

## Exemption for Certain Activities in the Public Interest

This document should be read in conjunction with Paragraph 3(1) of Schedule 1 to the VAT Consolidated Act 2010 (VATCA 2010).

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## Introduction

The purpose of this manual is to outline the Revenue position in respect of the application of the VAT exemption contained in Paragraph 3(1) of Schedule 1 to the VAT Consolidation Act 2010 (which deals with Independent Groups of Persons (IGP's)) following the Court of Justice of the European Union (CJEU) decisions in DNB Banka AS (C-326/15), Aviva (C-605/15) and Commission v Germany (C-616/15). This exemption is commonly known as the cost-sharing exemption.

### 1. Legislation and case law

Paragraph 3(1) of Schedule 1 to the VAT Consolidation Act 2010 (VATCA) states that a VAT exemption applies to:

“the supply of services by an independent group of persons (being a group that is an independent entity established for the purpose of administrative convenience by persons whose activities are exempt from, or not subject to, tax) for the purpose of rendering to its members the services directly necessary to enable them to carry out their activities, but only if the group recovers from its members the exact amount of each member’s share of the joint expenses.”

The CJEU decisions in DNB Banka AS (C-326/15), Aviva (C-605/15) and Commission v Germany (C-616/15) were all released at the same time and were decided on the same basis.

In direct reference to the interaction of the exemption with financial services, Paragraph 37 of the decision in the DNB Banka case states:

“Accordingly, Article 132(1)(f) of Directive 2006/112 should be interpreted to the effect that the exemption provided for in that provision relates only to IGPs whose members carry on activities in the public interest referred to in that article. Therefore, services provided by IGPs, whose members carry on an economic activity in the area of financial services, which does not constitute an activity in the public interest, are not entitled to that exemption.”

### 2. Revenue Position

The CJEU has clarified that the exemption contained in Paragraph 3(1) of Schedule 1 to the VATCA should be read strictly, i.e. it only applies where such activity is carried out in the public interest.

If any entities have been availing of this exemption they should consider if they are entitled to do so in light of the judgments and contact their Revenue Branch about any changes that may be necessary.