- the test for directly necessary services which enabled CSGs to ignore certain non-qualifying supplies for the CSE
- the social housing sector

HMRC will give more guidance at a later date.

6. Action required

CSGs should consider the impact of the judgments as set out above and read [VAT Information Sheet 02/18](#). [Contact HMRC](#) if you need more information or if you're asked to do so in the VAT Information Sheet.

Revenue and Customs Brief 4 (2018): aligning time limits for VAT refund schemes

This brief sets out HMRC's policy on the changes to the time limits for VAT refund schemes if you're a local authority, fire authority, police or similar body.

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From:

[HM Revenue & Customs](#)

Contents

1. [1. Purpose of this brief](#)
2. [2. Who should read this](#)
3. [3. Background](#)
4. [4. Further information](#)

1. Purpose of this brief

This brief is to notify you of a change in time limits for claiming VAT refunds from 1 July 2018, in accordance with Section 33 of the Value Added Tax Act 1994.

2. Who should read this

You should read this if you're a local authority, fire, police authority or similar body that can make VAT refund claims for costs linked to your statutory obligations.

3. Background

Local authorities, fire authorities, the police and similar bodies perform statutory functions which are treated as outside the scope of VAT. Section 33 of the Value Added Tax Act 1994 allows you to claim refunds for associated VAT costs, for example on domestic refuse disposal or social care.

The time limit for such claims is being extended from 3 to 4 years, to align with normal VAT time limits. This change applies from 1 July 2018. No claim can be made for goods imported or acquired on goods or services supplied before 30 June 2015.

The time limit during which HMRC may seek adjustments relating to claims is also extended from 3 to 4 years.

There will be a transitional period to enable you to adjust to the new requirements and to ensure that accounting periods that are out of time on 30 June 2018 are not bought back in time by the change.

Between 30 June 2018 and 30 June 2019 the earliest accounting period for which an adjustment may be made is that ending on 30 May 2015.

By 31 July 2019, the 4-year time limit will have come fully into effect so that a claim for adjustment made on that date would go back to the period ending 30 June 2015.

4. Further information

For further information see [Local authorities and similar bodies \(Notice 749\)](#).

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