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1.2.6. Association and cooperative

1.2.6.1. Association

The Law of 1 July 1901 regulates associations. An association is broadly defined as an agreement whereby two or more persons group their knowledge or activities on a permanent basis for a non-profit purpose.

Associations can be recognized or non-recognized. The former have legal personality, which is acquired through the registration with the local authorities and the publication in the Official Journal (*Journal Officiel*, JO). However, the legal capacity of a recognized association is restricted: it can receive and manage only public subsidies, contributions from its members and the buildings that are strictly necessary for its purpose. Moreover, it can receive gifts and legacies only if its exclusive purpose is to engage in scientific or medical research, or in aid and welfare services, or if it is a cultural or family association, or affiliated to an organization recognized as a public utility. Recognized associations can also apply to the government for discretionary recognition as an organization of public utility. This additional status gives the organization greater capacity to receive gifts and legacies.

1.2.6.2. Cooperative

The main law on cooperatives is the Law of 10 September 1947. Several laws regulate special purpose cooperatives, especially in the agricultural and handicraft sectors.

The law of 1947 defines cooperatives as entities whose main purpose is:

- to generate economic benefits for their members in general;
- to improve the quality of the products delivered to the consumers; or
- to promote the economic activity of the members.

Each member makes a capital contribution to the cooperative, and is one of the exclusive users of the products and services of the cooperative. Each member has one vote at the general meeting.

1.2.7. Other forms

1.2.7.1. Foundation

A foundation can be broadly defined as an irrevocable assignment of property or rights for a non-profit purpose of public benefit. Foundations generally take the form of a public utility foundation or a business foundation. The business foundation is regulated by the Law of 4 July 1990 and is established for a defined period (typically a renewable period of 5 years). A public utility foundation is formed by preparing a governing statute and submitting it for approval to the Ministry of the Interior and the Council of State. Legal personality is acquired through the issue of a decree of public utility and its publication in the Official Journal (*Journal Officiel*, JO). Foundations have the same legal capacity to receive gifts and inheritances as associations recognized as public utilities; gifts and contributions benefit from tax incentives. Foundations are under public supervision. Foreign foundations seeking to carry on activities in France on a permanent basis or to acquire the same legal capacity as a French foundation must be recognized in France as a public utility.

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sible to request treatment as a single taxable person in such cases.

2.1.7. Persons deemed to be taxable persons

Non-taxable persons (see: 2.2.1.) who would not normally fall under the scope of VAT, may nevertheless be subject to this tax – and thus become a taxable person – under the law for certain transactions or events which are deemed to be transactions. Some examples are listed in the sections below.

2.1.7.1. Cooperatives

Cooperatives (including cooperatives created for the purpose of purchasing products for their members) are taxable persons subject to the normal rules applicable to VAT (CGI, Art.257(1°), (2°) and (3°)). This rule also applies to agricultural cooperatives except for the resale of products for own consumption by the members and their families. For the VAT treatment of agricultural activities, see: 13.2.

2.1.7.2. Building construction

See: 14.2.

2.1.7.3. Persons supplying new means of transport

Non-taxable persons who occasionally supply new means of transport to persons established in another Member State are *deemed* to be taxable persons (CGI, Art. 298sexies(IV)). However, they are exempt from VAT in respect of these supplies under CGI, Art. 298sexies(II). They do not have to register and to apply for a VAT identification number (see: 15.2.3.) but their status as a taxable person allows them to apply for a refund of the input tax on this supply. This refund may not exceed the amount of VAT which would be due if the supply were taxable (Ruling 3 CA-92 No. 942). (See also: 3.5.3.)

2.1.7.4. Non-profit organizations

The general rule is that non-profit organizations are subject to VAT if they independently carry on taxable transactions, i.e. the supply of goods or services.

However, in certain cases an exemption is granted (CGI, Art. 261) provided that a number of conditions are met (see below). These exemptions are granted for:

- services rendered, and goods supplied which are closely connected to those services, to members by non-profit organizations that pursue philosophical, religious, patriotic or political aims or enhance public spirit, as well as trade unions and employers' associations (CGI, Art. 261(4)(9°));
- services rendered to members by certain non-profit organizations if such services have a social, educational, cultural or sports character (including the supply of goods up to 10% of the total amount of their receipts) (CGI, Art. 261(7)(1°)(a)); or
- services rendered to their members or third persons by certain non-profit organizations which have a social or philanthropic character provided that the prices charged are either approved by the public authorities or that they are substantially lower than those charged by commercial organizations. These services include medical services supplied by hospitals which do

not meet the definition of Art. 31 of the Hospital Reform Law (CGI, Art. 261(7)(1°)(b)).
In order to benefit from the exemption the organization must meet a number of conditions (CGI, Art. 261(7)(1°)(d):

- the management of the non-profit organization may not benefit from its activities meaning that they may not receive a salary and that they may not directly or indirectly benefit from the results of the activities of the organization;
- the organization may not make any profit distribution in whatever form; and
- the management or their heirs may not have a right to any assets of the organization except the assets they contributed themselves.

For exempt transactions, also see: 8.

2.1.7.5. International organizations

France is a member of a large number of international organizations such as the United Nations, the European Communities, the European Investment Bank, etc. These organizations are as a rule exempt from direct taxation by virtue of the pertinent conventions concluded. However, the exemption does not apply to indirect taxes and these organizations are, in principle, subject to VAT should they perform taxable transactions in France (Doc. Adm. 14 I 1121).

The French tax authorities allow two important exceptions to this general rule:

- If an international organization acquires a "building site" (see: 14.2.1.), a situation in which the acquirer would normally become liable to VAT (see: 14.2.1.), an exemption will be granted;
- If the (taxable) transactions are performed within the framework of the purpose for which the organization was created no VAT will be due.

Example

Financial transactions of the International Bank for Reconstruction and Development are exempt. However, should the bank perform other supplies such as the lease of office space to third parties it will be liable for VAT.

For VAT invoiced to international organizations, see: 10.3.4.

2.1.8. Special regimes

See: 13.

2.1.9. Anti-avoidance measure

Any supplier of goods and/or services who submits an invoice stating a certain amount of VAT is liable for the VAT stated on the invoice regardless of his status (CGI, Art. 283(3)). He may be a taxable person who erroneously charges VAT to his customer or even a non-taxable or exempt person.