



## **VAT alert** Belgium

---

### **Luxembourg exemption for Cost Sharing associations too broad says Advocate General**

On 6 October 2016, Advocate General Kokott gave her Opinion in a pending case, following an action brought by the European Commission against Luxembourg (case C- 274/15) with respect to the exemption for Independent Groups (also known as "Cost Sharing Associations").

Ms. Kokott finds the Luxembourg exemption too broad since the exemption still applies even if the service provided by the Independent Group is not directly necessary for the member's exempt or non-taxable activity.

Ms. Kokott also believes that it is not acceptable for Luxembourg's legislation to allow members' deduction of VAT on invoices directed to the Independent Group, and objects to goods or services purchased by a member being allocated (recharged) to the Independent Group without VAT (outside scope).

The Advocate General's opinion is in line with the new article 44, §2, 1 bis of the Belgian VAT code that only allows an exemption for services directly required for the VAT exempt or non-taxable activity of group members. The Advocate General did not provide any further comments on the interpretation of "directly necessary for the VAT exempt or non-taxable activity".

The new article 44, §2, 1 bis of the VAT code entered into force on 1 July 2016. A transition period is currently in place until the end of 2016 for Independent Groups to comply with the new rules. The circular letter detailing the new exemption's conditions and formalities is expected in the coming days.

---

## Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium

For general inquiries, please contact:  
[bedeloittetax@deloitte.com](mailto:bedeloittetax@deloitte.com), + 32 2 600 60 00

Be sure to visit us at our website:  
<http://www.deloitte.com/be/tax>

---

## Deloitte Academy Upcoming events

- 14/10/2016 [Pan-European VAT Update – Q4 2016](#)
- 19/10/2016 [Dispute Prevention \(Part 2\): Preventing Disputes Through The Use Of Advance Pricing Agreements \(APAs\)](#)
- 09/11/2016 [Brexit: What Will It Mean For Employers?](#)
- 23/11/2016 [Innovation and R&D incentives – New opportunities](#)

## Replay past webinars



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

Deloitte provides audit, tax and legal, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 225,000 professionals, all committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2016. For information, contact Deloitte Belgium.

[Subscribe](#) | [Unsubscribe](#)