

To: Taxation Working Group; Public Affairs & Communications Committee

## EU Court of Justice: principle establishment and branch must be regarded as separate taxable persons

On 11 march, the Court of Justice of the European Union (CJEU) issued its [judgement on case C 812/19](#) (Danske Bank A/S, Danmark, Sverige Filial vs Skatteverket), ruling that, because the Danish head office had joined a Danish VAT group under article 11 of the VAT directive, the services provided to its Swedish branch attract VAT. This ruling could be relevant to insurers, because it implies that intercompany cross-border services are inside the scope of VAT if either the head office or the branch are a member of a VAT group.

The ruling: "the principal establishment of a company, situated in a Member State and forming part of a VAT group formed on the basis of Article 11 [of the VAT directive], and the branch of that company, established in another Member State, must be regarded as separate taxable persons where that principal establishment provides that branch with services and imputes the costs thereof to the branch".

The CJEU assessed this case upon the request by the Swedish Supreme Administrative Court, which was looking to clarify if the Swedish branch constitutes an independent taxable person. A lack of clarity was caused by the fact that the Danish company supplied services to the Swedish branch for which the Swedish branch then had to pay. The Danish company is part of a Danish VAT group established under the Danish legislation based on Article 11 of the VAT Directive while its Swedish branch is not part of any Swedish VAT group.

### Next steps

- The secretariat will continue to monitor relevant developments.

### For more info

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