

Opting for VAT taxation of financial transactions

Since January 1, 2022, Polish VAT taxpayers have been given an option to waive the existing VAT exemption for financial services (excluding insurance) provided to business clients (B2B). In consequence, any financial institution (or other VAT payer) could decide to charge standard output VAT on such services.

Summary of the key changes:

- **the new solution is voluntary, but when chosen** (which requires notice to a Polish tax office), it must be used for at least 2 years. Consequently, after a taxpayer resigns from VAT taxation of financial services (after 2 years), another 2-year 'cooling-off' period applies before VAT taxation may be opted for again;
- **it applies to all financial services** (excluding insurance) and to transactions with any business clients (a taxpayer cannot choose VAT taxation for specific services or specific clients; it is an 'all or nothing' decision). Transactions with non-business clients should remain unchanged (i.e. continue to be VAT-exempt);
- **as services are subject to VAT, an invoice should be issued to a business client without a request** (hence, it is also important to determine the taxable amount properly);
- **VAT on services provided to clients that are entitled to deduct input VAT should be neutral for such clients** (i.e. the cost of banking services should not change). At the same time, a bank offering taxable services should be entitled to deduct input VAT;
- **on the other hand, services provided to clients that are not entitled to deduct input VAT** (e.g. other financial institutions, doctors, public sector entities, health care providers, etc.) will in practice become more expensive, as their cost will be increased by the applicable VAT amount.

VAT grouping scheme as from July 2022

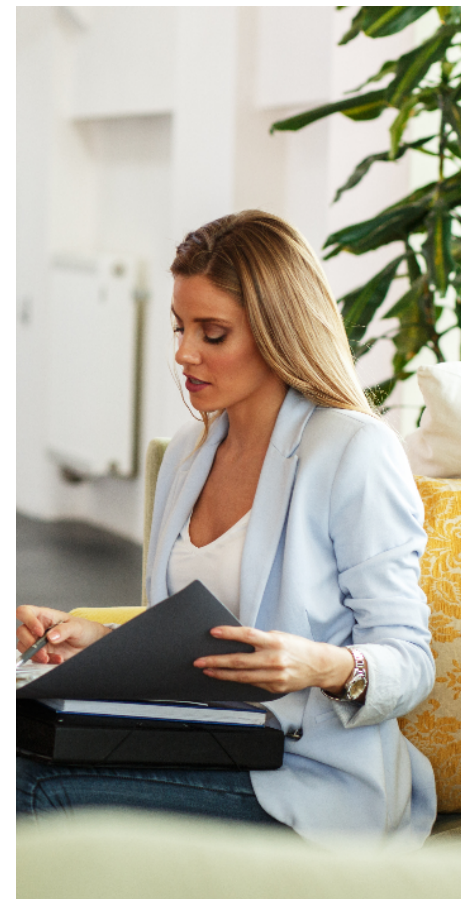


In July 2022, VAT grouping will be introduced in Poland in line with the following principles:

- a VAT group can only be formed by entities having economic, financial, and organisational links to continue for at least three years;
- the financial link is of key importance – one of the group entities must hold directly more than 50% of shares or of the other entities, with a single exception – a branch of a non-Polish VAT payer;
- the VAT group is optional for businesses;
- intra-group supplies will not be treated as transactions for VAT purposes, while supplies provided by a group entity to an entity from outside that group will be regarded as supplies provided by the group. Supplies by entities from outside the group to a group entity will be considered supplies provided to the group;
- the members of the VAT group will be liable for VAT jointly and severally;
- for control purposes, the group has to keep records of intercompany transactions in electronic form so that they can be submitted to the tax authority upon request;
- the holding company is the entity that represents the VAT group, submits tax returns (SAF-T) and pays VAT on behalf of the group;
- the scheme is not limited to any specific sectors (it is also available to financial institutions)

The VAT group concept is expected to open up new possibilities which are currently unavailable to Polish entities. For example, at present a number of activities outsourced by banks or insurers are subject to 23% output VAT, as they do not qualify for a VAT exemption applicable to financial or insurance services. As a result, input VAT, which – as a rule – is non-deductible for financial institutions, constitutes a cost item. This discourages the use of outsourcing in the Polish financial sector.

Upon introduction of VAT groups in Poland, outsourcing services provided within a VAT group will be VAT-exempt and, consequently, they will no longer be recognized as a cost item by financial institutions. VAT grouping regulations may encourage banks and/or insurers to use outsourcing in order to optimize their operating costs.



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