

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 197: Exempt Supplies

Summary

1. [Section 196](#) implements Article 132(1)(f) of Council Directive [2006/112/EC](#), the Principle VAT Directive (“PVD”). It adds a new Group 16 (supplies of services by groups involving cost sharing) to Schedule 9 (“Schedule 9”) of the Value Added Tax Act 1994 (“VATA”) which exempts from VAT the supply of services by a group which consists of persons engaged in exempt or non-taxable activities so long as the services are supplied to group members at cost and for the purposes of those activities.
2. This section also introduces a power, allowing the Treasury to impose conditions in connection with the application of the exemption.

Details of the Section

3. Section 31 of VATA provides that supplies described in Schedule 9 are to be treated as exempt from VAT. The exempt supplies are itemised in a number of different groups in Part II of that Schedule in accordance with their subject matter (for example exempt supplies relating to land are itemised in Group 1). There is an index to the groups in Part 1 of Schedule 9. There is currently no provision in VATA for the exemption contained in Article 132(1)(f) of the PVD.
4. Subsection (1) inserts a reference to a new Group 16 into the Schedule 9 index.
5. Subsection (2) inserts a new Group 16 (supplies of services by groups involving cost sharing) into Part II of Schedule 9 which describes the exempt supply as a supply of services by an independent group of persons subject to four conditions namely:
 - the members of the group are each engaged in exempt or non-taxable activities;
 - the supply is made for and directly necessary for those activities;
 - the group merely claims exact reimbursement for those services; and
 - relief from taxation is not likely to cause distortion of competition.
6. Subsection (3) inserts new subsection 31(3) to (5) into VATA, allowing the Treasury to make regulations imposing conditions in connection with the operation of the exemption in the new group 16 and to make consequential and transitional provisions in that connection (including amendment to primary legislation).
7. Subsection (4) sets out the effective date of the section.

Background Note

8. The exemption reduces a barrier that might prevent businesses and organisations that have exempt and/or non-business activities for VAT purposes from joining with others to share costs...
9. Businesses and organisations that have exempt and/or non-business supplies are not able to reclaim the VAT they incur on their purchases that relate to such supplies (irrecoverable VAT). If they co-operate by forming a group to provide them with services necessary to their exempt/non-business activity they would normally pay VAT on the supply of those services. This exemption relieves such supplies from VAT but only where the services are supplied by the group to group members at cost and only if relief from VAT does not itself distort competition.
10. The exemption is defined in broad and general terms in the PVD and this is reflected in the section. HMRC will develop detailed guidance in consultation with taxpayers in order to provide a clear framework within which the exemption can operate effectively and to the benefit of taxpayers whilst ensuring the scope for avoidance or abuse is limited.
11. The exemption will benefit all sectors undertaking exempt and/or non-business activities including charities, universities, further education colleges, banks, housing associations and insurance businesses.