



VAT as a net cost for banks: VAT Grouping

Ine Lejeune

EBF Tax Conference
22 November 2017

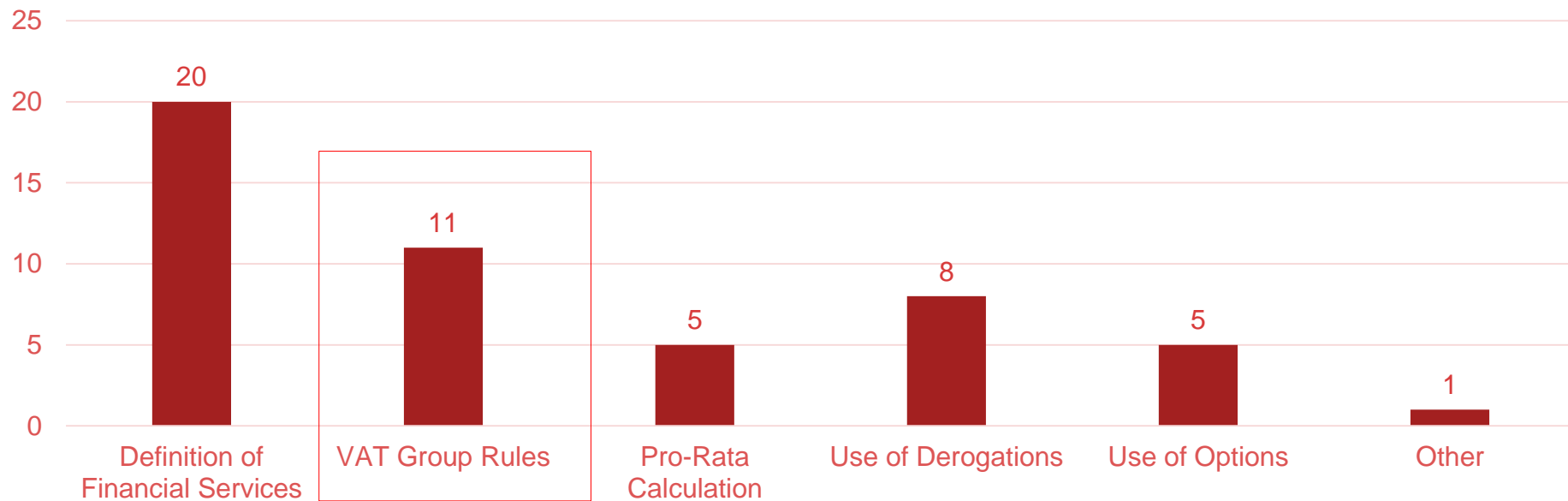
VAT Grouping within the EU

Article 11 of VAT Directive 2006/112/EC:

“After consulting the advisory committee on value added tax (the “VAT Committee”), each Member State **may** regard as a single taxable person any persons established in the territory of that Member State who, while legally independent, are closely bound to one another by financial, economic and organisational links.

A Member State exercising the option provided for in the first paragraph, may adopt any measures needed to prevent tax evasion or avoidance through the use of this provision”

VAT Grouping is one of the most important VAT factors to attract and retain financial services operators and outsourcers

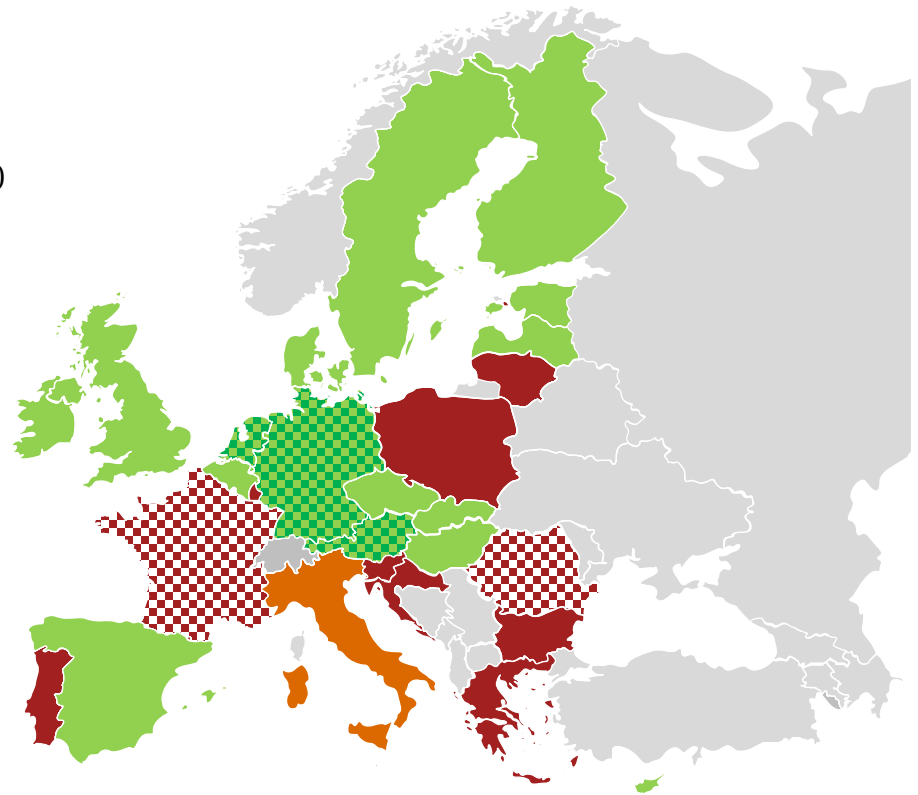


Source: Study to increase the understanding of the economic effects of the VAT exemption for financial and insurance services, PwC, Report to the European Commission - September 2006

VAT Grouping within the EU

Member States with/without VAT Grouping

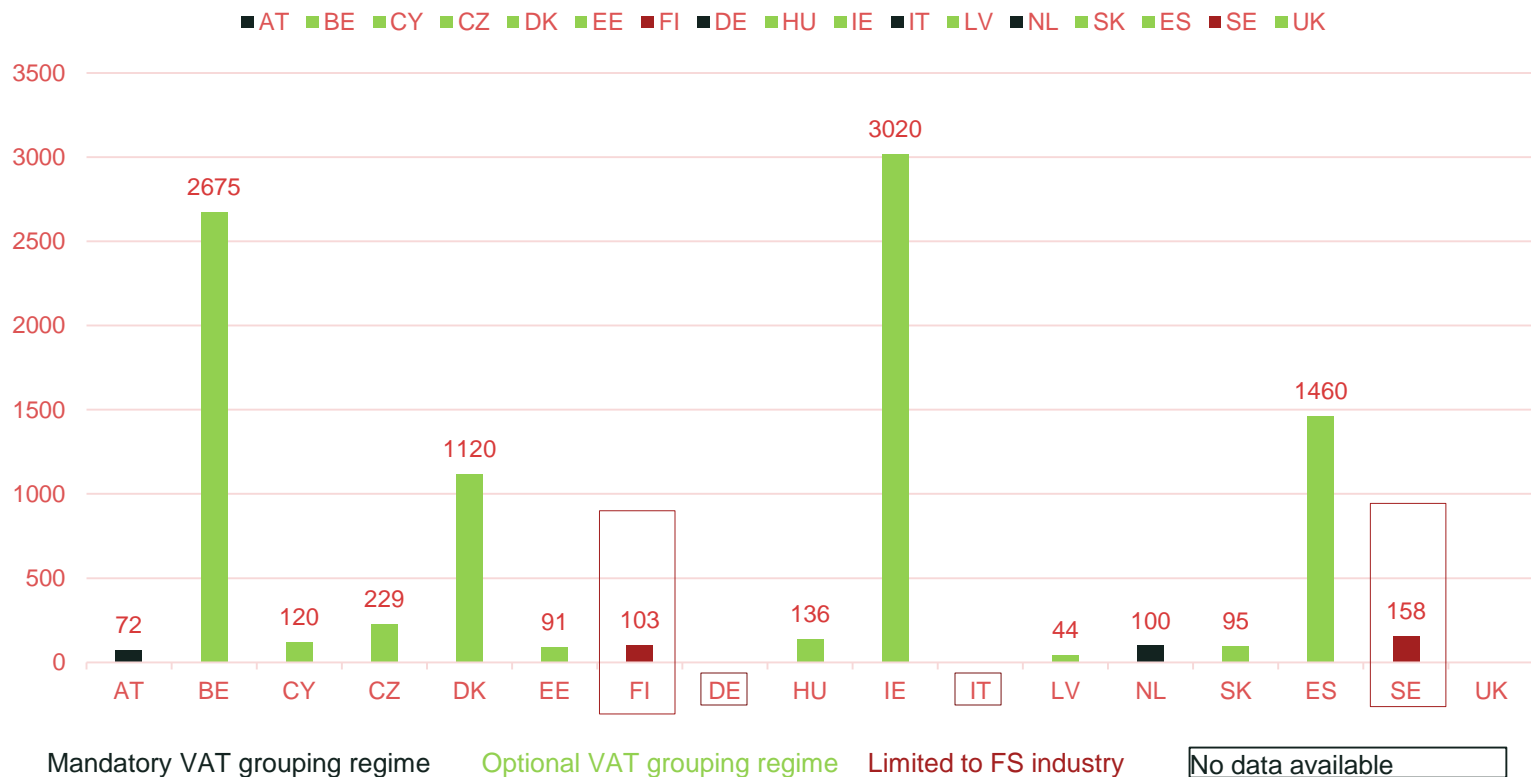
- Member States with VAT grouping (13)
- Member States with Mandatory VAT grouping (3)
- VAT grouping as from 2018 (Mandatory VAT grouping) (1)
- Member States with no VAT grouping (8)
- Member States with no VAT grouping but with VAT consolidation model (3)



Source: Network Survey, PwC ITX Financial Services Network, October 2017

VAT Grouping within the EU

Number of VAT Groups: not only FS industry



Source: Fiscalis Seminar on Modernising of VAT Groups, 12-14 September 2016, Dublin

VAT Grouping within the EU

CJEU Skandia - VAT Expert Group

CJEU Skandia subgroup

• Recommendation (1/2)

- **Importance of VAT grouping** to the EU economy and single market should be recognised and should not be jeopardised
- Implementation of **Skandia judgment should not hinder the role of VAT grouping** in the EU and should secure the benefits of VAT grouping for both business and tax authorities
- **Scope** Skandia judgment and **to be applied only to:**
 - Transactions involving non-EU head offices or branches;
 - VAT groups in the Member State with a narrow approach to territorial scope;
 - The Member State of the VAT group that has not implemented anti-avoidance rules;
 - Transactions involving externally bought services.



VAT Grouping within the EU

CJEU Skandia - VAT Expert Group

CJEU Skandia subgroup

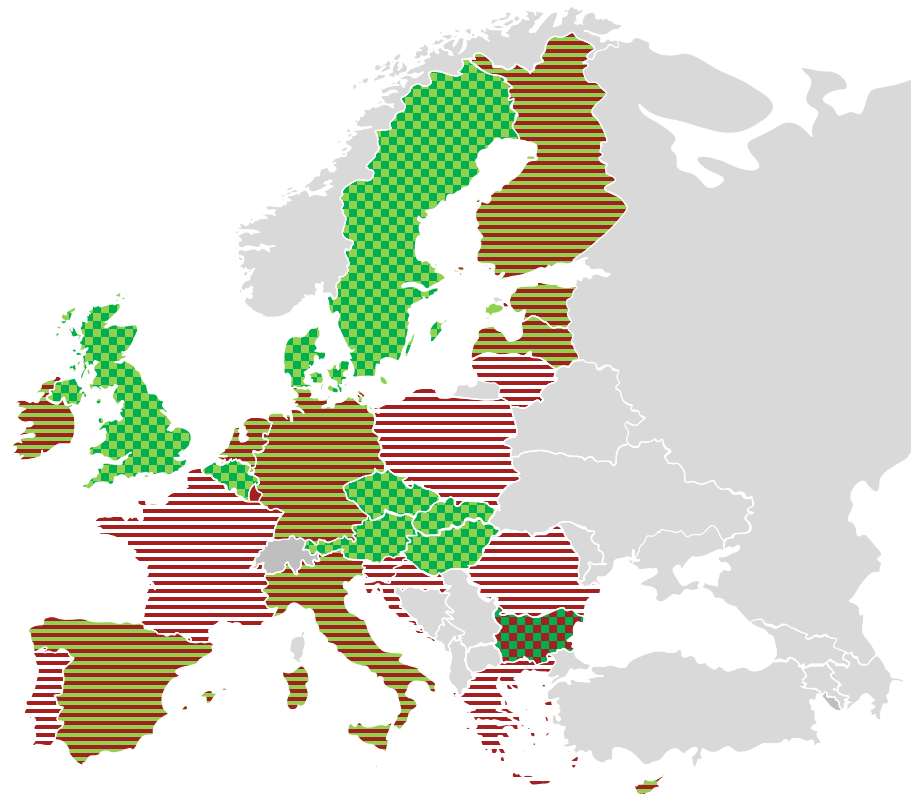
- **Recommendation (2/2)**
 - **Anti-avoidance and anti-abuse measures** to deal with situations of non-taxation in case of VAT Grouping;
 - **If recommendation not feasible =>** consider changing the VAT Directive.

VAT Grouping within the EU

Implementation of CJEU Skandia

- Member States with VAT grouping (17)
- Member States with no VAT grouping (11)
- Member States with official Skandia guidelines (9)
- Member states with no official Skandia guidelines (19)

VAT grouping but no guidelines : 9
VAT grouping and guidelines: 8
No VAT grouping but guidelines : 1



Source: Network Survey, PwC ITX Financial Services Network, November 2017

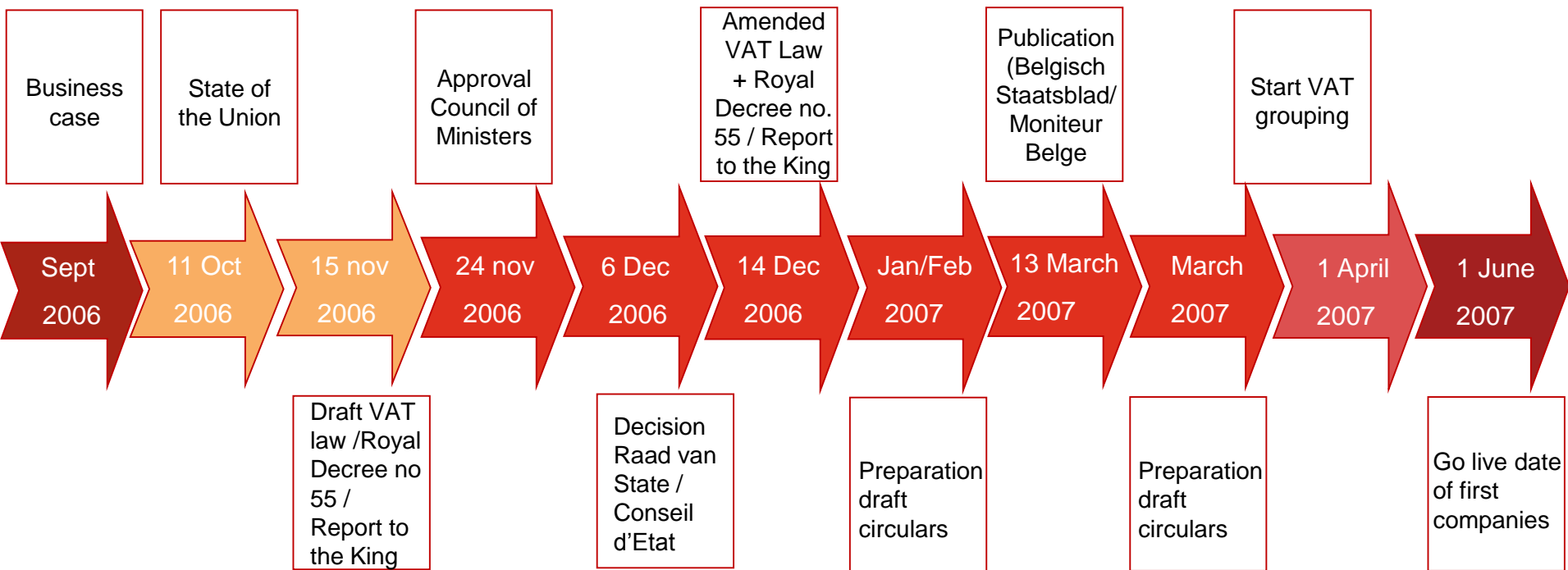
VAT Grouping within the EU

Current status VAT Grouping

- **Status:**
 - **European Commission:** paper on CJEU Skandia (N°845) ;
 - **VAT Expert Group paper:** paper on CJEU Skandia (N°47/2015) ;
 - **VAT Committee:** VEG paper discussed in the VAT Committee on 26 October 2015 (105th meeting) ;
 - **Fiscalis:** meeting on “modernising VAT groups” (September 2016) ;
 - **VAT Committee:** CJEU Skandia guidelines (December 2016) ;
 - **European Commission:** paper on meaning of “financial, economic and organisational links” among VAT group members (N°918/2017) ;
 - **VAT Expert Group paper (work in progress):** drafting of paper on meaning of “financial, economic and organisational links” among VAT group members (N°63).

VAT Grouping: who's next?

Fast track implementation of VAT Grouping in Belgium



Benchmarking best practices and co-operative design and implementation – PwC / Bankers' association

Contact persons

Ine Lejeune
*Partner, Tax Policy – Tax
Dispute Resolution – Tax
Litigation*

T: +32 2 7107805
M: +32 495 794573
Ine.lejeune@lawsquare.be

lawsquare

Lionel Wielemans
Director, ITX FS

T: +32 2 7104460
M: +32 477 698479
lionel.wielemans@pwc.com

pwc

Inge Stuyver
Senior Manager, ITX FS

T: +32 (0) 3 2593181
M: +32 (0) 473 910244
inge.stuyver@pwc.com

pwc

lawsquare

Thank you

**Thank you for the
attention**