

4. QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS

4.11 Origin: Commission
References: Articles 143(1)(g) and 151(1)(b)
Subject: Exemption granted to members of an ERIC
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1. The VAT Committee **almost unanimously** agrees that the supply of goods or services to a member of an ERIC may only benefit from VAT exemption pursuant to Articles 143(1)(g) and 151(1)(b) of the VAT Directive if and when all of the following conditions are fulfilled:
 - (a) the statutes of the ERIC provide for its members, as defined in Article 9(1) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC), to benefit from the exemption granted to the ERIC;
 - (b) the acquisition of goods or services made by the member respects the limits and conditions laid down in the statutes of the ERIC;
 - (c) the goods or services acquired by the member are necessary for the ERIC to fulfil the objectives assigned to it and intended for the exclusive use in achieving the tasks that constitute the purpose of the ERIC;
 - (d) those goods or services are not shared in use with other bodies or used for tasks of the ERIC other than those constituting its purpose.

Further, the VAT Committee **almost unanimously** agrees that with a view to ensuring the correct and straightforward application of those exemptions as required under Article 131 of the VAT Directive, only goods or services allocated directly for the exclusive use in achieving the tasks that constitute the purpose of the ERIC, without any further processing, can benefit from exemption.

2. The VAT Committee **almost unanimously** agrees that the public entities or private entities with a public service mission by which any Member State, associated country or third country may be represented (“representing entities”) and to which Article 9(4) of Council Regulation (EC) No 723/2009 refers, cannot be regarded as members of the ERIC.

The VAT Committee is of the **almost unanimous** view that goods or services acquired by those representing entities shall not benefit from VAT exemption pursuant to Articles 143(1)(g) and 151(1)(b) of the VAT Directive, not even if the goods or services are acquired with a view to be delivered to the ERIC as an in-kind contribution.

According to the **almost unanimous** view of the VAT Committee, VAT exemption shall only be possible if goods or services supplied to a representing entity are acquired by that entity in the name and on behalf of the ERIC.

3. When goods or services are acquired by a member of an ERIC in a Member State other than that in which the ERIC is established, and the transaction fulfils all the conditions for benefiting from VAT exemption under Articles 143(1)(g) or 151(1)(b) of the VAT Directive as provided for under paragraph 1 of these guidelines, the VAT Committee is of the **almost unanimous** view that the VAT exemption certificate shall specify that the goods or services are acquired by the member but for the sole purpose of the ERIC.