



Reform of VAT grouping – declaration procedure rather than an application procedure

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1 Background

VAT grouping has, for years, been the subject of various decisions by the Federal Fiscal Court (BFH) and the European Court of Justice (ECJ), addressing both its requirements and legal consequences. This case law has, in particular, led to considerable practical uncertainty. Most recently, the Federal Ministry of Finance (BMF), by letter dated 1 April 2026, added a single BFH decision to the German Administrative VAT Guidelines (KMLZ VAT Newsletter 19 | 2026). At the same time, business associations have repeatedly called for a VAT grouping application procedure in order to enhance legal certainty. Approximately one year ago, the BMF presented a concept for reforming VAT grouping and discussed it with several leading business associations. Based on this concept, a draft BMF bill for reforming VAT grouping has now been issued.

2 Planned changes according to the draft bill

According to the draft bill, a new sec. 2c in the German VAT Act, and a supplementary provision in the German VAT Implementing Regulation, are to be introduced. The new rules are intended to apply as of 1 January 2029. The basic concept of VAT grouping will remain unchanged. The controlling entity must be a taxable person. The controlled entity is not regarded as a taxable person where the three integration criteria – financial, economic, and organizational integration – are satisfied.

The planned declaration procedure constitutes a key innovation. Under this approach, the effects of VAT grouping arise only if the controlling entity declares, in advance, its intention to establish a VAT group. Conversely, even where the substantive requirements are met, VAT grouping will not take effect in the absence of such a declaration. The declaration thus becomes a constitutive element of VAT grouping, effectively excluding the possibility of an unintended VAT group. The



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controlling entity may further choose to include only selected subsidiaries within the VAT group. The legislator intends to introduce provisions in the VAT Implementing Regulation governing the form of the declaration, including a requirement for electronic submission using an officially prescribed data set (which is likely to render any subsequent assumption of an implied declaration problematic). If the conditions for a VAT group are no longer met, the controlling entity must notify the tax authorities without undue delay.

A second change concerns partnerships, which may, in future, qualify as a member of a VAT group under the same conditions as legal persons. In this respect, the statutory rule extends beyond the current case law of the BFH, which to date has only recognized GmbH & Co. KG structures as eligible controlled entities.

The draft also introduces procedural innovations. A particular issue arises where a supposed controlling entity files a declaration stating that a VAT group exists, although the substantive requirements are not fulfilled. In such cases, no VAT group is formed, i.e., the declaration alone does not create VAT grouping. From a procedural point of view, it is intended to ensure that corrections can be effected (either for both or neither of the parties), even if the assessment period for one party to the purported VAT group has already expired. In the course of the reversal, the supposed controlling entity is to be liable for the VAT liabilities of all designated supposed controlled entities. However, upon joint application by all parties, the reversal may be waived entirely, provided that no loss of tax revenue is expected. No interest is to arise even in the event of such a reversal; according to the draft, this is to be achieved by providing that the interest period begins only 15 months after the issuance of the amended assessments (implemented procedurally by deeming a retroactive event).

3 Consequences for the practice

By including partnerships as potential controlled entities, the legislator incorporates the ECJ's case law into the German VAT Act. This amendment is therefore to be welcomed. Until the provision becomes applicable, it must be assessed for partnerships whether any changes, from a VAT perspective, arise.

The more practically significant change is the introduction of the declaration procedure. By establishing the declaration as an additional constitutive element, taxable persons may (also for individual companies within the group) deliberately opt out of VAT grouping (e.g., for liability reasons). This creates structuring opportunities, particularly in complex group structures. At the same time, the absence of a declaration provides legal certainty that no VAT group exists. However, since the legislator has not implemented an application procedure, submitting a declaration does not entail final legal certainty. In particular, there will be no confirmation by the tax authorities that a VAT group actually exists; for example, a subsequent tax audit may still take a different view. In this respect, legal certainty can only be achieved through an advance ruling or a binding commitment. Overall, however, the move towards greater legal certainty is to be welcomed.

Overall, the procedural innovations are also to be welcomed. This applies, in particular, to the envisaged option to waive a full reversal where a VAT group has been incorrectly assumed. The effort required for such a reversal (e.g. recalculation of amounts, correction of invoices, submission of amended VAT returns) cannot be justified where no additional VAT is ultimately at stake. However, the safeguarding of tax revenue must be demonstrated by the applicants. A drawback, however, is the new liability rule for a supposed controlling entity, which effectively shifts the insolvency risk of the supposed controlled entities onto that entity. Taken together, the draft bill introduces a structural realignment of VAT grouping that is to be welcomed.