

TAX GROUP FOR CORPORATE INCOME TAX

Advisory Handbook 2026



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If your business operates through multiple private limited companies (BVs), it might be advantageous—where possible—to combine these BVs into a tax group. Such a tax group is possible under specific conditions for both corporate income tax and VAT.

The conditions for establishing a tax group are strict, and while this arrangement offers clear advantages, it also comes with some significant disadvantages. This Advisory Handbook addresses the key points regarding tax groups for both corporate income tax and VAT.

TAX GROUP FOR CORPORATE INCOME TAX

A tax group for corporate income tax can only be established upon request. By making this request, a parent company (holding company), together with one or more subsidiary companies (operational BVs), can be recognised as a single tax group for corporate income tax purposes. Although the companies remain separate legal entities, they are treated as a single taxpayer for tax purposes. Consequently, the results of the subsidiary companies are attributed to the parent company.

Note!

A request to establish a tax group must be submitted in writing to the Dutch Tax and Customs Administration. Several forms, available on the Administration's website, must be completed for this purpose. The request must be submitted within three months after the desired effective date, as the maximum retroactive effect allowed is three months.

CONDITIONS FOR FORMING A TAX GROUP

Not all BVs can automatically form a tax group. A tax group for corporate income tax purposes can only be established if the following conditions are met:

- The parent company must hold at least 95% of both the legal and beneficial ownership of the nominally issued share capital of the subsidiary. This shareholding must represent at least 95% of the statutory voting rights. In all cases, the shareholding must entitle the parent company to at least 95% of the subsidiary's profits and assets.
- The financial years of the participating BVs must align, except when a BV is incorporated during a financial year.
- All participating BVs must apply the same profit calculation rules.
- Both the parent and subsidiary companies must have their actual place of business in the Netherlands.
- The parent company must not hold the shares in the subsidiary as inventory.

Note!

A tax group cannot be formed if the shares in the subsidiary are deposited and certified through a trust office foundation (STAK). In such cases, the requirement for the parent company to hold at least 95% legal and beneficial ownership of the subsidiary is not met.

A tax group can also be formed under certain 'foreign situations' between Dutch companies. For example, a tax group can be established between a Dutch parent company and a Dutch sub-subsidiary when the intermediate subsidiary is based in another EU country, Norway, Iceland, or Liechtenstein.

Additionally, two sister companies based in the Netherlands may form a tax group if their parent company is located in the EU, Norway, Iceland, or Liechtenstein.

TERMINATION OF A TAX GROUP

A tax group automatically ends when the conditions are no longer satisfied. For example, the tax group ends if the parent company sells shares in the subsidiary, causing its shareholding to drop below 95%.

A tax group can also be terminated at the joint request of both the parent and subsidiary companies (known as 'deconsolidation'). However, termination cannot have retroactive effect; it takes effect from the date the request is received by the Dutch Tax and Customs Administration.

If a subsidiary is liquidated and wound up, the tax group concerning this subsidiary automatically ends. However, this event is not formally considered a 'deconsolidation'. This distinction is significant because anti-abuse measures may apply upon deconsolidation, but not in cases of liquidation and winding up, as this event is not categorised as deconsolidation.

ADVANTAGES OF A TAX GROUP

A tax group for corporate income tax purposes has significant advantages. It allows losses and profits within the group to be offset against each other in the same financial year.

Another advantage is that transactions between the BVs within a tax group are disregarded for tax purposes. Such transactions are netted against each other, allowing assets with hidden reserves to be transferred between group BVs without immediate tax implications. This permits internal reorganisation without taxation, provided the tax group remains intact for at least six years (or sometimes three). Otherwise, taxation on hidden reserves might retrospectively apply.

Another potential advantage arises if the group's mixed costs are significantly high, making it financially preferable to opt for a fixed deduction limit (in 2026, €5,700 or 0.4% of the payroll if higher) rather than restricting deductions to 73.5% of mixed costs. Mixed costs typically include food and beverages, entertainment, conferences, and study trips. Whether forming a tax group is beneficial overall depends on weighing its various pros and cons.

Tip!

A tax group requires only one corporate income tax return to be filed.

DISADVANTAGES OF A TAX GROUP

However, there are notable disadvantages too. The reduced 19% corporate income tax rate on the first €200,000 of taxable profit can only be utilised once. Profits above this threshold incur a tax rate of 25.8%. If multiple group companies each have profits exceeding €200,000, only one company benefits from the reduced 19% rate.

Another crucial disadvantage is that every BV within the tax group is jointly and severally liable for the total tax liability of the group, not just their individual share of corporate income tax debt.

Problems can also arise upon the termination of the tax group. Certain circumstances require a retrospective settlement of capital gains on assets transferred internally in the preceding six years (or sometimes three). Additionally, offsetting pre- and post-tax-group losses against tax-group-period profits is restricted.

Another drawback may occur regarding investment deductions, as all group investments are combined, reaching thresholds faster. This could reduce or eliminate entitlement to investment deductions, except if individual BVs' investments remain €2,900 or less per year. Mutual provision of investment goods between BVs may still yield advantages. However, the divestment addition can be disadvantageous, as the €2,900 threshold is reached faster. The divestment addition applies when assets exceeding €2,900 are sold.

An additional disadvantage arises if one BV within the tax group becomes bankrupt, as unpaid debts may generate taxable profits for the entire group.

TAX GROUP FOR VAT PURPOSES

VAT tax groups have specific rules. Conditions for forming a VAT tax group include:

- All participants must fundamentally qualify as VAT entrepreneurs.
- All participants must reside or be established in the Netherlands or maintain a fixed establishment there.
- All participants must be interconnected financially, organisationally, and economically to constitute a unity. Broadly, this implies more than 50% of each company's shares must be under common control. Organisational interconnection means unified management or effective subordination to one company's management. Economic interconnection typically implies shared customers or significantly complementary activities.

Tip!

A VAT tax group can include various legal forms such as partnerships, foundations, or natural persons. For example, a VAT tax group can exist between a BV and its director and major shareholder if he rents property to his BV.

ESTABLISHING A VAT GROUP

No specific request or decision from the Dutch Tax and Customs Administration is required to establish a VAT group. Provided that the aforementioned conditions are met, the VAT group is created automatically.

The entities involved may then choose to operate as a VAT group, although they also have the option of acting as if no VAT group exists. If desired, companies may submit a request to the Dutch Tax and Customs Administration to formally confirm the VAT group by means of a VAT group decision. Additionally, the Dutch Tax and Customs Administration may issue such a decision on its own initiative. Once this occurs, the VAT group is officially registered as such with the Dutch Tax and Customs Administration.

Tip!

If there is uncertainty as to whether the necessary conditions for forming a VAT group have been met, but a VAT group is desirable, it is advisable to request that the Dutch Tax and Customs Administration issue an official decision confirming the VAT group.

ADVANTAGES AND DISADVANTAGES

An important advantage of forming a VAT group is that participating companies are not required to pay VAT on supplies of goods and services between themselves. This arrangement can provide significant financial benefits if, without the VAT group, the VAT charged by one entity would not be fully deductible by another—particularly in cases where the recipient company provides VAT-exempt services.

Another advantage is that only one consolidated VAT return needs to be submitted. This eliminates the need for separate VAT returns by each individual company (although separate returns may still be filed if preferred). Instead, a single (combined) VAT return is submitted on behalf of the VAT group. Furthermore, the VAT group is assigned a single VAT identification number.

Please note!

Individual companies must continue to use their own VAT identification numbers on invoices and must not use the VAT group's identification number.

A significant disadvantage is that all participating companies in the VAT group become jointly and severally liable for the VAT obligations of the VAT group. However, this joint and several liability only arises once the Dutch Tax and Customs Administration has issued an official VAT group decision. As it is also possible to operate as a VAT group without an official decision, it may in some cases be advisable not to request one, thereby avoiding mutual liability. The Dutch Tax and Customs Administration may, however, still issue such a decision on its own initiative. In that case, the resulting joint liability cannot be applied retroactively; it only takes effect from the date of the VAT group decision.

Important!

Because a VAT group automatically exists once the necessary conditions are met, it cannot be dissolved upon request. The group is only dissolved once one or more of the conditions (for example, one of the three types of integration) are no longer fulfilled.

Tip!

If one of the companies no longer meets the conditions required to be part of the VAT group, inform the Dutch Tax and Customs Administration as soon as possible. That company will then cease to be part of the VAT group for VAT purposes. However, failure to notify promptly will result in the continuation of joint and several liability for VAT obligations.

IN CONCLUSION

In this Advisory Handbook, you have been introduced, in broad terms, to the conditions as well as the advantages and disadvantages associated with forming a corporate income tax (Vpb) and VAT group. Due to the complexities involved in the VAT grouping regime, specific situations require detailed consideration. For further information tailored to your particular circumstances, please contact us directly. We can advise you on establishing or dissolving a VAT group.

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Disclaimer

Although the utmost care has been taken in preparing this Advisory Handbook, no liability is accepted for any inaccuracies or omissions. Given the general and broad nature of this Advisory Handbook, it is not intended to provide the exhaustive information required for making financial decisions.