

# VAT RULES FOR FINANCIAL AND INSURANCE SERVICES TODAY AND TOMORROW

EFAMA COMMENTS ON  
THE EUROPEAN COMMISSION'S  
PUBLIC CONSULTATION

## EFAMA Comments on European Commission's Public Consultation on VAT rules for financial and insurance services today and tomorrow

EFAMA<sup>1</sup> is once again grateful for the opportunity to comment on the current VAT rules for financial services and their functioning as well as on possible changes to these rules.

Major changes or amendments to remove or narrow the fund management exemptions will have a direct negative social and economic impact on long-term investors, especially retail investors, at a time when the incentivisation of long-term financial planning by individuals will be vital to the wider EU economy in the coming years.

To support the availability and scale of efficient financial services supply chains for the EU, and a manageable cost for the final consumer, maintaining and clarifying this exemption is crucial. The scope of operations undertaken 'in-house' by investment managers and outsourced by them to third-party providers has dramatically changed and the scope and application of the exemption must recognise the evolving ways in which services are delivered.

We take the opportunity to reiterate that EFAMA strongly supports the application of the VAT exemption for services to EU-based special investment funds as defined by Member States, such as UCITS and non-UCITS, including pension funds. In this respect, we note that answers of the fund pension associations to the Commission roadmap also strongly support the VAT exemption (European Association of Public Sector Pension Institutions, Pensions Europe, Dutch Federation of Pension Funds). Taking into account the aims, investment and saving, the organization and the clients (end investor for investment funds or beneficiary in a pension fund are individuals) this convergence in the position of these trade bodies is not surprising.

This is crucial when the EU is faced with a huge savings gap. This exemption has substantial positive social impact by favouring savings of "retail" investors that need a clear and stable tax environment. Removing the exemption for management services of EU funds will be a disruption for end-investors and it will be in contradiction with other different welcomed initiatives of the Commission in this field (e.g. ELTIF, PEPP). In this respect, we refer to the following quote of the Dutch Federation of Pension Funds in its comments to the EC Roadmap: "*The HLG ( High Level Group of pension experts) stresses the importance of pension funds as low cost carriers and refers to the OECD Pensions Outlook 2018 which calculates that annual costs and charges of 1% of assets will reduce final pensions with 21.3% in DC plans.*" An increase of this cost by an increase of the non-deductible VAT will thus further reduce the financial outcome of investments. Because of the similarity and connections of the pension fund and investment funds, this quote is also relevant for investment funds.

EFAMA also raises publicly its voice to call the European Commission's attention to the fact that any systemic/major changes/amendments to the fund management exemptions leading to an increase of costs (thus except the zero-rate or an appropriate reduced rate) will have a direct negative social/economic impact on long-term investors, especially retail investors, as well as on all persons, businesses or public bodies, which need these investments.

We understand the Commission is open to explore all options available and there seems to be an assumption that removing the exemption for fee-based financial services would presumably be revenue positive for Member States (i.e., that output tax on fees would exceed input tax recoverable by the service provider). In thesis, this should not be seen as surprising in the wider context of extreme economic uncertainty that Member States would prefer revenue positive or at least revenue neutral reform only.

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<sup>1</sup> The European Fund and Asset Management Association, EFAMA, the voice of the European investment management industry, represents 28 member associations, 58 corporate members and 24 associate members. At end Q4 2020, total net assets of European investment funds reached EUR 18.8 trillion. These assets were managed by more than 34,350 UCITS (Undertakings for Collective Investments in Transferable Securities) and almost 29,650 AIFs (Alternative Investment Funds). More information available on [www.efama.org](http://www.efama.org)

However, in case the Commission and Member States want to explore the appetite to take more radical steps to improve the position of EU FS industry in a rapidly changing world and ultimately enhance the attractiveness of EU financial products to the EU final consumers (which is referenced below in our response to question 61), zero-rating would provide both greater clarity and a very welcome boost to the future necessary innovation in this space to the benefit of industry, consumer and the wider economy alike.

Moreover, being also consumers of other financial services (e.g. payment services), the sector would be affected by any change to the VAT regime of these services leading to an increase of costs. We would however not develop this point because we understand that the concerned associations would provide their own comments.

Below you will find our comments on the questions raised in the public consultation survey and our industry's main concerns/views on the most critical points that should be considered by the Commission when reviewing the relevant provisions of the VAT Directive, in case a legislative proposal is presented in the future (most likely later in 2021).

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**20 - The exemption of financial and insurance services from VAT was introduced in 1977 as an exception to the general rule that VAT is to be levied on all services supplied for consideration by a taxable person. To what extent do you agree that the exemption is still needed?**

- Strongly agree**
- Agree
- Neutral
- Disagree
- Strongly disagree
- Not sure

**21 - In general, how would you assess the functioning of the exemption of financial and insurance services?**

*The exemption...*

- works very well
- works well, but could be improved**
- works poorly and should be improved
- should be removed
- No opinion

**22 - Please indicate the reason(s) why.**

*Multiple answers possible*

*The exemption...*

- is too costly to apply
- is too complex in terms of notions (structural provisions and the definition of exempted services)
- is not clear in terms of notions (structural provisions and the definition of exempted services)**
- may have a distortive effect on competition with businesses in other Member States**
- Other**
- No opinion

**23 - Please indicate which other reason(s).**

The exemption "works well, but could be improved". Apart from the reasons indicated in our reply to Q22, EFAMA understands the exemption hasn't kept pace with changes operated in the industry. The exemption hasn't evolved with the developments in Financial Services since 1977.

**24 - How do you estimate the impact of the lack of input tax deduction and hidden VAT?**

*Multiple answers possible*

- They create a price barrier to outsourcing
- They undermine the level playing field between providers of outsourced services and in-house providers
- They affect the business structures of those operating in the financial and insurance sector
- They increase the costs for business customers
- They increase compliance costs
- They undermine the competitiveness of the sector
- Other
- Do not know

**25 - Please indicate which other reason(s).**

To make our answer clear, the increase of compliance costs appears only in case a VAT taxable person has a partial VAT deduction right because it has to compute this right (if it has no VAT deduction right at all, such cost does not exist). However, the compliance costs should not be overstated, the compliance costs are in almost all cases lower than the VAT deducted.

Additionally, EFAMA members understand the lack of input tax deduction and hidden VAT that exists under current EU VAT rules may undermine the global competitiveness of EU financial and insurance sectors versus non-EU competitors.

Furthermore, it is worth mentioning the overall attractiveness of the EU fund industry is predicated on a competitive VAT regime when compared to competing non-EU fund domicile locations, (e.g. Hong Kong and the US do not apply a VAT or a goods and services tax (GST) regime whilst others such as Japan, Singapore, Australia and Switzerland have VAT/GST regimes that work in a way that results in zero or minimal VAT costs for investment management funds and industry). Also, the capacity for distortion between Member states due to varying interpretation of the scope of investment management should not be forgotten.

**26 - The compliance with VAT rules can be more difficult when supplying financial and/or insurance services cross-border. How do the factors listed below contribute to that effect?**

1) Not at all; 2) Somewhat; 3) To a large extent; 4) No opinion

	1	2	3	4
<i>Difficulty of finding information on VAT obligations in other Member States</i>	x			
<i>Different interpretations on definitions of exempted services</i>			x	
<i>Different rules for opting to tax</i>			x	
<i>Availability of VAT grouping</i>			x	
<i>Availability of cost-sharing arrangements</i>		x		
<i>Different deduction methods</i>				x
<i>Different VAT obligations in other Member States</i>	x			
<i>Other</i>			x	

**Additional EFAMA comments on Q26 - Different deduction methods:** As a European association with members represented in all member states we don't have an opinion with respect to the impact of different deduction methods and we could not answer to this question in detail. Based on EU VAT principles, we understand that VAT on costs that could be fully attributed to an activity opening the right to recover VAT should be fully recoverable while VAT on costs that could be fully attributed to an activity not opening the right to recover VAT should be fully unrecoverable. However, we also understand that the practical application of these rules may vary from one Member State to another.

**27 - Please indicate which other factor(s).**

The current VAT regime in asset management works reasonably well in terms of not making the EU an uncompetitive location. We have already highlighted EFAMA's views on how the EU VAT rules could be amended/modernised while keeping a level playing field at a EU and non-EU level. Other factors include our members concerns with:

- **Competitiveness** of EU VAT system when compared with non-EU systems, including: i) Flexibility of VAT system to new types of supply / delivery models / value chains; ii) Rate of VAT applicable in EU; iii) VAT cost for businesses arising from exemption; iii) Certainty of VAT treatment across EU (including speed of litigation for areas of conflict);
- **Consistency** of VAT treatments across EU Member States; and
- **Ability to benefit from intra-EU VAT mitigation arrangements** (as alternatives such as VAT Grouping or Options to Tax only currently apply within EU Member States).

**28 - Do you think that the current rules hinder the development of cross-border supplies of financial and insurance services?**

- Yes
- No
- Do not know

**Additional EFAMA comments on Q28:** The industry has seen positive improvements in the way the supply of cross-border services evolved over the years. The existing rules may difficult cross-border transactions, but without making them completely impossible. We are aware that the differences of VAT rules may be seen as a challenge due to the absence of harmonized rules in all Member States and this is the only reason why we have answered positively to this question.

**29 - Please indicate the reason(s) why.**

*Multiple answers possible*

- Regulatory ecosystem too complex
- VAT rules for financial and insurance services too complex
- Discrepancies across VAT treatment by Member States
- Other

**30 - Please indicate which other reason(s).**

N/A

**31 - To what extent are the foreign VAT rules for financial and insurance services important when deciding whether to establish your business in a specific Member State?**

- Very important
- Important
- Not very important
- Not important at all
- No opinion

**Additional EFAMA comments on Q31:** VAT rules are an important factor but these decisions are based on a large number of factors of which taxation is only one. It is extremely unlikely that a business would choose a location purely based on its VAT regime.

Rather, VAT and other taxes will be taken into account in the decision making process along with issues such as the regulatory regime, availability of qualified workforce, language considerations, labour laws, real estate availability and so on.

Notwithstanding, we trust the Commission is well aware of the fact VAT is an important factor in the location of the development of expertise and investment in innovation – consider whether the historic development of the market even within the EU (centres for fund domicile not necessarily also centres for investment management) is driven at least indirectly by inconsistent interpretation of the exemption as well as the location of specialist expertise in the wider FS market.

**32 - Which of the structural provisions listed below do you apply?**

*Multiple answers possible*

- Option to tax*
- VAT grouping*
- Cost-sharing arrangements*
- Proportional deduction*
- Other*
- None*

**Additional EFAMA comments on Q32:** Our answer to this question is based on the assumption that EFAMA represents a rich diversity of market participants in with business activities in all Member States.

**33 - Please indicate which other provision(s).**

*N/A*

**34 - The exemption was put in place i.a. due to the technical difficulty to calculate the taxable amount. To what extent do you agree that progress in technology, enhanced transparency rules and experiences gained from other countries and from other indirect taxes could help overcome this issue?**

- Strongly agree*
- Agree*
- Neutral*
- Disagree*
- Strongly disagree*
- Do not know*

**35 - Do the current VAT rules for financial and insurance services result in prices lower than those that would apply if these services were taxed?**

- Yes, but just for final non-taxable customers*
- Yes, for all customers*
- In part, due to other similar taxes*
- No*
- Do not know*

**Additional EFAMA comments on Q35:** In this respect, we note that the question does not distinguish whether the taxation would be at zero, reduced or standard rate, which of course influences the potential impact of the taxation and its possible impact.

However, by essence and in most situations, the VAT on output is, in principle, higher than the VAT on input (with exceptions such as zero-rate, exempt supplies with VAT deduction (e.g. financial and insurance services to non-EU clients), taxation at a low reduced rate that is compensated by the deduction of VAT on costs) and affects the final consumers, and as reminded above, all clients of the fund industry are final consumers.

Therefore, as a general comment, we would assume that the taxation at the standard rate would negatively impact the price of the services for end-consumers while zero-rate would be favourable and that the impact of a reduced rate would depend of the level of this rate (if low, for example, 5% as the minimum VAT rate imposed (with some exceptions) by the Directive, it would probably be slightly negative or neutral; while if higher, it would probably be negative).

Thus, by principle, the exemption is more favourable for clients that cannot deduct VAT (and this explains why exemptions exist) and less favourable for those that can fully deduct VAT (because they do not suffer from the "hidden VAT").

We take the opportunity to emphasise that other competing non-EU fund regimes have lower rates and/or fixed deductions that result in zero or minimal VAT costs for investment management funds and industry. The advantage of a clear investor perception of lower cost of investment in EU funds which exemption brings is vital and could be boosted by addressing the hidden cost of irrecoverable VAT in the industry.

**36 - To what extent are the current structural provisions effective in increasing the deduction of input tax and reducing the impact of hidden VAT?**

1) Not effective at all; 2) Somewhat ineffective; 3) Neither effective nor ineffective; 4) Somewhat effective; 5) Very effective; 6) No opinion.

	1	2	3	4	5	6
Option to tax				x		
VAT grouping				x		
Cost-sharing arrangements				x		
Proportional deduction				x		

**37 - VAT provisions related to financial and insurance services can be perceived as complex. For which of the current structural provisions is that correct?**

Multiple answers possible

- Option to tax
- VAT grouping
- Cost-sharing arrangements
- Proportional deduction
- None

**38 - To what extent do you agree or disagree with the following statement: The lack of input tax deduction is detrimental to the financial and insurance sector. It compels the sector to outsource services which are typically provided in-house, thus raising the costs.**

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Do not know

**Additional EFAMA comments on Q38:** EFAMA members disagree with the statement, as in our understanding the lack of input tax deduction would have the opposite effect and it compels to insource services (either within the same group of companies if VAT grouping or CSA regimes are available, or even inside the same legal entity when these regimes are not available or not practically workable) because it makes more expensive outsourcing.

**39 - Unless you make use of the option to tax, does your business incur any costs related to irrecoverable (hidden) VAT?**

- Yes
- No
- Do not know
- My business is applying the option to tax

**40 - To what extent do you agree that the current VAT rules are fit to cover emerging trends in the industry (such as digitalisation)?**

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Do not know

**41 - The VAT treatment of emerging trends under the current VAT rules for financial and insurance services can be problematic due to unclear definitions for VAT purposes. In connection with which of the emerging trends listed, do you consider this correct?**

*Multiple answers possible*

- Services provided by means of fintech
- E-money
- Services linked to crypto-assets (such as mining)
- Payment services
- Other
- Do not consider it problematic
- Do not know

**42 - Please indicate which other trend(s).**

Other trends, include: i) Outsourcing; ii) Definition of management; iii) Automation. Please refer to the following recent cases discussed by the CJEU that are being monitored by EFAMA members: The Blackrock case (C-231/19) and the "Austrian cases" (C-58/20, K and C-59/20, DBAG). We take the opportunity to emphasise that a bias towards insourcing can have the effect of stifling further technological development in the wider supply chain and has the potential (along with lack of clarity on the scope of investment management) to be a barrier to entry for small and medium size entrepreneurs in this space if they cannot reach the scale necessary to overcome the squeeze in margins caused by the irrecoverable VAT cost).

**43 - The regulatory framework in the financial and insurance sector (e.g. the Markets in Financial Instruments Directive (MIFID) and the Insurance Distribution Directive (IDD)) has strengthened the role of intermediaries. Do you consider the VAT exemption to be coherent with this development?**

- Yes
- No
- Do not know



**Additional EFAMA comments on Q43:** We don't know as the role of intermediation and the VAT treatment of some services varies from one jurisdiction to the other. MIFID II had a direct impact on VAT, because the re-characterization of research as spate from execution has created uncertainties regarding their VAT treatment in many Member States and a new VAT cost in some Member States and an impoverishment of the researches, but without influencing the product mix. We could make the same remark about other regulations entered recently in force.

### Possible changes to the current rules

*The Commission is intending to prepare a proposal that will seek to modernise the current VAT rules for financial and insurance services. Your answers will feed into the review of these rules.*

#### 44 - In your view, which would be the best way to reform the rules on exemption?

*Multiple answers possible*

- Update definitions of exempt services drawing on the extensive CJEU case law in the field of VAT
- As regards the definitions, refer to other EU regulations governing the financial and insurance sector
- Removing the exemption, so that definitions will be no longer needed
- Other
- Do not know

#### 45 - Please indicate which other way(s).

EFAMA (as the pension funds associations) strongly supports the VAT exemption for services related to EU-based special investment funds as defined by Member States, such as UCITS and non-UCITS, including pension funds. Major changes or amendments to the fund management exemptions (except the implementation of the zero-rate) will have a direct negative social and economic impact on long-term investors, especially retail investors, as well as on all persons, businesses or public bodies, which need these investments.

EFAMA understands there is room for improvement. However, for EFAMA it is crucial these potential improvements do not undermine the assumption that we should maintain the principle of the VAT exemption. The potential improvements relate to the implementation of the VAT exemption and some other related issues but do not entail the advantage of the VAT exemption itself. These improvements are well known and are relevant only when the services are VAT exempt: more precise and harmonized definitions, CSA, VAT group, exemption of outsourcing, etc.

#### 46 - The removal of the exemption for financial and insurance services could benefit the neutrality of the VAT system. What could be other effects of such a removal?

*Multiple answers possible*

- Simplification in the application of the VAT rules for financial and insurance services
- Lower VAT compliance costs
- Less distortive effect of the exemption on competition linked to suppliers from non-EU countries operating in the EU
- Higher VAT compliance costs
- Higher complexity of VAT rules
- None
- Other

#### 47 - Please indicate which other effect(s).

The maintaining of this exemption is crucial at a time when the EU is faced with a huge savings gap. Again, the importance of VAT to the overall attractiveness of the EU fund industry, the impact on EU 'retail'

investors and the need for EU domiciled funds to continue to cover the broadest range of investment strategies should not be underestimated. This exemption has substantial positive social impact by favouring savings of "retail" investors that need a clear and stable tax environment. Removing the exemption for management services of EU funds would mean a disruption for end-investors. Contrary to one of the proposed answer, this would also negatively affect the competitiveness of the EU FS industry including the asset management sector. We strongly doubt it would allow a simplification of the VAT rules because institutions would have to adapt to this change (e.g. IT changes) and would have even more than currently take care of the place of supply of rules. As well, we strongly doubt that it would decrease compliance because it would be necessary to issue invoices (while different Member States do not require invoices when the supply is VAT exempt) and to report the services in ESL (European Services Listing). Even if this would allow simplification and lower compliance, what we strongly doubt, the gain will be minimal compared with the negative impact of the taxation.

A recent study estimates the current savings gap to be in the region of €2 trillion. It is clear therefore that the need to encourage investment through the removal of the VAT burden remains a priority. As ruled by the CJEU, the objective of the exemption is primarily to ensure the tax neutrality between the direct investment and the indirect or collective investment.

**48 - If only fee-based financial services were to be taxed, in relation to which of them would it be difficult to determine the taxable amount?**

*Please explain.*

We do not comment because the question is not relevant to the fund industry. Indeed, all services are fee based.

**49 - Financial service providers may currently opt for taxation and obtain the right of deduction, but it is up to each Member State to introduce such option. Should Member States keep that discretion?**

- Yes
- No, it should be available in all Member States
- No opinion

**Additional EFAMA comments on Q49:** We lack of information on how the option could operate and what could be its effects. Further investigation might help in this respect. Moreover, as mentioned above, all "clients" or more exactly investors are private persons and therefore the option, which is aimed to avoid hidden VAT for clients that can deduct VAT, is of no or limited interest. From a more general viewpoint, we think that, by principle, options should not be at the level of Member States because this fragments the internal market. We think for example to the VAT group for which the option should not be at level of the Member Sates but of the concerned persons.

**50 - Not having a right of deduction when supplying exempt financial and insurance services impairs the neutrality of VAT. To what extent would you support or oppose the introduction of a fixed rate of input tax deduction to remedy that effect?**

- Strongly support
- Support
- Oppose
- Strongly oppose
- No opinion

**Additional EFAMA comments on Q50:** Comment: We lack of information on how the fixed deduction rate could operate and what could be its effects. Further investigation might help in this respect.

**51 - If a fixed rate of input tax deduction was introduced, should such a rule remain optional for operators or, alternatively, should it be mandatory?**

- It should be optional*
- It should be mandatory*
- No opinion*

**52 - Should cost-sharing agreements be made available to the financial and insurance services sector?**

- Yes*
- No*
- No opinion*

**53 - In your view, should businesses established in other Member States be allowed to form part of the cost sharing arrangements?**

- Yes*
- No*
- No opinion*

**54 - Please indicate the reason(s) why.**

*Multiple answers possible*

- To achieve a more level playing field for businesses*
- To boost competitiveness of financial and insurance service providers*
- To reduce the tax burden and the administrative costs of businesses operating at cross-border level*
- Other*

**55 - Please indicate which other reason(s).**

*N/A*

**56 Please indicate the reason(s) why.**

*Multiple answers possible*

*N/A*

- To open up the cost sharing arrangements exemption cross border would negatively affect the revenues of Member States having introduced the exemption*
- Because cost sharing arrangements mostly operate in the national market of their own Member State*
- To open up the cost sharing arrangements exemption may encourage cross-border operations and establishments in Member States whose tax administration are more flexible and, consequently, increase the competition between Member States*
- To open up the cost sharing arrangements exemption would increase administrative costs for stakeholders and Member States' tax administration, derived from increased controls and audits*
- Other*

**57 Please indicate which other reason(s).**

*N/A*

**58 Which is the most beneficial aspect of establishing VAT groups for providers of financial and insurance services?**

- 1) Not effective at all; 2) Somewhat detrimental; 3) Neither beneficial not detrimental;  
4) Somewhat beneficial; 5) Very beneficial; 6) No opinion.

	1	2	3	4	5	6
<i>It is optional</i>					x	
<i>Intragroup supplies are out of scope and therefore not taxed</i>					x	
<i>VAT compliance costs are lower for the members of the group as they are pooling them</i>					x	
<i>It is easier to outsource the activity through a single taxable person</i>					x	
<i>VAT grouping increases the competitiveness of the sector by reducing hidden VAT</i>					x	
<i>Other</i>						x

**59 Please indicate which other aspect(s).**

The VAT group also allows avoiding pre-financing of the VAT on intragroup supplies when the beneficiary of these supplies have a VAT deduction right which is usually not the case of the fund industry. This advantage is thus mostly relevant for activities such as commercial, industrial and non-FS service. VAT grouping should always be optional (not just optionality on creating a VAT group but equally preferable is the option to bring a specific entity within a VAT group, which is not always the case in all Member States operating VAT grouping regimes).

**60 Which is the most effective way to reform the rules for financial and insurance services in your country?**

1) Not effective at all; 2) Somewhat ineffective; 3) Neither effective nor ineffective; 4) Somewhat effective; 5) Very effective; 6) No opinion.

	1	2	3	4	5	6
<i>Remove the exemption and tax financial and insurance services at a standard rate</i>	x					
<i>Remove the exemption and tax financial and insurance services at a reduced rate</i>						x
<i>Tax only fee-based services at a standard rate</i>	x					
<i>Tax only fee-based services at a reduced rate</i>						x
<i>Grant businesses the option to apply VAT</i>					x	
<i>Grant businesses the right to constitute a VAT group in every Member State</i>					x	
<i>Make cost-sharing arrangements available to the sector in all Member States</i>					x	
<i>Other</i>					x	

**61 Please indicate which other reform(s).**

*Where financial and insurance services are taxed, deduction of input VAT is possible.*

As mentioned above other possible improvements could be: make the zero-rate available; grant a full VAT deduction to pension and investment funds; Cross-border VAT grouping and CSA; exemption of management and safe-keeping of transferable securities.

Worth emphasising that (i) whilst fixed deduction offers a similar effect to zero-rating, zero-rating has the advantage of creating a positive investor perception of lower cost investment (although worth noting in Australia in the Investor documents it is disclosed that the fund can claim a RITC (Reduced Input Tax Credit)<sup>2</sup> and potentially additional VAT recovery) and (ii) the savings gap is as great (if not greater) a long-term economic problem for Member States with younger populations as these younger populations are precisely the sector that need to be encouraged/incentivised to make provision on a current basis for their longer term financial welfare.

<sup>2</sup> The RITC is a fixed deduction rate mechanism. In this respect, and as for the reduced rate, the stability of a fixed deduction right is a key element. For example, Australia reduced some years ago its RITC from 75% to 55% for trusts. More info [here](#).

## Granting a full VAT deduction right to pension and investment funds and zero-rate

We refer to a quote of the EAPSPI (European Association of Public Sector Pension Institutions) in its answer to the Commission roadmap: “To achieve the addressed goal of VAT neutrality in order to foster the outsourcing of services in the supply chain (i.e. businesses where high IT investments are needed / fintech) the problem could be solved by a “true” VAT exemption of pension services that enables pension schemes to deduct VAT on purchased services while keeping the VAT exemptions for pension schemes itself.”

We consider that it would be worth to investigate this suggestion, which to some extent is of a same nature as the fixed deduction right. However, if the VAT exemption on fund management services is maintained, the impact would be limited to the deduction of the VAT in costs that are not currently exempt such as, in practice, legal and audit services purchased by funds. Without being negligible, these costs are relatively limited compared to asset management, administrative and depositary bank ones. Thus, the sole recognition of a VAT deduction right will have only a limited impact. In particular, it would not avoid the “hidden” VAT passed on by service providers to the funds. This positive impact would be more substantial would a VAT deduction right be also recognised to the service providers either by making the services taxable (with the nuance that it implies some administrative complexities because service providers would have to adapt their practice and systems). For these two reasons, we trust that this legitimate objective emphasized by EASPI and that we fully support would be better achieved by the zero-rate. We are thus surprised that the solution of zero-rate is not even envisaged. Indeed, we believe it would have the following advantages:

1. No negative impact on the demand and potentially an increase of the demand by end-consumers and in the case of the fund industry consolidate or even increase the positive social impacts.
2. Removal of the hidden VAT for clients, which could deduct VAT lowering their costs and/or increasing the margin of the services providers, which would be in both cases favourable to the economic activity and increase corporate income tax receipts.
3. Reinforces the EU level playing field: the VAT treatment of output would be harmonized and the difference of VAT rates between Member States would have no impact.
4. Prevents delocalization outside the EU.
5. Increases the international competitiveness of the EU FS industry. The recent changes in the UK legislation, where all financial and insurance services rendered to non EUK clients (with some specific for fund management services) illustrates clearly this point. I
6. Solves issues linked to in/outourcing,
7. Easy to implement because the services provided will remain VAT free even if the technical reason is different. Thus, no or minimal accounting, documentation (invoices) or IT change.
8. Easy to manage because the questions of the place of supply and status of the client become irrelevant and the treatment is similar in all situations.
9. It might also simplify the computation of the VAT deduction right of the service provider, either because it would provide only services that open the right to deduct VAT or if the zero-rate cohabites with other systems, it would not be necessary for those services to determine whether the recipient of the service is in or outside the EU as it is currently the case.

We appreciate that the zero-rate might imply a budgetary cost for Member States. However, we should take into account the multiple advantages of this solution. Instead to be a disincentive to the long term saving and investment, VAT would become an incentive. This is perfectly in line with the objectives of the exemptions and of the zero-rate. In this respect, we would like to remind what the (Member States applying the zero-rate to national supplies: Belgium (newspapers and periodicals, certain recovered materials and by-products), Denmark (newspapers), Ireland (food and drinks, solid and, liquid minerals, seeds and plants for food production, medical equipment, books and pamphlets, fertilizer animal feeding, oral medicine for animals, profit-making sporting activities, children's clothing and footing, food-producing life plant), Malta (supplements and substitutes (ham, fore-end, liver), live animals, seeds and plants for foodstuffs, prescribed medicines, certain passenger transports including local public transportation, Sweden (pharmaceuticals prescribed or supplied to hospitals, some passenger transport). We should also mention UK which applies largely the zero rate most foodstuff, certain supplements and substitutes, water, prescribed medicines, some passenger transport books, newspapers and periodicals, sale of donated goods, children's clothing and footwear, new housing), sewage services, caravans, some boots and helmets, issue of bank-notes). This very diversified list clearly indicates that the zero-rate for domestic supplies is a widely spread solution, applied by different Member States for different supplies they found of

interest and that works in practice. It must also mention that the fixed deduction right offers to some extent a similar effect to the zero-rate.

We should also remind that supplies to embassies, European and international institution benefits form a VAT exemption with credit (which is equivalent to a zero-rate) as well as supply of gold to national banks. Moreover very low reduced VAT rates such as the 2,1% super reduced VAT rate applicable in France often has an impact similar to the zero-rate. Social and economic priorities may evolve. If foodstuff was a priority worth to benefit from very low rates in less affluent and younger society (when the alimentation was a much more important part of the household expenses), long term saving is a crucial priority in a wealthier and ageing population. We also note frequent requests to apply reduced VAT rates or exemptions in the frame of the measures against the climate change.

Lastly, we note that the Commission has made recently proposals to give more flexibility to apply reduced rates which is further evidence of their interest and highlight the possible tax policy.

### **VAT group and cost sharing agreements**

Regarding the cost sharing agreements foreseen by article 132.1.f) of the EU VAT Directive 2006/112, strongly supports the idea that this instrument should be made again available to the financial services industry on a cross-border basis with rules harmonized to the highest possible level of flexibility and legal certainty.

In addition, the VAT group foreseen by article 11 of the EU VAT Directive 2006/112 is another important tool for the financial services industry and the current review should include a review of this tool with the view of harmonizing the applicable rules introducing it throughout EU Member States, on a cross-border basis with clear application rules. In this respect, it is worth mentioning that the VAT group and the costs sharing association are not perfect substitutes to each other. They have their own specific features, limits and constraints, advantages and disadvantages, It is thus important to have both of them available to meet as much as possible the needs of the businesses which want to mutualize resources without useless VAT costs. In this respect, we note that Belgium which is a country where many CSA were set-up (are still working) has introduced the VAT group in 2008, thus well before the May 2017 decision. Since the VAT group is optional and the CSA mandatory, the fact that, more than 15 Member States have introduced before the May 2017 decision the VAT group in their legislation is a further evidence of the complementarity of these two instruments. Therefore, we support the fact both the VAT group and the CSA must be available for the financial and insurance services, including the asset management services, on a cross-border basis and with the most possible flexible and pragmatic rules

### **VAT exemption for transactions on shares**

Regarding VAT exemption, as Pensions Europe in its answer to the EC roadmap, we suggest adding on the Par. 1 (letter f) the management and the safekeeping in shares, interests in companies or associations, debentures and other securities, so as also the services provided by the custodian banks would be exempted from VAT. In this respect, we understand that the taxation of the safekeeping and management services might have been justified at the time of the adoption of the EU VAT Directive because at that time, transferable securities were often if not usually physical ones and that the rent of safes is taxable. It was thus consistence to tax the safekeeping of shares by a bank as the rent of safes. However, this reason has disappear due to the dematerialization of transferable securities. Abolishing this exception to the exemption would not only avoid a cost for the clients but would have the additional advantages to avoid interpretation difficulties and discrepancies between Member States.

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