

European VAT refund guide 2017



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European VAT refund guide 2017

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Introduction

Businesses operating in countries in which they are not established or VAT-registered (i.e. non-resident businesses) can incur significant amounts of VAT on expenses paid in those countries. In principle, non-resident businesses should be able to recover some or all of the VAT incurred, thereby reducing their costs.

The 2017 European VAT refund guide summarizes the rules and procedures to obtain a VAT refund in 31 European countries.

The information contained in this guide, which is current through 1 June 2017, has been compiled in cooperation with VAT professionals in Deloitte offices in all of the countries covered.

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Deloitte Global VAT refund services – Deloitte Revatic Smart

Foreign VAT recovery—Not only doing things right, but doing the right thing

Many businesses may be missing refund opportunities in countries that allow refunds of VAT. Even if a business already claims VAT refunds, it may be possible to benefit from a potentially more efficient automated process for filing and receiving refunds.

Businesses that operate in countries where they are not established or VAT-registered often incur significant amounts of VAT on expenses paid in those countries. Some of the most common expenses for which non-resident companies incur VAT include:

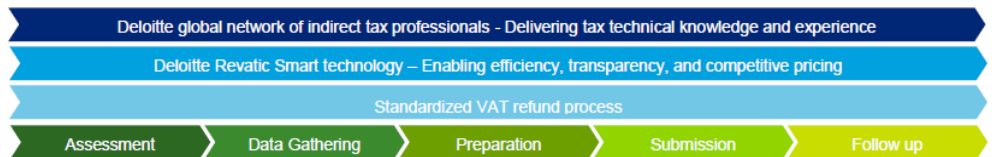
- Employee travel and lodging;
- Service charges from vendors;
- Co-location costs;
- Import VAT incurred on the movement of goods across borders;
- Clinical trials; and
- Local purchases of goods.

In principle, non-resident businesses may be able to recover some or all of the VAT incurred on the above expenses, which may offer a significant opportunity to reduce tax costs.

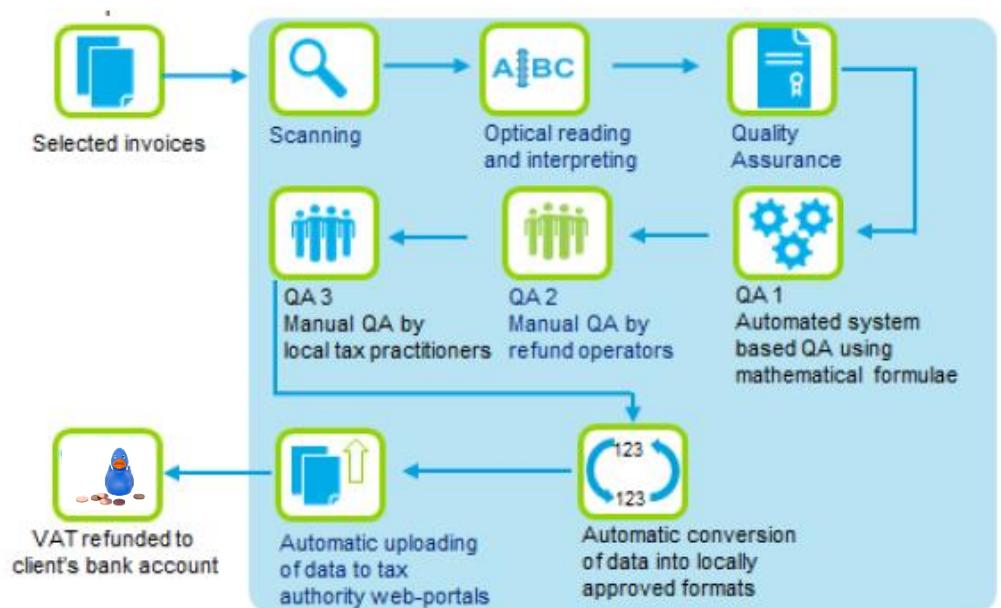
Some businesses already claim non-resident VAT refunds. There may, however, be opportunities to improve the VAT recovery process through automation, which potentially could reduce the time and costs to gather VAT expense information, prepare VAT refund claims and submit the claims to tax authorities.

Our approach

With Deloitte's VAT compliance tool, Revatic Smart, we assist companies by introducing automation to the global VAT recovery process.



Revatic Smart extracts data from invoices and receipts quickly and accurately by using optical character recognition (OCR) technology and then automatically calculates recovery restrictions on certain types of expenditure. It organizes the information into a predefined format, ready for submission to the tax authorities. Manually performing these tasks often can take months. However, automating the process all the way through the submission of the claims to the tax authorities can potentially reduce preparation time to a few days.



Combining the Revatic Smart technology with our extensive global experience allows us to offer various services to assist companies seeking VAT refunds, including:

- A transparent, standardized and efficient approach for recovering foreign VAT in a cost-effective manner;
- Automated and effective VAT recovery technology that helps to reduce the risk associated with manual refund claims and the likelihood of rejection based on duplicate invoices, while potentially accelerating the filing of refund claims;
- Advice from indirect tax specialists who possess significant VAT technical knowledge and global experience.

Throughout the VAT recovery process, claims are tracked showing which claims are being processed, which have been filed, the status of each claim and any requests from tax authorities for additional information.

For more information on this service, please email the Global VAT refund team at berefunded@deloitte.com.

VAT recovery in the EU

EU member states:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom

The following non-EU countries (part of EFTA) also are included in the guide:

- Iceland
- Norway
- Switzerland

The EU directive that became effective on 1 January 2010 (i.e. Directive 2008/09/EC) introduced a new procedure for businesses established and registered for VAT purposes within the EU to request a refund of VAT incurred in other EU member states. The directive allows EU businesses to submit a refund claim via the web site of the tax authorities of the country in which the claimant is established (the previous system, known as the 8th VAT Directive system, required claims to be submitted in hard copy and in the country in which the VAT was incurred). Directive 2008/09/EC also made changes to the deadlines apply for submitting a claim and for the processing of refunds by the authorities. As under the previous rules, refund requests will be handled by the member state of refund, the amount refundable will be determined under the deduction rules of that member state and the payment of the refund will be made directly to the claimant by the member state of refund. While the revised procedures should facilitate and expedite the processing of refund claims, businesses need to be aware of deadlines and issues connected with the process, and make any necessary adjustments to their internal systems.

The changes made by Directive 2008/09/EC do not affect refund claims by businesses that are not established or VAT-registered in an EU member state. Such businesses still recover VAT incurred in EU member states according to the procedure in the 13th VAT Directive.

The 2017 European VAT refund guide provides detailed information on the technical and practical aspects of the procedures under Directive 2008/09/EC, as well as information on refund claims under the 13th VAT Directive. The guide covers the procedures in the 28 EU member states (still including the UK) and three of the European Free Trade Association (EFTA) countries: Iceland, Norway and Switzerland.

EU businesses (Directive 2008/09/EC)

Eligibility for refund

A business registered for VAT in one EU member state can reclaim VAT incurred in another member state. However, where the business is registered or otherwise liable or eligible to register for VAT purposes in a particular member state, it should register in that country and recover VAT through its VAT registration (periodic returns). Applications to recover VAT under Directive 2008/09/EC will be rejected if the business has its residence, its seat or a fixed establishment and/or taxable supplies of goods or services in the EU member state in which the VAT was incurred.

Non-refundable VAT

The specific items of expenditure on which VAT is recoverable vary in each member state.

Services

Services are the supplies on which an EU business is most likely to be able to recover VAT incurred in another member state. However, following the implementation of the new rules on the place of supply of services (implemented on 1 January 2010), VAT incurred on acquired services in other EU member states has been substantially reduced, as these transactions normally must be reverse charged by the customer in its country of establishment.

Goods

The recovery of VAT on goods is more complex. Generally, the supply of goods from one member state to a customer in another member state is zero-rated (provided the customer is registered for VAT purposes elsewhere in the EU and its VAT registration number is provided to the supplier).

Where goods have been acquired in another member state, VAT can be reclaimed provided no other VAT relief is available and, as a result of the transaction, the company does not become liable to register for VAT purposes in that other member state.

With a few exceptions, if goods are purchased for resale, either within or outside the member state, the business will almost certainly have to register for VAT purposes in respect of the resale and will recover VAT through the VAT registration.

Direct VAT recovery, therefore, will apply only to goods delivered and consumed for business purposes within the charging member state (e.g. the purchase and use of local office supplies).

Making claims

Minimum amounts

EU/EEA/EFTA member states can set the minimum amount that may be recovered under each VAT refund application. The minimum for annual applications, or applications for the final part of a year, is EUR 50 and EUR 400 for interim applications. The table shows the current limits in each member state.

Items omitted from earlier interim applications usually can be included in later applications filed in the same year.

Minimum amounts for refund

Country	Annual	Interim
Austria	EUR 50	EUR 400
Belgium	EUR 50	EUR 400
Bulgaria	BGN 100	BGN 800
Croatia	HRK 400	HRK 3,100
Cyprus	EUR 50	EUR 400
Czech Republic	EUR 50	EUR 400
Denmark	DKK 400	DKK 3,000
Estonia	EUR 50	EUR 400
Finland	EUR 50	EUR 400
France	EUR 50	EUR 400
Germany	EUR 50	EUR 400
Greece	EUR 50	EUR 400
Hungary	EUR 50	EUR 400
Ireland	EUR 50	EUR 400
Italy	EUR 50	EUR 400
Latvia	EUR 50	EUR 400
Lithuania	EUR 50	EUR 400
Luxembourg	EUR 50	EUR 400
Malta	EUR 50	EUR 400
Netherlands	EUR 50	EUR 400
Poland	EUR 50	EUR 400
Portugal	EUR 50	EUR 400
Romania	EUR 50	EUR 400
Slovakia	EUR 50	EUR 1,000
Slovenia	EUR 50	EUR 400
Spain	EUR 50	EUR 400
Sweden	SEK 500	SEK 4,000
UK	GBP 35	GBP 295
Iceland	ISK 11,800	ISK 60,800
Norway	NOK 200	NOK 2,000
Switzerland	CHF 500	CHF 500

Time limits

The application period is on a calendar year basis and the application form must be submitted by 30 September of the following year (different due dates may apply for quarterly refunds). However, applications may relate to a period of less than three months where the period represents the remainder of a calendar year.

Procedure

Filing

As a general rule, the refund application must be submitted electronically through the portal of the tax authorities in the country in which the claimant is established, by 30 September of the calendar year following the refund period. In principle, this deadline will not be extended.

IT requirements

All refund claims submitted according to the procedure in Directive 2008/09/EC must be filed electronically. However, the method of filing, certifications, format of files accepted and other IT requirements vary from country to country.

Supporting documentation

In the first phase of application, most member states do not require any documentation other than the application form (filed in the country of residence). Once the application has been transferred to the state in which VAT was incurred, that state can request additional documentation, such as invoices (originals or copies), import documents or other supporting documents.

It should be noted that the Court of Justice of the European Union (CJEU) has ruled that in specific cases, a non-resident business should be able to submit duplicate tax invoices where the originals have been lost for reasons beyond its control.

Refunds and appeals

Another important change introduced by Directive 2008/09/EC is fixed time limits for the tax authorities to issue a decision on refund claims.

The member state of refund has four months to decide on the application, starting from the day it confirms receipt of the claim. The term will be extended when additional information is requested and the claimant will be required to provide the information within one month. Once the member state of refund receives the additional information, it has two months to decide on the claim. If the claimant does not provide the information requested, the member state of refund must decide on the claim within two months after the one-month period expires for the claimant to respond.

When additional information is requested by the member state of refund, it has at least six months to issue its decision on the claim. When more information is requested (after a first request), the final decision should be made within eight months of receipt of the application.

Once the tax authorities decide to issue a refund, it must be paid within 10 business days after expiration of the above deadlines. If payment of the refund is delayed, the tax authorities will have to pay (late 'refund') interest.

Non-EU businesses (13th Directive)

The rules for non-EU businesses are similar to those for EU businesses, except that:

- Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Switzerland, and the UK do not allow claims unless there is a reciprocity agreement or reciprocal treatment for the recovery of VAT and other turnover taxes with the country in which the non-EU business is established.
- A fiscal representative (for VAT refund purposes) may need to be appointed in some member states.
- Non-EU businesses usually must support claims with a certificate of “taxable status” rather than a certificate of VAT status. This should indicate that the non-EU business is a taxable person for business purposes in its own country (e.g. form IRS 6166 for US-established companies).

Additional conditions may apply by individual member states to allow non-EU businesses to recover VAT.

Structure of this VAT refund guide

The 2017 edition of the VAT refund guide has the same structure as the 2016 version and is divided in two main sections:

- (i) The formalities that must be complied with if a country is the **Member State of Establishment** (i.e. for companies established in that specific country, claiming the refund of input VAT in another EU / non-EU country), and
- (ii) The formalities/thresholds/requirements that must be taken into account if a country is the **Member State of Refund** (for EU and non-EU companies claiming the refund of input VAT in that specific country).

This structure should enable companies to better define the requirements that should be met, looking at where they are established and where they have incurred foreign VAT that they would like to have refunded.

Austria

Austrian VAT is known as “*Umsatzsteuer*” (USt) or “*Mehrwertsteuer*” (MwSt).

The standard VAT rate is 20%, and there are reduced rates of 13% and 10%. A special 19% rate applies in Jungholz and Mittelberg.

An extensive overview of the VAT rates applied in Austria can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint an Austrian fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive. However, the Austrian tax authorities require the appointment of an Austrian person authorized to receive documents from the authorities (a “postal address” in Austria).

Austria is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to an Austrian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities of the country in which the claimant is established (<https://finanzonline.bmf.gv.at/> for Austrian claimants). If the application is submitted by a third party, the third party must be an Austrian Certified Public Accountant; it may not be a non-established company.

The Austrian tax authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

For Austrian-established businesses, the preparation and filing of the claims form must be done through the web portal FinanzOnline. The information required to complete the form must be uploaded manually (i.e. on a line-by-line basis) or by uploading XML files.

A maximum of 40 invoices per refund claim can be filed in a manual upload. Claims that have more than 40 invoices must be uploaded through XML files to be created via specific software.

To access the FinanzOnline service, a claimant must apply for log-in codes with the tax authorities. Access to the web portal for submitting the VAT refund claim may be obtained by filing Form FON1 with the Austrian authorities.

Non-EU countries (13th Directive equivalent)

This refers to an Austrian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for an Austrian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Austrian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “U70” in Austria.

Austria is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Austria.

Eligibility for refund

A foreign taxable person is entitled to recover Austrian VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in Austria;
- It does not have residence, its seat or a fixed establishment from which it carries out supplies of goods or services in Austria; and
- The claimant has not rendered any taxable supplies in Austria, except for:
 - Certain tax-exempt cross-border transport from/to non-EU countries;
 - Supplies for which the reverse charge mechanism applies; and
 - Electronically provided supplies where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to nontaxable persons.

Non-refundable VAT

VAT can not be recovered on the following:

- The purchase, hire, operation (including fuel and tolls) and repair of passenger motor vehicles, except driving school vehicles, taxis, hire car vehicles and cars which are listed by the Austrian tax authorities (in some cases, zero-emission vehicles, which are mainly used for business purposes); and
- Entertainment expenses, except for business meals where the purpose of the meeting and the identity of the participants are documented.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Austrian VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year, but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in a calendar year and not more than one calendar year, except where the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application (for the remainder of the calendar year) also may relate to invoices or import documents not covered by previous applications with respect to transactions carried out during the relevant calendar year.

According to the Federal Ministry of Finance, another refund claim may not be submitted for the remainder of a calendar year. Thus, the last month (e.g. December) should not be included in the original claim if additional invoices could be received; in that case, the company will be able to include the additional invoices in the claim for the last month.

Proxy

It is recommended that a proxy be uploaded (an electronic scanned copy) in English or German, along with the refund claim.

Supporting documentation

No supporting documents have to be submitted when filing the claim electronically, but the Austrian VAT authorities can request additional documents/information (e.g. original invoices, copies of invoices, import documents, etc.). This request can be sent by email.

In accordance with the EU Council Directive 2008/9/EC, it is recommended that a copy of the invoices relating to the refund claim be enclosed in cases where the invoices equal or exceed the taxable basis of EUR 1,000 (or the equivalent in national currency). The threshold is reduced to EUR 250 (or the equivalent in national currency) for fuel costs.

E-invoicing

E-invoices generally are accepted and are self-sufficient to claim input VAT via the EU (former 8th Directive) procedure.

There are no specific requirements/restrictions related to e-invoicing (besides the general requirements described in the second EU Invoicing Directive) in Austria.

Refunds and appeals

The Austrian VAT authorities must issue a decision on a refund claim within four months and 10 business days of receipt of the claim:

- The authorities can accept the claim, notify the claimant by issuing the relevant assessment (also via electronic means) and repay the reclaimed amount;
- The authorities can reject the claim (in whole or in part) and notify the claimant by issuing the relevant assessment (also via electronic means);
or
- The authorities can request additional information and notify the claimant (also via electronic means). The claimant must provide the information requested within the deadline stated on the request, by email or via letter (the type of the communication mean must be stated in the request).

Notifications and assessments may be sent via electronic means (by email or uploaded in the e-filing system) or in hard copy.

Based on the Austrian VAT guidelines, the decision will be sent in the same manner to the tax authorities of the claimant's country of residence as the input VAT refund claim was sent to the Austrian tax authorities. The manner of delivery is determined by the country of residence of the claimant (via the online portal of the country of residence or in hard copy).

Companies whose local tax authorities reject the delivery of the assessment/decision issued by the Austrian tax authorities should receive the assessment/decision via email (based on the email address stated in the input VAT refund claim).

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information following a first request.

A decision on the refund claim must be issued.

If a refund is granted, it will be processed in Euro within 10 business days after the relevant period and paid to the bank account number provided to the authorities. The bank account can be held by the claimant, a proxy holder or any other person. There is no requirement that the bank account be in Austria.

The Austrian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

The entire refund claim may not be rejected because one of the submitted invoices was not correct/could not be provided in a readable/acceptable scanned copy or because a query on a particular invoice has not been answered, unless only one invoice was submitted. If the refund is not granted, the grounds for rejection must be stated.

In practice, a claim will be denied for the following reasons:

- Non-deductible input VAT amounts;
- Failure to comply with the invoice requirements; or
- The place of supply is outside Austria.

A taxpayer can appeal the denial of a claim to the Austrian tax authorities before the end of the first month following the notification of the decision. The deadline and the name of the taxpayer must be stated on the decision. The appeal must be written in German and filed by courier or registered mail.

The Austrian tax authorities may levy penalties where a refund claim is rejected due to tax fraud.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Austria.

Eligibility for refund

Reciprocity between Austria and the country of establishment is not required for a non-EU business to request a VAT refund.

Non-refundable VAT

VAT cannot be recovered, *inter alia*, on:

- The purchase, hire, operation (including fuel and tolls) and repair of passenger motor vehicles, except driving school vehicles, taxis, hire car vehicles and cars which are listed by the Austrian tax authorities (in some cases, zero-emission vehicles that are mainly used for business purposes); and
- Entertainment expenses, except for business meals where the purpose of the meeting and the identity of the participants are documented.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Austrian VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications with respect to transactions completed during that calendar year.

The application must be submitted to the Austrian tax authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year. Late claims will not be accepted and no extension of the deadline will be granted.

Application forms and proxy

The application must be made on Form U5 issued by the Austrian tax authorities (other EU forms are not accepted). It must be completed in German and amounts must be stated in Euro. Application forms can be obtained from the local VAT offices, or at: https://www.bmf.gv.at/Service/Anwend/FormDB/_start.asp.

Upon accessing the site, the code designation of the requested form must be indicated (U5 for the input VAT application form, Verf18 for the relevant questionnaire and U70 for the certificate of taxable status). Alternatively, a search function can be used (in German).

Each invoice must be mentioned in the attachment to the application. Using an excel spread sheet to provide an overview of the claimed amounts generally is not permitted, even though this is often a common practice.

The application must be signed by a person who is legally entitled to represent the company (e.g. managing director or other legal representative); otherwise, an original authorization must be provided.

The form and supporting documentation must be sent to:

Finanzamt Graz-Stadt
Referat für ausländische Unternehmer
Conrad von Hötzendorfstraße 14-18
8018 GRAZ
Austria
T: + 43 316 88 10
F: + 43 316 81 76 08
www.bmf.gv.at

<https://www.bmf.gv.at/steuern/selbststaendige-unternehmer/umsatzsteuer/ust-kontakt-gs.html>

Applications may not be filed electronically.

Supporting documentation

The following document must be submitted with the first application:

- Questionnaire Verf 18

https://www.bmf.gv.at/Service/Anwend/FormDB/_start.asp

The following documents must be submitted with each application:

- Original invoices, import documents, bills, vouchers, receipts or customs clearance forms (copies are not accepted);
- Original certificate of VAT status Form U70. The claimant must prove it is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year. Foreign certificates are accepted if they contain at least the content in Form U70.

E-invoicing

The Austrian VAT Act and the relevant guidelines do not contain provisions regarding e-invoices in connection with input VAT refund claims of non-EU companies. Therefore, input VAT refund claims based on e-invoices may not be accepted by the Austrian tax authorities since they are entitled to request original invoices for any reclaims of Austrian input VAT. Non-EU companies, therefore, should request hard copy invoices from their suppliers for invoices subject to Austrian VAT.

Refunds and appeals

There is no timeframe for the Austrian tax authorities to decide on a 13th Directive refund claim.

- The authorities can accept the claim, notify the claimant by issuing the relevant assessment (also via electronic means) and repay the reclaimed amount;
- The authorities can reject the claim (in whole or in part) and notify the claimant by issuing the relevant assessment (also via electronic means);
or
- The authorities can request additional information and notify the claimant (also via electronic means). The claimant must provide the information requested within the deadline stated on the request.

A refund normally will be paid when the assessment regarding the refund claim was issued. However, there is no legal deadline for the Austrian tax authorities to issue a refund.

The tax authorities will not be required to pay interest even if the refund is not processed in a timely manner.

An entire refund claim may not be rejected because one of the submitted invoices was not correct, could not be provided in a readable/acceptable scanned copy or because a query on one particular invoice has not been answered, unless only one invoice was submitted.

If the refund is not granted, the grounds for rejection must be stated.

An appeal against the denied claim may be made to the Austrian tax authorities before the end of the first month following notification of the decision. The deadline and the name of the addressee must be stated on the decision. The appeal must be in German and be sent by courier or registered mail.

The Austrian tax authorities may levy penalties where a refund claim is rejected due to tax fraud.

A refund typically takes between two and a half to seven months to be processed, where no additional requests for information are sent to the claimant. There is no requirement to have an Austrian bank account to obtain a VAT refund.

Belgium

Belgian VAT is known as “*Belasting over de Toegevoegde Waarde*” (BTW) in Dutch and “*Taxe sur la Valeur Ajoutée*” (TVA) in French.

The standard VAT rate is 21%, and there are reduced rates of 12%, 6% and 0%.

An extensive overview of the VAT rates applied in Belgium can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Belgian fiscal representative to claim a VAT refund under Directive 2008/09/EC or the 13th Directive.

Belgium is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Belgian-established company submitting an EU (former 8th Directive) claim in another EU Member State.

Procedure

Filing

The application must be submitted electronically (in French, Dutch, German or English) through the portal of the tax authorities of the country in which the claimant is established (<http://minfin.fgov.be/portail2/nl/e-services/intervat/index.htm> for Belgium- established companies). The request must be submitted by an authorized person who should install the digital certificate needed to file the return on his/her computer or who should have the digital certificate available on CD ROM, a USB stick or a smartcard to be able to sign the application.

A new Intervat log-in procedure applies as from 1 March 2014, resulting in more transparency and the possibility to have access to specific forms and information that are linked to VAT taxpayers. The access to the Intervat application is managed via the FEDIAM (Federal Identity and Access Management). The previous access procedure (via E-ID or digital certificate) remains (e.g. non-established VAT taxpayers cannot apply the new log-in procedure). Access to specific forms and information will not be available when applying the old procedure.

The VAT refund claim can be submitted by a third party if the third party has a digital certificate to sign the VAT refund application.

When Belgium is the member state of establishment, the Belgian VAT authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

Belgian taxpayers registered for VAT purposes can file their refund claims electronically using the INTERVAT web service of the Belgian tax authorities.

Prior registration is not required. Access is granted using a Belgian E-ID card or a class 3 digital certificate (Isabel, Globalsign).

The preparation and filing of the form must be done through the tax authorities' website. A file may be uploaded in XML format to complete the form. Guidance for filing the form is available at: <http://minfin.fgov.be/portail2/nl/e-services/intervat/calendrier.html>

The electronic form is divided into three main sections:

- General information relating to the claimant and the period for which the refund is requested;
- List of invoices in which each document can be manually typed in or all documents can be uploaded in XML format (the list of XSD schemes to be used is published on the tax authorities' website); and
- Annexes, where scanned invoices/annexes can be uploaded taking the following into account:
 - Maximum one file per country for which a refund is requested;
 - File types accepted: JPEG, PDF or TIFF;
 - Maximum file size: 5MB; and
 - Black and white/maximum 200 dpi standard scanning.

Once the claim is submitted, the taxpayer will receive confirmation from the website, referencing the number of the application.

Non-EU countries (13th Directive equivalent)

This refers to a Belgian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Belgian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Belgian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “Form 820” in Belgium.

Belgium is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Belgium.

Eligibility for refund

A foreign taxable person is entitled to recover Belgian VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in Belgium;
- The claimant does not have residence, its seat or a fixed establishment in Belgium; and
- The claimant has not provided any taxable supplies in Belgium, except for:
 - Certain tax-exempt cross-border transportation from/to non-EU countries;
 - Supplies for which the reverse charge mechanism applies;
 - Supplies subject to occasional taxation; or
 - Electronically provided supplies where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons.

Non-refundable VAT

VAT cannot be recovered on:

- Manufactured tobacco;
- Alcoholic beverages, except those intended for resale or supply during the performance of a service (e.g. bars, hotels and restaurants);
- Accommodation, meals and beverages under an accommodation or a catering contract, unless these costs are incurred by a company's staff effecting outside supplies of goods or services or by taxable persons that, in turn, supply the same services for consideration; and
- Entertainment expenses (although according to recent Belgian jurisprudence, expenses incurred in the context of an advertising event may be considered recoverable).

Partially refundable VAT

Up to 50% of the VAT on motor vehicles may be deducted only if the vehicle is used for business purposes. Four methods are used to determine the percentage of the deduction:

- A percentage representing the actual number of kilometres driven for business purposes (i.e. the VAT taxpayer must maintain details for each vehicle);
- A percentage based on the distance between the home and the office (commuting distance), increased by a lump sum for private use;
- A flat rate deduction of 35%; or
- A flat rate deduction of 85% on light commercial vehicles that are used mainly for business purposes.

The private use of the motor vehicle is not subject to VAT, and in principle, the rules do not apply to non-established VAT taxpayers who incur Belgian VAT on motor vehicles.

In principle, one of the four methods will be applicable to VAT taxpayers who have a presence in Belgium without having a permanent establishment for VAT purposes and who consequently have to reclaim Belgian VAT incurred via the refund procedure (e.g. representation office, sales people or administrative support staff in Belgium, etc.).

There are many exceptions to the limitation on the recovery of VAT related to motor vehicles, of which the most important are:

- Vehicles intended to be sold or leased by a taxable person whose economic activity involves the sale or leasing of motor vehicles;
- Vehicles intended to be solely used for passenger transport for hire or reward;
- New vehicles within the meaning of article 28a (2) of Directive 77/388/EEC forming the subject of supplies exempt under article 28c (A)(b). In that case, the amount deducted may be equal to the amount of tax the taxable person would have had to pay if the supply had not been exempt.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in a calendar year and not more than one calendar year, except where the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application also may relate to invoices or import documents not covered by previous applications with respect to transactions completed during that calendar year.

More than one year-end refund claim (annual return) may be submitted, but this should be limited to the extent possible, as some member states from which a refund is due may not accept more than one annual or year-end refund claim.

Proxy

A proxy must be provided if the VAT refund claim is submitted by a third party or when a third party would like to receive information from the VAT authorities on a particular VAT refund claim that was submitted by a claimant. An electronic proxy (PDF) is allowed, which can be provided to the Belgian VAT authorities separately via email.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is EUR 1,000 or more (EUR 250 for invoices relating to fuel costs). The serial number used in the application form must be included on the documents.

The Belgian authorities can request additional documents/information (e.g. authorization document from a foreign taxpayer stating that the payment may be granted to a third party).

E-invoicing

The Belgian VAT authorities accept e-invoices if all conditions are satisfied. Attaching PDF copy of the invoice in the VAT refund claim is recommended.

Refunds and appeals

The Belgian VAT authorities must issue a decision on a refund application within four months of receipt of the request:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request.

The tax authorities always will send an email notification.

Queries can be sent to any person (even a third party), but the VAT authorities usually will address their queries to the email address included on the VAT refund claim.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

The VAT refund claim will be deemed to be accepted if the Belgian VAT authorities fail to communicate their decision within the above deadlines.

If a refund is granted, it will be processed in Euro within 10 business days after the relevant period to the bank account number provided to the authorities.

A Belgian bank account is not required, but the claimant, proxy holder or other person must hold a bank account in another EU member state.

The Belgian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

The refund claim may be rejected in its entirety if requested information is not provided to the Belgian VAT authorities. The Belgian VAT authorities will send a reminder to the claimant, but if the information is not provided, the authorities can reject the entire VAT refund claim.

If the refund is not granted, the grounds for rejection must be stated. An appeal against the denied claim may be made to the Belgian VAT authorities by email before the end of the third calendar year following the notification of the rejection.

Reasons for rejecting a claim include failure to respond to queries, failure to provide the requested information, claiming VAT that is not (yet) reclaimable, etc.

Penalties can be imposed if the claimant has tried to claim VAT incorrectly (similar to the penalties that are imposed on Belgian VAT taxpayers)

The Belgian VAT authorities usually process VAT refund claims within three to four months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Belgium.

Eligibility for refund

Reciprocity is not required.

Non-refundable VAT

VAT cannot be recovered on:

- Manufactured tobacco;
- Alcoholic beverages, except those intended for resale or supply during the performance of a service (e.g. bars, hotels and restaurants);
- Accommodation, meals and beverages under an accommodation or a catering contract, unless these costs are incurred by a company's staff effecting outside supplies of goods or services or by taxable persons that, in turn, supply the same services for consideration;
- Entertainment expenses (although according to recent Belgian case law, expenses incurred in the context of an advertising event may be considered recoverable).

Partially refundable VAT

Up to 50% of VAT on motor vehicles may be deducted only if the vehicle is used for business purposes. Four methods are used to determine the percentage of the deduction:

- A percentage representing the actual number of kilometres driven for business purposes (i.e. the VAT taxpayer must maintain details for each vehicle);
- A percentage based on the distance between the home and the office (commuting distance), increased by a lump sum for private use;
- A flat rate deduction of 35%; or
- A flat rate deduction of 85% on light commercial vehicles that are used mainly for business purposes.

The private use of the motor vehicle is not subject to VAT, and in principle, the rules do not apply to non-established VAT taxpayers who incur Belgian VAT on motor vehicles.

In principle, one of the four methods will be applicable to VAT taxpayers that have a presence in Belgium without having a permanent establishment for VAT purposes and that consequently have to reclaim any Belgian VAT incurred via the refund procedure (e.g. representation office, sales people or administrative support staff in Belgium, etc.).

There are many exceptions to the restriction on the recovery of VAT related to motor vehicles, of which the most important are:

- Vehicles intended to be sold or leased by a taxable person whose economic activity involves the sale or leasing of motor vehicles;
- Vehicles intended to be solely used for passenger transport for hire or reward;
- New vehicles within the meaning of article 28a (2) of Directive 77/388/EEC forming the subject of supplies exempt under article 28c (A)(b). In that case, the amount deducted may be equal to the amount of tax that the taxable person would have had to pay if the supply had not been exempt.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 200; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 25.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, except where the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications with respect to transactions completed during that calendar year.

The application must be submitted to the Belgian VAT authorities by 30 September of the calendar year following the refund period. An extension of the deadline will not be granted.

Proxy

A proxy must be provided if the VAT refund claim is submitted by a third party or when a third party would like to receive information from the VAT authorities on a particular VAT refund claim that was submitted by a claimant. An electronic proxy (PDF) is permitted, which can be provided to the Belgian VAT authorities separately via email.

Application forms

The application can be made on Belgian Form 821 (other EU forms will be accepted if they at least contain the content as in Form 821). The application must be completed in triplicate in French, Dutch or German, and in Euro. Application forms may be obtained at the address mentioned below.

While forms supplied by the tax authorities of any EU member state are accepted, it is preferable to have the form printed in the same language as the language in the application.

Each invoice must be mentioned and provided in the attachment to the application form.

An excel spread sheet may be used to provide an overview of the claimed amounts. The application must be signed by a person who is legally entitled to represent the company (e.g. managing director); otherwise, a letter of authority should be provided.

The form and supporting documentation must be sent to:

Centraal Bureau voor buitenlandse belastingplichtigen
Dienst terugbetalingen
Financietoren
Kruitduinlaan 50, Bus 3626 (Verdieping 18/R)
1000 BRUSSEL
België

Or

Bureau Central de TVA pour les Assujettis Etrangers (BCAE)
Service de remboursements Tour Des Finances
Boulevard du Jardin Botanique 50 – boîte 3626 (Etage 18/R)
1000 BRUXELLES
Belgique
T: + 32 2 577 40 40
F: + 32 2 579 63 58
vat.refund.ckbb@minfin.fed.be
www.minfin.fgov.be

Supporting documentation

The following documents must be submitted with each application:

- Original invoices, import documents or credit notes (copies are accepted if the originals are lost and the copies are certified by the supplier). The serial number used in the application form must be included on the documents;
- When outgoing transactions have been carried out:
 - A copy of the relevant contract(s);
 - A copy of the outgoing invoice(s).
- When reverse charge transactions have been carried out:
 - A certificate from the co-contractor stating that he actually paid the Belgian VAT due.
- An original certificate of VAT status confirming that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year;
- A translated and legalized letter of authority if a third party submits an application on the behalf of the claimant; and
- A letter describing the activities of the company, the transactions carried out in Belgium and the persons who have declared the Belgian transactions (with an email address if possible).

The following information must be submitted with the application if VAT is recovered on motor vehicles:

- A copy of the certificate of registration;
- A description of the use of the motor vehicle; and
- A description of the use of the previous motor vehicle if it was purchased in Belgium.

E-invoicing

The Belgian VAT authorities accept e-invoices if the relevant conditions are satisfied. In principle, an e-invoices must be included on a CD-ROM, but as this is a cumbersome procedure, claimants should include a hard copy of the e-invoice in the VAT refund claim and include a statement that the hard copies are e-invoices received by the claimant.

Refunds and appeals

The Belgian VAT authorities must make a decision within six months of the date of receipt of the VAT refund claim.

- The authorities can accept the claim and notify the claimant via electronic means (the original invoices will be returned to the claimant at the same time);
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the notification.

In most cases, the VAT authorities will contact the claimant (or the person who submitted the VAT refund claim) via email (provided the VAT authorities have the email address). In other cases, the VAT authorities will send their queries via registered mail. The decision on the VAT refund claim always is sent via mail, together with the original invoices.

Queries can be sent to any party (even a third party), but the VAT authorities usually will address their queries to the claimant or the person who submitted the VAT refund claim.

The VAT authorities generally will send their queries before the end of the six-month period. The claimant will be requested to provide the information within one month. Upon receipt of the information, the VAT authorities will make a decision.

If a refund is granted, it will be processed in Euro within the same period, i.e. within six months from the date the refund claim was submitted. The claimant is not required to have a bank account in Belgium or in the EU.

If the refund is not processed in a timely manner, the claimant can file a request for late payment interest. Interest is not paid automatically—the claimant must file a specific request.

The refund claim can be rejected in its entirety if the requested information is not provided to the Belgian VAT authorities, but the Belgian VAT authorities will send a reminder to the claimant to submit the additional information. If the information still is not provided, the VAT authorities can reject the entire claim.

If the refund is not granted, the grounds for rejection must be stated.

Reasons for rejecting a VAT refund claim include late submission of the claim or failure to respond to queries from the VAT authorities.

An appeal against a denied claim must be made to the Belgian VAT authorities before the end of the third calendar year following the notification of the rejection decision.

Penalties may be imposed if the claimant attempts to incorrectly claim VAT (similar to penalties imposed on Belgian VAT taxpayers).

The Belgian VAT authorities usually process a VAT refund claim within three to four months.

Bulgaria

Bulgarian VAT is known as “Данък върху добавената стойност” (ДДС).

The standard VAT rate is 20%, and there are reduced rates of 9% and 0%.

An extensive overview of the VAT rates applied in Bulgaria can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Bulgarian VAT agent to claim a VAT refund based on Directive 2008/9/EC, although such an appointment must be made for 13th Directive claims.

Bulgaria is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers a Bulgarian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically (in Bulgarian) through the portal of the tax authorities in the country in which the claimant is established:
<https://inetdec.nra.bg/eservices.html> for companies established in Bulgaria.

The application may be submitted by an authorized person and should contain the following information about the authorized person:

- Name;
- VAT number or tax ID;
- Address and code of the country of establishment; and
- Email address.

When Bulgaria is the member state of establishment, the Bulgarian tax authorities will notify the claimant once the request is forwarded to the member state of refund. Another notification will be sent to the claimant once the refund state confirms receipt of the application.

IT requirements

Bulgarian taxpayers registered for VAT purposes can file their refund claims electronically on the website of the Bulgarian tax authorities:

<https://inetdec.nra.bg/eservices.html>

To access the online system, the claimant must:

- Submit an application to use the electronic services of the National Revenue Agency;
- Have Adobe reader installed; and
- Have an electronic signature issued by a provider certified by the Bulgarian Communications Regulation Commission.

A file may be uploaded to complete the form. The uploaded file must be in text format with coding UTF-8 and named "VATREFUND.CSV."

The electronic form is divided into the following main sections:

- General information relating to the claimant, the relevant period and the amount of the refund claim;
- Information on the import documents;
- Information on purchase invoices; and
- Annexes: scanned invoices/annexes can be uploaded taking the following into account:
 - File types accepted: JPEG, PDF, TIFF or zip;
 - Maximum file size: 5MB.

Once the claim is submitted, the taxpayer will receive confirmation from the website, referencing its application.

There is no limit on the number of invoices that may be submitted in a refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Bulgarian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Bulgarian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Bulgarian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a "certificate of taxable status" issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called "Удостоверение за доказване на регистрация в чужбина" in Bulgaria.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Bulgaria.

Eligibility for refund

A foreign taxable person may recover Bulgarian VAT if the following conditions are satisfied:

- The claimant does not have its registered seat, management address, fixed establishment, permanent address or usual residence in Bulgaria;
- It is registered for VAT purposes in the EU member state in which it is established; and
- The claimant has not rendered any taxable supplies in Bulgaria, except for:
 - Supplies subject to the 0% rate;
 - Transport services and ancillary services; and
 - Supplies for which the reverse charge mechanism applies.
- The business uses the goods and/or services for taxable supplies made outside Bulgaria for which VAT should have been recoverable, had the supplies been made in Bulgaria or for the above-mentioned taxable supplies in Bulgaria.

Non-refundable VAT

VAT cannot be recovered on:

- Goods or services intended for making VAT-exempt supplies;
- Goods or services intended for “not-for-consideration” supplies or for activities different than the economic activities of the person;
- Entertainment expenses;
- Acquisition of a motorcycle or passenger car (with less than five seats, excluding the driver’s seat), although exceptions apply;
- Goods or services related to the maintenance, repair, improvement or operation of a motorcycle or passenger car, as well as for transport services or taxi transport with a passenger car; and
- Goods that have been confiscated by the state or a building that has been demolished because it was unlawfully constructed.

Partially refundable VAT

A person is entitled to a partial reimbursement of VAT regarding goods and services if in its member state of establishment the person carries out both supplies with right to VAT deduction and supplies with no such right. The amount of deductible VAT is calculated on the basis of the information from the certificate issued by the member state where the taxpayer is established.

Corrections relating to the right of deduction percentage may be made by submitting a declaration through the electronic portal of the country of establishment by 30 September of the year that follows the period of the refund.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than BGN 800 (approximately EUR 400); if the application relates to a calendar year or the remainder of a calendar year, the amount may not be less than BGN 100 (approximately EUR 50).

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application also may relate to invoices or import documents not covered by previous applications with respect to transactions carried out during that calendar year.

If the claimant receives additional invoices in the calendar year after submitting the refund claim, another claim may be submitted if it is for an amount exceeding BGN 100.

Proxy

The right to a VAT refund is exercised individually or through an agent authorized by the foreign taxpayer who acts on behalf of the taxpayer. If an agent is used, a written power of attorney must be submitted to the competent tax authorities for each VAT refund claim. The following data about the authorized agent also must be provided, i.e. the name of the person, VAT identification number or tax reference number, full address, including the code of the state where the person is established, and its email address.

Supporting documentation

Copies of invoices and import documents need not be submitted with each VAT refund application. However, the Bulgarian tax authorities may request copies (or originals) of invoices and import documents after the claim is submitted.

E-invoicing

E-invoices generally are accepted and are self-sufficient to claim input VAT via the former 8th Directive procedure.

Refunds and appeals

The tax authorities must issue a decision within four months of submission of the VAT refund claim if no additional information is requested:

- The tax authorities can accept the claim and notify the claimant via electronic means;
- The tax authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The tax authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request by email or by courier.

The tax authorities must make a decision within two months from the date the additional information was received or should have been received, but not less than six months from the submission of the initial refund request. Therefore, the maximum possible period for processing the VAT refund claim if additional information is requested is eight months.

If a decision is not issued within this period, the VAT refund claim will be deemed to be rejected and an appeal (in Bulgarian) may be filed within 14 days of the date the decision on the VAT refund claim should have been issued. Appeals must be filed with the Appeals, Tax and Social Security Practice at the Tax Agency Headquarters or by mail/registered mail with proof of delivery, certifying the date of submission.

A VAT refund must be paid within 10 days from the date the decision to grant the refund was issued.

The Bulgarian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner. The refund made be paid only to bank accounts that are included on the list of credit institutions approved by the Bulgarian National Bank.

A VAT refund claim may be denied in part if an invoice was not correct or if the claimant fails to provide requested information about an invoice.

If a refund is not granted, the grounds for rejection must be stated.

Reasons for rejecting a VAT refund claim include the following:

- Insufficient evidence that a real supply took place;
- Failure to comply with VAT registration requirements in Bulgaria (where the claimant carried out taxable supplies or has a fixed establishment).

The time limit for the claimant to submit an appeal is 14 days following the date the decision was received.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Bulgaria.

Eligibility for refund

Reciprocity is required. The following countries have reciprocity agreements with Bulgaria (and are included on a list published by the Ministry of Finance): Canada, Croatia, Iceland, Israel, Japan, Korea (ROK), Macedonia, Moldova, Norway, Serbia, Switzerland and Ukraine. However, reciprocity should be analysed on a case-by-case basis because the list has not been updated recently.

Non-refundable VAT

VAT cannot be recovered on:

- Goods or services intended for making VAT-exempt supplies;
- Goods or services intended for “not-for-consideration” supplies or for activities different than the economic activities of the person;
- Entertainment expenses;
- Acquisition of a motorcycle or passenger car (with less than five seats, excluding the driver’s seat), although certain exceptions apply;
- Goods or services related to the maintenance, repair, improvement or operation of a motorcycle or passenger car, as well as for transport services or taxi transport with a passenger car; and
- Goods that have been confiscated by the state or a building that has been demolished because it was unlawfully constructed.

Partially refundable VAT

A person is entitled to a partial reimbursement of the tax regarding goods and services if, in its member state of establishment, the person carries out both supplies that have the right to a VAT deduction and supplies with no such right. The amount of the deductible VAT is calculated on the basis of the information from the certificate issued by the member state where the taxpayer is established.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which the application is made may not be less than BGN 400 (approximately EUR 200); if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than BGN 50 (approximately EUR 25).

Time limits

The application must cover a period of no less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application also may relate to invoices or import documents not covered by previous applications that concern transactions carried out during that calendar year.

The application must be submitted to the Bulgarian tax authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year. Late claims are not accepted.

Proxy

The right for VAT refund is exercised individually or through an agent authorized by the foreign taxpayer who acts on behalf of this taxpayer. A written power of attorney for authorizing an agent if the taxpayer exercises his/her right for refund via an agent must be submitted to the competent revenue authority for every request. The following data about the authorized agent must be provided, i.e. the name of the authorized person, VAT identification number or tax reference number, the full address, including the code of the state where the person is established, and its email address.

Application forms

The application must be made on a specific form prescribed by Ordinance N-10/24.08.2006 and signed by the VAT agent. The application must be completed in Bulgarian, although the name and address of the claimant must be completed in the official language of the country in which the claimant is established.

The claim must be submitted in BGN. All invoices must be listed in the attachment to the application form. An excel spread sheet may be used to provide an overview of the claimed amounts.

The form and supporting documentation must be sent to:

Territorial Directorate of the National Revenue Agency— Sofia
21, Aksakov Str.
1000 Sofia, Bulgaria
Tel. (+359 2) 98 59 38 01
Official website of the National Revenue Agency is: www.nap.bg

Applications may not be filed electronically.

Supporting documentation

The following documents must be submitted with each application:

- Original invoices, import documents or credit notes (copies are not accepted). The serial number used in the application must be included on the documents;
- A summary of the submitted invoices. All invoices must be mentioned in the summary to provide an overview of the claimed amounts and an excel spread sheet may be used for this purpose. The summary is included in the application form;
- An original certificate of VAT status confirming that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year;
- An original declaration from the non-resident business confirming that it did not have a place of business and did not undertake any taxable activities in Bulgaria during the period for which it is making the claim and that the expenses were incurred only for business purposes; and
- An original power of attorney authorizing the VAT agent to represent the person before the tax authorities.

The tax authorities may request additional documents.

E-invoicing

A printed version of e-invoices generally is accepted and is self-sufficient to claim input VAT via the 13th Directive procedure.

Refunds and appeals

The tax authorities must issue a decision within four months of the submission of the VAT refund claim if no additional information has been requested (see below).

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request by email or by courier where original documents are required.

The authorities must make a decision within two months from the date the additional information was received or should have been received, but not less than six months from the submission of the initial VAT refund request. Therefore, the maximum possible period for processing a VAT refund claim if additional information is requested is eight months.

If no decision is issued in due time, the VAT refund claim will be deemed to be rejected, and an appeal can be submitted within 14 days of the date the decision on the VAT refund claim should have been issued. Appeals must be filed with the Appeals, Tax and Social Security Practice at the tax agency headquarters or by mail / registered mail with proof of delivery, certifying the date of submission.

The VAT refund must be paid within 10 business days from the date the decision was issued. The refund may be made only to bank accounts that are included in the list of credit institutions approved by the Bulgarian National Bank.

The Bulgarian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

The VAT refund claim may be partially rejected if an invoice is incorrect or if the requested information about the concerned invoice was not provided.

If the refund is not granted, the grounds for rejection must be stated.

Some reasons for VAT refund claims to be rejected are the following:

- Insufficient evidence that a real supply took place; and
- VAT registration requirement of the claimant in Bulgaria (claimant carried out taxable supplies or has a fixed establishment).

The time limit for the claimant to submit an appeal is 14 days after the date the decision is received

Croatia

Croatian VAT is known as “*Porez na dodanu vrijednost (PDV)*”.

The standard VAT rate is 25%, and there are reduced rates of 13% and 5%.

It is not necessary to appoint a fiscal representative to claim a VAT refund; however, if appointed, the representative must be a domestic VAT taxpayer.

Croatia is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Croatian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Filing – form and time limits

A VAT refund application must be submitted electronically through the portal of the Croatian tax authorities (available at: <https://eusustavi.porezna-uprava.hr/wps/myportal>). It can be filed directly by the applicant or by its proxy. The due date for filing is 30 September of the calendar year following the return period.

The Croatian tax authorities will not forward the application to the tax authorities in another EU member state in the following situations:

- The applicant is not considered a VAT-taxable person; or
- The applicant only carries out supplies of goods and services that are exempt from VAT without the right of deduction; or
- The applicant applies a special scheme for small enterprises.

The applicant may not file VAT refund claims for periods in which it was not registered as a VAT taxpayer.

The required data currently must be entered manually on the portal, but the tax authorities have announced that they intend to introduce an option to file in XML message format.

Refund period and minimum amounts

The refund period may not be longer than one calendar year or shorter than three months (except when it concerns a year-end).

If an application covers a period shorter than one calendar year but longer than three months, the requested VAT may not be less than EUR 400 (approximately HRK 3,100). When an application covers an entire calendar year or the end of the year (i.e. November and December), the requested amount of VAT may not be less than EUR 50 (approximately HRK 400).

Croatian VAT legislation does not limit number of invoices that can be included in one claim.

Non-EU countries (13th Directive equivalent)

This refers to a Croatian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Croatian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Croatia portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “Potvrda o statusu obveznika PDV-a” in Croatia.

Croatia is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Croatia.

Eligibility for refund

A foreign taxable person is entitled to recover Croatian VAT if the following conditions are satisfied:

- The business does not have a residence, its seat or a fixed establishment in Croatia;
- The business did not perform any taxable supplies in Croatia during the refund period, except for:
- Transport and ancillary services, which are VAT exempt; and
- Supplies of goods and services taxed under reverse charge mechanism.

Non-refundable VAT

VAT related to following transactions cannot be recovered:

- Entertainment expenses;
- Acquisition and leasing of aircraft, vessels, cars and other means of personal transport for leisure purposes, including all related goods and services;
- Supplies of goods and services exempt from VAT under articles 39 (exemption for certain activities in public interest), 40 (exemptions for other activities) and 114 (exemption for transactions with investment gold) of the Croatian VAT Act.
- Supplies of goods exempt from VAT under articles 41 (1) (i.e. exemption for intra-Community supplies of goods), and 45 (1) (2) (i.e. exemption for supply of goods dispatched or transported by or on behalf the customer not established within Croatia, except for goods transported by the customer for the equipping, fuelling and provisioning of any mean of transport for private use) of the VAT Act.

VAT charged in contravention to the provisions of the law (i.e. VAT charged where it should not be) is non-refundable.

Partially refundable VAT

There are no expenses for which non-established companies would be granted only a partial refund of Croatian VAT.

Making claims

Minimum amounts

If an application covers a period shorter than one calendar year but longer than three months, the requested VAT amount may not be less than HRK 3,100 (approximately EUR 400); if the application covers a calendar year or the end of the year (i.e. November and December), the VAT amount may not be less than HRK 400 (approximately EUR 50).

Time limits

The application must cover a period of at least three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year except when it covers the end of a year (i.e. November and December). The application also may include invoices or import documents not covered by the previous applications but that relate to transactions completed during the calendar year to which the application relates. The due date for filing is 30 September of the calendar year that follows the return period.

Proxy

A proxy typically is requested when the application is not filed directly by the applicant but by an agent. To ensure that there are no unnecessary delays in the procedure, the proxy must be notarized and should be submitted with the refund claim. An electronic scanned copy should be sufficient, but the tax authorities may request the original. Additional documentation must be submitted in Croatian or English.

Supporting documentation

The Croatian authorities can request additional documents / information, if needed.

E-invoicing

The Croatian VAT Act recognizes e-invoicing and provides requirements as mentioned in the Second EU Invoicing Directive. Since this is fairly new in Croatia, e-invoices are not common and the tax authorities have not had much experience in this respect.

Refunds and appeals

The Croatian tax authorities must issue a decision on a refund claim within four months from the date the claim is filed:

- The authorities can accept the refund claim and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of the request. The additional information may be sent in electronic form or in hard copy via courier, depending on whether the tax authorities require original documents or scanned copies.

Any queries made and decisions issued by the tax authorities will be sent to the person who filed the application. If the application is filed by a proxy holder, the queries / decisions will be sent only to that person.

The period in which the authorities must make a decision will be extended to six months if additional information is requested, or eight months if the authorities request additional information after a first request.

If a refund is granted, it must be paid within 10 business days following the expiration of the deadline for issuing the decision. The tax authorities must transfer the refund to the bank account number provided in the refund application form. This can either be the non-resident's HRK account opened with a local bank in Croatia, a proxy's bank account in Croatia or the claimant's account with a bank in another EU member state. The claimant is responsible for bank transfer costs.

The Croatian tax authorities will be liable for late payment interest if the refund request is not processed in a timely manner. In practice, the claimant must request interest at the time the refund claim is submitted; otherwise, it will not be paid.

If the refund is rejected (in whole or in part), the grounds for rejection must be stated. The claimant can appeal to the Croatian tax authorities within 30 days from the date the decision is received. The appeal must be in writing (in Croatian) and sent to the tax authorities by regular mail.

Reasons for rejecting VAT refund claims include failure to comply with formalities or deficiencies in determining the place of supply.

If one of the invoices does not comply with the VAT legislation, only that invoice will be rejected. Deficiencies in one invoice will not result in the rejection of an entire claim.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Croatia.

Eligibility for refund

Reciprocity between Croatia and the claimant's country of establishment is required. Reciprocity is not specifically defined; the VAT Act states that the non-EU claimant is entitled to a VAT refund provided the Croatian resident has the same right in the claimant's country of establishment.

Croatia only has reciprocity with Serbia and Switzerland.

Non-refundable VAT

VAT related to following transactions cannot be recovered:

- Entertainment expenses;
- Acquisition and lease of aircraft, vessels, cars and other means of personal transportation for leisure purposes, including all related goods and services;
- Supplies of goods and services exempt from VAT under articles 39 (exemption for certain activities in public interest), 40 (exemptions for other activities) and 114 (exemption for transactions with investment gold) of the VAT Act;
- Supplies of goods exempt from VAT under articles 41 (1) (i.e. exemption for intra-Community supplies of goods), and 45 (1) (2) (i.e. exemption for supply of goods dispatched or transported by or on behalf the customer not established within Croatia, except for goods transported by the customer for the equipping, fuelling and provisioning of any mean of transport for private use) of the VAT Act.

VAT charged in contravention to the provisions of the law is non-refundable.

Cyprus

Cypriot VAT is known as “*Foros Prostithemenis Axias*” (ΦΠΑ).

The standard VAT rate is 19%, and there are reduced rates of 9% and 5%.

An extensive overview of the VAT rates applied in Cyprus can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Cyprus fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Cyprus is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Cyprus-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically (in English) through the portal of the tax authorities in the country in which the claimant is established (https://refund-eu.vat.mof.gov.cy/VATiSee/index_cyprus_vat_en.html for companies established in Cyprus).

The request may be submitted by the claimant or an authorized third party, which can be a non-established company, provided the third party has the access codes granted by the claimant.

The claimant must register to obtain access to the authorities' website for filing a VAT refund claim: https://refund-eu.vat.mof.gov.cy/VATiSee/index_cyprus_vat_en.html.

When Cyprus is the member state of establishment, the Cyprus tax authorities will issue an electronic confirmation of receipt of the refund claim.

IT requirements

Cyprus enterprises that are required to register under Cyprus VAT law can claim the VAT paid for business expenses incurred in other EU member states by submitting an electronic application on the website of the Cyprus VAT authorities.

An XML file can be uploaded for filing the claim.

The Cyprus VAT authorities will examine the application and forward it to the tax authorities of the member state in which the business expenses were incurred for further examination before the latter authorities issue a refund.

To submit an electronic application for a VAT refund, a Cyprus business must:

- Read the Installation Guide for installing the VAT Refund System; and
- Download and save the VAT Refund System on its computer (if the zip file of the VAT Refund System cannot be “unzipped” on the taxpayer’s computer, the WinZip program must be downloaded and run).

For more information on the above procedures, the claimant can call +357 22 601852 or send an email to: operations@vat.mof.gov.cy

Prior registration is not necessary to access the system.

The electronic form is divided into six main sections:

- Section A—Information about the claimant (i.e. general information relating to the claimant and the period for which the claim is made);
- Section B—Information about the claimant’s representative;
- Section C—Bank account details for the refund;
- Section D—Information about the operations at the place of import (i.e. supplier’s name, address, telephone number, country prefix, description of the goods, description of the transactions, deductions (e.g. pro rata calculations, etc.);
- Section E—Information about the purchases (i.e. reference number of invoices, issuing date of invoices, supplier’s name, address, telephone, country, prefix, country code, identification number, a description of the goods, description of the transactions, taxable amount, deductions (e.g. pro rata calculations, etc.);
- Section F—Attachments (i.e. file type, name and description).

Once the claim is filed, the taxpayer will receive confirmation from the website, referencing the application.

An automatic upload is possible to prepare the claim, although no specific software is required. The uploaded file can be in PDF, JPEG and TIFF formats or in a zip file. The maximum size of the total files may not exceed 5MB.

Non-EU countries (13th Directive equivalent)

This refers to a Cyprus-established company submitting a non-EU (13th Directive equivalent) *claim in a non-EU country*.

The refund application for a Cyprus-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Cyprus portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. In Cyprus, this form is called “VAT 109”.

Cyprus is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Cyprus.

Eligibility for refund

A foreign taxable person is entitled to recover Cyprus VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in Cyprus;
- It does not have residence, its seat or a fixed establishment in Cyprus;
- The claimant has not rendered any taxable supplies in Cyprus, except for:
 - Certain tax-exempt cross-border transport from/to non-EU countries;
 - Supplies for which the reverse charge mechanism applies;
 - Supplies subject to occasional taxation; and
 - Electronically provided supplies where the foreign taxable person opted for the application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons.

Non-refundable VAT

VAT cannot be recovered on:

- Non-business supplies, i.e. if a supply has both business and non-business purposes, VAT can be reclaimed only on the business portion of the supply;
- Supplies or imports of ordinary passenger cars;
- Certain second-hand goods, e.g. cars and antiques for which the VAT margin scheme is used;
- Business entertainment and hospitality expenses, except the provision of entertainment to employees, and if the claimant is a corporation, the provision of entertainment to directors or persons otherwise engaged in the company's management, unless the provision of entertainment in these cases is incidental to the provision of entertainment to other persons;
- Supplies used or to be used to make a supply in Cyprus; and
- Goods and services, such as hotel accommodation, purchased for resale and that are for the direct benefit of travellers.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Cyprus VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application is for a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50 (or equivalent currency for each member state).

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application also may relate to invoices or import documents not covered by previous applications and that concern transactions completed during that calendar year.

In such a case, the claimant can submit another claim (an annual claim) that can cover any expenses not previously claimed. No further claims can be made once an annual claim is submitted. A submitted claim can be corrected, although amounts cannot be changed. It should be noted that some countries do not allow claimants to amend an application for a VAT refund in another EU member state.

Proxy

A proxy is not required.

A follow-up on a claim can be done electronically by any person having the log-in details. The VAT authorities will contact the claimant (if needed) via email or telephone. If the claimant contacts the authorities, they generally will provide the claimant with the information requested. Each country will carry out an examination as to whether the claimant exists, but will not check its contact details. If a claimant does not respond to the authorities within one month, the claim automatically will be rejected.

As the member state of refund, the Cypriot authorities will not request a third party to provide a copy of a power of attorney to be able to follow up on the status of a claim. Any person with the access passwords can follow up. The access codes can be obtained from the claimant, its representative or another party that received the passwords from the claimant or its representative.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is EUR 1,000 or more. However, where the invoice relates to fuel costs, the threshold for providing a copy is EUR 250. The serial number used on the application form must be included on the documents.

The Cyprus VAT authorities can request additional documents/information, if needed.

E-invoicing

According to the EU invoicing requirements, e-invoices generally are accepted to claim input VAT.

Refunds and appeals

The Cyprus VAT authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the refund claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of the request (via email if available or via courier).

Any queries made and decisions issued by the tax authorities will be sent only to the address included on the registration form.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request more information after a first request. The status of the VAT refund application is updated online.

If a refund is approved, it will be processed in EUR within 10 business days of the decision. The refund will be paid to the bank account number provided to the authorities. This bank account can be held by the claimant, a proxy holder or any other person. EU or non-EU bank accounts are accepted.

The Cyprus tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If the refund claim is rejected, the grounds for rejection must be stated. The claimant can appeal to the Minister of Finance and request a re-examination of the application within 60 days from the date of the rejection letter or decision. Alternatively, the claimant can appeal to the high court within 75 days from the date of the rejection letter or decision. The claimant can appeal by letter or email. The acceptable languages are English and Greek.

It usually takes four to five months for refund claims to be paid if the authorities do not request any additional information.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Cyprus.

Eligibility for refund

Reciprocity is required. If a non-EU country allows recovery of VAT or other turnover taxes by Cyprus businesses, Cyprus will permit the recovery of VAT by businesses from that country. However, where the non-EU country has a recovery mechanism, but does not specifically allow VAT recovery by Cyprus businesses, Cyprus VAT will not be recoverable. Cyprus has concluded reciprocity agreements with Israel and Switzerland.

Non-EU businesses do not have to appoint a Cyprus fiscal representative, although the VAT Commissioner may request it.

Non-refundable VAT

VAT cannot be recovered on:

- Non-business supplies, i.e. if a supply has both business and non-business purposes, VAT can be reclaimed only on the business portion of the supply;
- Supplies or imports of ordinary passenger cars;
- Certain second-hand goods, e.g. cars and antiques for which the VAT margin scheme is used;
- Business entertainment and hospitality expenses, except the provision of entertainment to employees, and if the claimant is a corporation, the provision of entertainment to directors or persons otherwise engaged in the company's management, unless the provision of entertainment in these cases is incidental to the provision of entertainment to other persons;
- Supplies used or to be used to make a supply in Cyprus; and
- Goods and services, such as hotel accommodation, purchased for resale and that are for the direct benefit of travellers.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Cyprus VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 205. If the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 25.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application also may relate to invoices or import documents not covered by previous applications with respect to transactions carried out during that calendar year.

The application must be submitted to the Cyprus VAT authorities within six months of the end of the calendar year in which the tax became chargeable (i.e. by 30 June of the following year). Late claims will not be accepted and the deadline will not be extended.

Proxy

If an agent submits the application on behalf of the claimant, a proxy must be provided to the Cyprus authorities, along with the original form.

Application forms

The application must be made on Form VAT 109. The form can be obtained from the local VAT offices or downloaded (see below).

The application must be completed in Greek and be signed by a person who is legally entitled to represent the company, i.e. the managing director, chairman or agent that has a letter of authority.

All invoices must be listed in the attachment to the application. An excel spread sheet may be used to provide an overview of the claimed amounts.

The form and supporting documentation must be sent to:

Minister of Finance
Customs and Excise Department
VAT Service
1471 Nicosia
Cyprus
T: +357 22 601834
F: +357 22 660484
www.mof.gov.cy/ce

Supporting documentation

The following documents must be submitted with each application:

- An original certificate of taxable status, which must have been issued within the past year;
- An original certificate from the local authorities showing that the entity is registered for business purposes in that country. This certificate must contain:
 - Name, address and official stamp of the authority;
 - Business name and address;
 - Nature of the business;
 - Business registration number; and
 - Original invoices.

E-invoicing

According to the EU invoicing requirements, e-invoices generally are accepted to claim input VAT.

Refunds and appeals

- The authorities can accept the refund claim and notify the claimant via letter;
- The authorities can reject the claim (in whole or in part) and notify the claimant via letter; or
- The authorities can request additional information and notify the claimant via letter (or email, if available). The claimant must provide all information (by courier or email) within one month of the request.

Any queries made and decisions issued by the tax authorities will be sent to the claimant, unless there is a proxy that confirms that the agent submits the refund application on behalf of the claimant; in that case, the queries/decisions will be sent to the agent.

If a refund claim is approved, it will be processed in EUR to the bank account number provided to the VAT authorities (EU or non-EU bank accounts are accepted).

The Cyprus tax authorities will not be liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection must be stated. The time limit for an appeal is 30 days after the date of the VAT authorities' reply. The claimant can appeal by sending a letter (i.e. by mail or courier) to the VAT authorities.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Croatian VAT.

Making claims

Minimum amounts

If an application covers a period shorter than one calendar year but longer than three months, requested VAT amount may not be less than HRK 3,100 (approximately EUR 400); if the application covers a calendar year or the end of the year (i.e. November and December), the VAT amount may not be less than HRK 400 (approximately EUR 50).

Time limits

The application must cover a period of at least three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year except when it covers the end of the year (i.e. November and December).

The application must be submitted to the Croatian tax authorities within six months of the end of the calendar year covered by claim, i.e. by 30 June of the following year. Late claims will not be accepted and the deadline not extended.

Proxy

A proxy typically is requested when an application is not filed directly by the claimant but by an agent. To ensure there are no unnecessary delays in the procedure, the proxy must be notarized and submitted with the refund claim. The tax authorities require an original document to be filed.

Application forms

The application must be submitted to Croatian tax authorities - Local office Zagreb via ZP-PDV Form. It must be completed in Croatian or English and in HRK. The application form is available at

http://www.porezna-uprava.hr/HR_obraci/Documents/POREZ%20NA%20DODANU%20VRIJEDNOST/ZP-PDV.pdf

Each invoice must be mentioned in the application form. Using an Excel spreadsheet to provide an overview of the claimed amounts is not required, even though this is common practice and regularly accepted.

The application must be signed by a legal representative, i.e. a person authorized to represent the claimant as mentioned in the court registry excerpt (when the application is filed directly by the claimant) or by a person named in a proxy (when the application is filed via a proxy).

The ZP-PDV form and supporting documentation must be sent to:

*Porezna uprava
Područni ured Zagreb
Avenija Dubrovnik 32
10000 Zagreb
Croatia*

Applications may not be filed electronically.

Supporting documentation

The following documents must be submitted with the application:

- Original invoices;
- VAT certificate (the claimant must prove it is registered for VAT purposes in the country of residence);
- Certified translation of the VAT certificate; and
- Original proxy (when the claim is filed via proxy).

Refunds and appeals

The Croatian tax authorities must issue a decision on a refund claim within eight months of receipt of the claim. If the refund is rejected, the grounds for rejection must be stated. The claimant can file an appeal (in Croatian) with the tax authorities within 30 days from the receipt of the decision.

Any queries made and decisions issued by the tax authorities will be sent to the person who filed the application. If the application is filed by a proxy holder, the queries / decisions will be sent only to that person. Additional information requested typically is provided in hard copy and submitted directly to the tax authorities' officer or sent via courier.

If a refund is granted, it must be paid within 10 business days from the expiration of the period in which the decision must be issued. The refund will be paid to the Croatian bank account provided in the refund application form; payment also can be made to a proxy's account.

If the claim is not processed in a timely manner, the Croatian tax authorities will be liable for late payment interest. However, in practice, the claimant must request interest at the time the refund claim is submitted; otherwise, it will not be paid.

If one of the invoices does not comply with the VAT rules, only that invoice will be rejected. Deficiencies of one invoice will not result in the rejection of an entire claim.

Reasons for the rejection of a VAT refund claim include failure to provide the minimum required language mentions or due to deficiencies in determining the place of supply.

Czech Republic

Czech VAT is known as “*Daň z přidané hodnoty*” (DPH).

The standard VAT rate is 21%, and there are reduced rates of 10% and 15%.

An extensive overview of the VAT rates applied in the Czech Republic can be found at:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Czech fiscal representative to claim a refund of Czech VAT based on Directive 2008/09/EC or the 13th Directive.

Czech Republic is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Czech-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

If the VAT is incurred in another EU member state, the form must be completed and filed through the web portal of the Czech tax authorities. The application can be submitted by the claimant or a person authorized to act on behalf of the claimant under a valid power of attorney. The authorization to submit VAT refund claims can be obtained by a resident or non-resident third party by completing the form that can be found at:

https://adisdpr.mfcr.cz/adisc/adis/idpr_pub/auth/LoginPage.faces

The claimant must have an electronic signature or databox. A third party must obtain the electronic signature or databox before registering on the portal. International electronic signatures generally are not accepted by the Czech authorities.

The Czech tax authorities will issue a confirmation of receipt of the refund claim.

IT requirements

The claimant can upload a document in XML format to the electronic portal:

https://adisdpr.mfcr.cz/adisc/adis/idpr_pub/epo2_info/popis_struktury_detail.faces?zkratka=DPHZVD

No specific software is required for the upload, except for the obligation to use a digital signature or log-in data for the databox.

A digital certificate can be obtained from the provider of certification services (certification authority). Three different authorities in the Czech Republic are authorized to issue certificates (*První certifikační autorita* a.s, E-identity a.s. and PostSignum). The certification authority must be provided with originals of two forms of identification of the future holder of an electronic signature, and an in-person meeting must be held between the recipient of the electronic signature (or a representative holding a notarized power of attorney) and the certification agency. The originals of ID cards or notarized copies must be presented.

There is no limit on the number of invoices that can be submitted in a refund claim or per year. However, documents uploaded may not exceed a total size of 5 MB.

Non-EU countries (13th Directive equivalent)

This refers to a Czech-established company submitting a Non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Czech-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Czech portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*Rozhodnutí o registraci k DPH*” in the Czech Republic.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive claim) in the Czech Republic.

Eligibility for refund

An EU business registered for VAT in another EU member state is entitled to recover Czech VAT if the following conditions are satisfied:

- The claimant has not been registered or liable to be registered for VAT in the Czech Republic in the relevant period;
- It does not have residence, its seat or a fixed establishment in the Czech Republic; and
- The claimant has not performed any taxable supplies in the Czech Republic in the relevant period, except for:
 - Certain tax-exempt supplies (cross-border transport from/to non-EU countries); and
 - Supplies for which the reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on business representation and entertainment expenses.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Czech VAT. However, if the company is entitled to partial VAT recovery in its country of establishment, it also will be entitled to a partial VAT refund.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount of VAT for which the application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year shorter than three months, the VAT amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application also may relate to invoices or import documents not covered by previous applications with respect to transactions carried out during that calendar year.

A claimant may submit more than one refund claim for the remainder of a calendar year (e.g. where a claimant has submitted a refund claim for the remainder of a calendar year but then receives additional invoices, the claimant can submit a corrected refund claim within the relevant deadlines).

Proxy

The claimant can authorize a third party under a power of attorney to act on its behalf during the VAT refund procedure. The power of attorney must be delivered to the tax authorities in hard copy before the third party can act on behalf of the claimant. The power of attorney must be in the Czech language (or in another language as well), signed by the person authorized to sign it (usually statutory representative of claimant), but it does not have to be notarized.

Supporting documentation

Only an electronic copy of invoices for which the taxable basis of the invoice or import documents equals or exceeds the threshold of EUR 1,000 must be submitted with each application (EUR 250 for invoices relating to fuel costs).

The Czech authorities can request original invoices or additional documents/information.

E-invoicing

There are no specific requirements for e-invoicing. The general conditions for e-invoicing as stated in the Czech VAT Act must be met in relation to VAT refunds.

Refunds and appeals

The Czech VAT authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request.

The tax authorities' notices, requests for additional information, decisions, etc. will be sent via an email to the email address included on the VAT refund application.

The period in which the authorities must make a decision on a refund claim will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

The claimant must provide additional documents and communicate with the Czech authorities in Czech.

The acceptance of a VAT refund application depends on the amount of VAT to be refunded and the responsible tax officer. When the amounts are substantial, the tax officer usually will request additional information, such as contracts, purchase orders, explanation, etc.

If a refund is granted, it will be paid in CZK within 10 business days after the relevant period to the bank account number provided to the authorities in the refund application. A Czech bank account is not required.

The Czech tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If one of the submitted invoices is not correct or not in compliance with the formal requirements, only that part of the refund claim will be rejected (the entire claim will not be rejected).

If the refund is not granted, the grounds for rejection must be stated. The claimant can appeal the decision to the Czech tax authorities within 30 days from the day following the day the decision is delivered.

Taxpayers should respond to the notice from the tax authorities via letter, written in Czech and sent via registered mail.

There are no penalties if a VAT refund claim is rejected. However, if VAT is refunded due to fraud or based on incorrect information, the claimant may be subject to penalties.

The entire process should not take more than eight months. The time depends on the amount of VAT to be refunded and the responsible tax officer. If the amount to be returned is high, the tax authorities usually will request additional information and the process can take longer.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in the Czech Republic.

Eligibility for refund

Reciprocity is required, which currently exists with Macedonia, Norway and Switzerland.

Non-refundable VAT

VAT will not be refunded for the following: goods and services for personal consumption; travel costs, accommodation and catering of foreign persons; goods and services connected with the representation of foreign persons; phone bills; taxi services; and gas and fuel costs.

Partially refundable VAT

There are no expenses for which non-established companies will only be allowed a partial refund of Czech VAT. However, the VAT is to be refunded under similar conditions as applicable for VAT payers.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than CZK 7,000; if the application relates to a period of a calendar year or the remainder of a calendar year shorter than three months, the amount may not be less than CZK 1,000.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application must be submitted to the Czech tax authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year at the latest.

The tax authorities must issue the refund within six months from the day following the date the refund claim is submitted or the date where submission issues are resolved.

Proxy

The claimant can authorize a third party under a power of attorney to act on the claimant's behalf during the VAT refund procedure. The power of attorney must be delivered to the tax authorities in hard copy before the third party can act on behalf of the claimant. The power of attorney must be in the Czech language (or another language as well), signed by the person authorized to sign it (usually the statutory representative of claimant), but need not be notarized.

Application forms

For 2016 VAT refunds, the form 25 5247 issued by the Czech tax authorities must be used (other EU forms will not be accepted):

http://www.financnisprava.cz/assets/tiskopisy/5247_1.pdf

All invoices must be listed in the attachment to the application form. It generally is not possible to use an excel spread sheet to provide an overview of the claimed amounts.

The form and supporting documentation must be sent to:

Financial Office for the Capital City of Prague

Stepanska 619/28,

111 21 PRAHA 1

Czech Republic

T: +420 2 2404 2153 or (1154)

F: +420 2 2404 1920

<http://www.financnisprava.cz/en/> official (both in Czech and in English)

Applications cannot be filed electronically.

Supporting documentation

The following documents must be submitted with each claim:

- Original invoices, bills, vouchers, receipts or customs clearance forms (copies are not accepted);
- An original certificate of the claimant's VAT status showing that the claimant is registered for VAT or a similar tax in its country of residence. The certificate must have been issued within the past year; and
- A written declaration confirming that the claimant has met the requirements of the Czech VAT Act for a VAT refund (i.e. the claimant is a taxable person not established in the EU and does not carry out supplies in the relevant period except for supplies listed in the VAT Act).

E-invoicing

There are no specific requirements for e-invoicing. The general conditions for e-invoicing as stated in the VAT Act must be met in relation to VAT refunds.

Refunds and appeals

The entire process should not take more than six months from the time the VAT refund claim or additional information is submitted.

The tax authorities will only communicate by regular mail in the Czech language. Communication via electronic means is not possible. The claimant must provide all information within the prescribed deadlines.

If a proxy is submitted to the tax authorities, the queries/decisions will be sent to the proxy holder.

If one of the submitted invoices is not correct or not in compliance with the formal requirements, only that part of the refund claim will be rejected (the entire claim will not be rejected).

If the refund is not granted, the grounds for rejection must be stated.

The deadline for the submission of an appeal must be stated in the decision. The appeal must be sent by regular mail or courier.

No penalties will be imposed if the VAT refund request is rejected.

The time to process the refund depends on the amount of VAT to be refunded and the responsible tax officer. In practice, if the amount of requested VAT is substantial, the tax office will request additional information and the process will take longer.

The tax authorities will send the approved amount of VAT refund to the account specified in the application. A local bank account is not required (EU or non-EU bank accounts are accepted). Any payment transfer fees are borne by the claimant.

Denmark

Danish VAT is known as “*Merværdiafgift*” (MOMS).

The standard VAT rate is 25%, and there is a reduced rate of 0%.

The Faeroe Islands and Greenland are not part of Denmark or the EU.

An extensive overview of the VAT rates applied in Denmark can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Danish fiscal representative to claim a VAT refund under Directive 2008/09/EC or the 13th Directive.

Denmark is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Danish-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

Danish businesses must submit the application for a VAT refund in other EU member states through TastSelv at www.skat.dk.

The request may be submitted by the claimant or an authorized person. If that person is a non-established business, it must register in Denmark for refund purposes before filing the refund claim. The registration form can be obtained from the following website: www.virk.dk/RUT.

In section 14 of the registration form, “*Anmoder om SE-nummer af hensyn til momsrefusion*” must be mentioned to indicate that the foreign non-established business is applying for an SE number only in relation to a VAT refund.

IT requirements

Danish taxpayers registered for VAT purposes can file a refund claim electronically using the refund menu in the “TastSelv – Erhverv” service of the Danish tax authorities through the following web portal: www.skat.dk. The business will gain access to “TastSelv – Erhverv” once it registers for VAT purposes in Denmark.

Purchase information can be filed by uploading a file in CSV format. The Danish tax authorities show a sample file at the following webpage: <http://www.skat.dk/SKAT.aspx?old=1645745> (select “Søg om at få momsens tilbage i TastSelv Erhverv” and then “skabelon”).

Access is granted by using the taxpayer’s “TastSelv” code or a digital signature. If the taxpayer does not have a “TastSelv” code, it can request one from the homepage of the Danish tax authorities.

The following information must be included:

- General information relating to the claimant, bank information and the period for which the refund is requested;
- General information, i.e. refund member state, language of the application, currency;
- The claimant must declare that the company did not have a registered business in the member state of refund;
- List of invoices in which each document can be manually typed in or where all documents can be uploaded in a semicolon separated format; and
- Annexes: scanned invoices/annexes can be uploaded, taking the following into account:
 - File types accepted : JPEG, PDF or TIFF; and
 - Maximum file size: 5MB.¹

Non-EU countries (13th Directive equivalent)

This refers to a Danish-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Danish-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Danish portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. The company should contact the Danish tax authorities to obtain the certificate (the certificate has form number “31.015”).

¹ It has not been possible to verify this information. We talked to several employees at the Danish tax authorities, and none could confirm the maximum file size.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Denmark.

Eligibility for refund

A foreign taxable person is entitled to recover Danish VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in Denmark;
- The claimant would have been required to register for VAT in Denmark if it was established in Denmark; and
- The claimant has not performed any taxable supplies in Denmark, except for:
 - Certain tax-exempt cross-border transport;
 - Supplies for which the reverse charge mechanism applies; and
 - Electronically provided supplies where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons.

Non-refundable VAT

VAT cannot be recovered on:

- Meals for the owner and staff of the company (unless in connection with meetings that have a professional content). However, VAT on meals in the form of restaurant bills incurred for business purposes is partly refundable;
- The acquisition and running of places of residence for the owner and staff of the company;
- The acquisition and operating costs connected to nursery, day care, after-school care, holiday homes, weekend houses, etc., for the owner and staff of the company;
- Entertainment expenses, representation costs and gifts. However, VAT on business entertainment/representation in the form of restaurant bills is partly refundable if used strictly for business purposes;
- The acquisition, repair and operation of motor vehicles designed for the transport of no more than nine persons; however, VAT on long-term leasing of passenger cars is partly recoverable in certain instances; and
- Payments in kind to the staff of the company.

VAT incurred on crossing the Oeresunds Bridge is refunded by the Swedish tax authorities.

Partially refundable VAT

No more than 25% of VAT may be recovered on restaurant bills incurred for business purposes.

VAT on hotel accommodations may be deducted in full provided the amount (excluding all meals or other services) is separately specified on the invoice.

Companies that lease passenger cars can deduct a specific amount of VAT if the lease period is at least six months and at least 10% of the annual mileage on the vehicle is for VAT (business) purposes.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than DKK 3,000; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than DKK 400.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

Proxy

The claimant or a third party with a power to attorney to act on behalf of the claimant can follow up on the status of a VAT refund claim.

The power of attorney must be dated and signed by both parties and can be in Danish, English, German or Swedish.

Supporting documentation

The Danish authorities can request additional documents/information and decide whether it should be original or copies of invoices or import specifications.

E-invoicing

According to the EU invoicing requirements, e-invoices generally are accepted to claim input VAT.

Refunds and appeals

The Danish tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can reject the application (in whole or in part) and notify claimant; or
- The authorities can accept the refund claim and notify the claimant.

The authorities can request additional information by notifying the claimant. The claimant must provide all information within one month of receipt of the request. The format for providing the information will depend on the information requested. The Danish tax authorities normally accept email and regular mail, but if original invoices are requested, the documents must be sent by regular mail.

The period in which the authorities must make a decision will be extended up to eight months if additional information is requested.

If a refund is granted, it will be processed within 10 business days after the decision is issued and paid to the bank account number provided to the authorities. Any transaction costs must be borne by the claimant. This bank account can be held by the claimant, a proxy holder or any other person. A local bank account is not required to obtain the refund.

The Danish tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection of the application must be stated. A claimant may appeal the rejection of a claim to the Tax Appeals Agency within three months from the notification of the rejection. The appeal must be in writing, supported by documentation and the relevant decision must be attached. It also is possible to appeal online via the Tax Appeals Agency's homepage, but this requires a digital signature. There is a DKK 400 fee for filing an appeal.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Denmark.

Eligibility for refund

Reciprocity is not required.

The company can obtain a VAT refund if the following conditions are satisfied:

- The company is not domiciled or does not have a place of business in Denmark;
- The goods or services are purchased for commercial use;
- The company can demonstrate that it is a business in its home country;
- The company would be subject to a registration duty in accordance with the Danish VAT Act if it was situated in Denmark; and
- During the period covered by the application, the claimant has not conducted business that would require VAT registration, except for:
 - Certain tax-exempt cross-border transportation;
 - Supplies for which the reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on:

- Meals for the owner and staff of the company (unless in connection with meetings with a professional content). However, VAT on meals in the form of restaurant bills incurred for business purposes is partly refundable;
- The acquisition and running of places of residence for the owner and staff of the company;
- The acquisition and operating costs connected to nursery, day care, after-school care, holiday homes, weekend homes, etc., for the owner and staff of the company;
- Entertainment expenses, representation costs and gifts. However, VAT on business entertainment/representation in the form of restaurant bills is partly refundable if used for strictly business purposes;
- The acquisition, repair and operation of motor vehicles designed for the transport of not more than nine persons; however, VAT on long term leasing of passenger cars is partly recoverable under certain conditions; and
- Payments in kind to the staff of the company.

The VAT on crossing of the Oeresunds Bridge is refunded by the Swedish tax authorities.

Partially refundable VAT

No more than 25% of VAT may be recovered on restaurant bills incurred for business purposes.

VAT on hotel accommodations may be deducted in full provided the amount (excluding all meals or other services) is separately specified on the invoice.

Companies that lease passenger cars can deduct a specific amount of VAT if the leasing period is at least six months and at least 10% of the annual mileage on the vehicle is for VAT (business) purposes.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than DKK 3,000; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than DKK 400.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Danish tax authorities by 30 September of the calendar year following the refund period. The deadline will not be extended.

Proxy

The claimant will need a proxy when a representative for the business files VAT refunds for companies from third countries, which must be filed with the claim. The Danish tax authorities have not defined any specific format for the proxy.

Application forms

A VAT refund claim is made on Form 31.004, issued by the Danish tax authorities. The form must be completed in Danish, English, German or Swedish, and the amounts stated in DKK. Application forms can be obtained from the local VAT offices or downloaded at <http://www.skat.dk/getFile.aspx?Id=122177>

If one page of specifications would not be sufficient, additional pages can be added on Form 31.016. This form can be obtained at: <http://www.skat.dk/getFile.aspx?ID=10735&newwindow=true>.

All invoices must be listed in the attachment to the application form. An excel spreadsheet may be used to provide an overview of the claimed amounts.

The application must be signed by a person who is legally entitled to represent the company (depending on the articles of association of the company). Otherwise, a letter of authority must be provided.

The form and supporting documentation must be sent to:

SKAT
Udland - Momsrefusion & Momsregistrering
Pionér Allé 1
6270 Tønder
Denmark
T: + 45 72 22 18 18
www.skat.dk

Applications may not be filed electronically.

However, for foreign companies crossing the bridge Oeresundsbroen (i.e. bridge between Denmark and Sweden), applications for a refund of VAT on toll charges must be sent to the Swedish tax authorities. Refunds of VAT on the toll charges cannot be obtained by contacting Skattecenter Toender in Denmark.

Supporting documentation

When a non-EU business initially applies for a VAT refund in Denmark, it will be given a registration number, which the business must use each time it applies for a VAT refund. The registration number is for VAT refund purposes only (i.e. it is not a Danish VAT number).

The following documents must be submitted with each application:

- Original invoices or import documents (copies are not accepted). However, sales tickets or bills for not more than DKK 3,000 that are issued by retailers or other firms whose sales are made predominantly to private consumers may be used as documentation;
- If the company has not previously applied for a VAT refund in Denmark, it must submit documentation evidencing its status as a business enterprise in its country of establishment;
- The certificate must be issued by the competent authority in the country of establishment and is valid for up to one year. If the certificate was issued more than a year ago, a new certificate must be submitted;
- A certificate stating the use of the purchased goods and service covered by the claim (this is stated directly in the application form); and
- A certificate stating that the taxpayer has not carried out any activities in Denmark that require VAT registration (this is stated in the application form).

E-invoicing

According to the EU invoicing requirements, e-invoices generally are accepted to claim input VAT.

Refunds and appeals

The Danish tax authorities must issue a decision on a refund claim within eight months of receipt of the claim.

- The authorities can reject the application (in whole or in part) and notify the claimant;
- The authorities can accept the refund claim and notify the claimant; or
- The authorities can request additional information and notify the claimant. The Danish tax authorities normally will accept both email and regular mail. However, if original invoices are requested, they must be sent by regular mail.

If the refund is granted, it will be processed on the bank account number provided to the authorities. A Danish bank account is not required to obtain a refund. The business will be liable to pay any transaction costs. The authorities will sign and return all original invoices and import documents to the business.

If the refund is not granted, the grounds for rejection must be stated.

The time limit for an appeal is three months from the date of notification of the rejection.

In principle, the Danish authorities will not impose penalties for a rejected VAT refund claim.

Estonia

Estonian VAT is called “*Käibemaks*.”

The standard VAT rate is 20%, and there are reduced rates of 9% and 0%.

It is not necessary to appoint a fiscal representative to claim a VAT refund based on Directive 2008/9/EC or the 13th Directive.

Estonia is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to an Estonian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The refund application and supporting information/documents must be submitted electronically through the portal of the tax authorities in the country in which the claimant is established, which is <http://www.emta.ee/index.php?id=12223> for Estonian registered claimants. The form must be submitted by the claimant or an authorized person, and must be in Estonian or English.

An authorized person filing a refund claim on behalf of the claimant can be a non-established company, but a valid power of attorney will be required.

When Estonia is the member state of establishment, the Estonian authorities generally will not issue a confirmation of receipt of a VAT refund claim. The e-filing system automatically checks for mistakes in the application and notifies the person accordingly.

IT requirements

Estonian taxpayers registered for VAT purposes file their refund claim electronically through the portal of the Tax and Customs Board (*e-Maksuamet*). The Estonian resident representative of a company established in Estonia may immediately proceed with using the electronic interface and log-in by using its Estonian ID-card, mobile-ID or bank identification.

A non-resident representative must sign an authentication contract that grants access to e-Maksuamet. An authentication contract is concluded between a private person and the Estonian tax authorities, which means that each member of a company that intends to use the portal must sign the authentication contract to obtain a personal e-filing code granting access. The non-resident will receive a username, a list of codes and a non-resident code.

Registration by mail is also possible. A non-resident that requires portal access can print out, complete and sign two copies of an authentication contract. The unofficial translation of this document can be found at:

http://www.emta.ee/sites/default/files/business-client/income-expenses-supply-profits/vat/authentication_contract.pdf.

The authentication contract can be found at:

http://www.emta.ee/sites/default/files/e-mta/avaldu_ema_lepingu_solmimiseks.pdf.

Since the contract is concluded between an individual and the Estonian Tax and Customs Board, an authentication contract containing the details of a legal entity will be rejected. The non-resident individual must send a copy of his/her passport, including the following information: first and last name, date of birth, country, passport number and date of expiration. The document must be sent by regular mail to:

Mrs Katrin Kullamaa
Tax and Customs Board
Lõõtsa 8a, Tallinn
15176, Estonia
katrin.kullamaa@emta.ee

The tax authorities will return a copy of the signed contract, portal password and a non-resident code. The preparation and filing of the form is done through the tax authorities' web portal: <http://www.emta.ee/>. To complete the form, the information is manually uploaded on a line-by-line basis, although it is possible to upload the data in an XML file (the format of the XML file is described at <http://www.emta.ee/sites/default/files/ariklient/tulu-kulu-kaive-kasum/kaibemaks/naidis.xml>).

There is no no limit on the number of invoices that can be submitted within the same refund claim. However, the size of the file is limited to 5 MB. If the total size of invoices (compressed into zip file) exceeds this limit, the claimant should select the invoices with the largest amounts. If the refund member state requires additional documents, the claimant will be notified.

Non-EU countries (13th Directive equivalent)

This refers to an Estonian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for an Estonian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Estonian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*Residentsustõend*” in Estonia.

Estonia is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Estonia.

Eligibility for refund

To be eligible for a refund in Estonia, a taxable person supplying taxable goods or services in its country of establishment must carry out transactions and incur VAT on expenses in Estonia. During the refund period, a taxable person must not have the seat of its economic activity, a fixed establishment or a place of residence in Estonia, nor is it allowed to provide supplies in Estonia.

Only VAT incurred on business-related activities can be refunded. Thus, non-taxable persons and taxable persons with limited liability to VAT are not eligible for a VAT refund.

Non-refundable VAT

Although the Estonian government can establish a list of goods and services with respect to which the VAT is not refundable, it has not issued such list. A VAT refund is available if an Estonian company can apply a similar VAT deduction on its business expenses. This limits the VAT deduction, for example, on meals and entertainment expenses. VAT on accommodation costs is deductible if the trip is not for leisure.

Partially refundable VAT

Up to 50% of input VAT costs incurred on the purchase or operating lease costs of company passenger cars and for goods and services acquired in relation to such cars (fuel, repair, maintenance, parking, etc.) may be refunded. However, there are exceptions under which the input VAT on the relevant costs may be deducted in full:

- Cars obtained for resale or for the provision of an operating lease service;
- Taxis;
- Cars mainly used for driving lesson services; and
- Where the car is used only for business purposes.

If a company car is used for business purposes only, the company must be able to demonstrate that the car will not be used for any other purpose (e.g. for private trips). There are no specific conditions provided by law but in the guidelines the examples of proper means for companies include setting specific internal rules for the use of a car, limits to mileage, using a GPS tracker, concluding an insurance contract only for business trips, etc.

Making claims

Minimum amounts

If the application relates to a calendar year or the remainder of a calendar year, the amount for which the claim is made may not be less than EUR 50; if the application relates to a period of less than a calendar year (not shorter than three months), the reclaim amount may not be less than EUR 400.

Time limits

The application must be submitted to the Estonian tax authorities by 30 September of the year following the refund period.

The application must cover a period of not less than three consecutive calendar months, which is not limited to calendar quarters. An exception to this limit is available where an application is submitted for the remainder of a calendar year (e.g. from 15 November to 31 December).

In practical terms, the Estonian authorities are prepared to treat up to five timely filed refund applications from one taxpayer per year. For example, it is possible to submit four quarterly claims and another one for a full calendar year. "Overlooked" invoices may be submitted in the annual application or in the application for the following periods, but only up to the statutory deadline.

Proxy

When acting as the member state of refund, the Estonian authorities will request a third-party service provider to demonstrate it is authorized to follow up on the claim. The authorized third party representative of the claimant must, upon filing the refund claim, provide a hard copy of the original power of attorney, which must be sent by regular mail to the Tax and Customs Board, Lõõtsa 8a, 15176 Tallinn, Estonia. The power of attorney does not need to be notarized or legalized.

Supporting documentation

The following information must be taken into account by a foreign taxpayer applying for a VAT refund in Estonia:

- Scanned copies of invoices or import declarations are required when the taxable basis of the document equals or exceeds EUR 1,000 (EUR 250 for fuel). The Estonian tax authorities will contact the claimant if additional documents are needed.
- For a representative to be able to apply for a VAT refund on behalf of a foreign company, the foreign company must send a hard copy of the relevant power of attorney to the Tax and Customs Board. The power of attorney must contain a confirmation from the foreign taxpayer it is granting the third party authority to submit the application, communicate with the Estonian tax authorities, receive the refund, etc.

E-invoicing

E-invoices are accepted by the Estonian tax authorities. To reclaim VAT under Directive 2008/09/EC or the 13th Directive, e-invoices must be printable (printed out and included in supporting documentation) and readable.

Refunds and appeals

The member state of establishment of the foreign entity has 15 calendar days to forward the application to the Estonian tax authorities. The Estonian authorities have four months from the date of receipt of the application to issue a decision. The decision deadline can be extended up to eight months if additional information is requested from the claimant, the other member state or a third party. The requested information must be provided within one month; failure to comply could result in a negative decision on the claim.

When Estonia is the member state of refund, the Estonian authorities must notify the claimant immediately about the date of it receives the VAT refund application. The claim can be followed up by the claimant or its representative. All communications (such as a request for additional information/documents) are conducted via the email indicated on the VAT refund application. If the claimant has appointed a representative, the additional questions are sent to the representative first and if no response is received by the stipulated deadline, the questions also are sent to the claimant.

VAT refund decisions that are in part negative and in part positive are sent to both claimant and the representative via email. However, a decision to grant a VAT refund is not forwarded via email but instead is made available in the electronic system of the Tax Board in PDF format.

Where no additional queries are made or information requested, the Estonian Tax and Customs Board will issue its decision within the four-month deadline and post a PDF version of the decision in the electronic system.

If a refund request is granted, it must be made within 10 business days following the decision of the Tax and Customs Board. The refund will be transferred to the bank account indicated in the refund application; there is no requirement that the claimant have an Estonian bank account.

If there are issues with one invoice, the VAT refund claim generally will be rejected with respect to that invoice (i.e. the entire claim will not be rejected). However, if the VAT refund amount remaining after taking into account the rejected amount is below the threshold for the particular period (EUR 50 or EUR 400), the entire claim will be rejected.

The Estonian tax authorities may be liable for late payment interest if the refund is not processed in a timely manner. Interest will not be due, however, if the payment failed because of incorrect bank account details or the claimant did not provide additional information requested by the authorities.

If a refund application is rejected, the Estonian Tax and Customs Board must provide the claimant with the reason(s) for the rejection.

Common format reasons for rejecting a VAT refund claim include the following: the claim covers less than a three-month period, the claimed amount does not correspond to the particular period or is smaller than the threshold, the claim is filed late, etc.

Common substance reasons for rejecting a claim include the following: invoices are not issued to the name of the claimant, the invoice does not contain VAT or Estonian VAT, the added VAT is not in accordance with the Estonian VAT Act, VAT is not refundable (e.g. VAT in connection with catering), etc.

An appeal on a rejected claim must be filed within 30 days from the date the decision was notified or delivered to the person. The Estonian tax authorities will accept an appeal written in Estonian or English and it can be sent via email or by regular mail. The appeal must comply with the requirements in article 139 of the Taxation Act.

There are no penalties imposed for incorrect VAT refund claims. However, where in the VAT refund claim false information has been intentionally provided to increase the amount reclaimed, the penalty is a fine of up to EUR 32,000.

In practice, if no additional questions are raised, the refund claim will be settled within four months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Estonia.

Eligibility for refund

Estonia refunds VAT to non-EU taxable persons on the basis of the reciprocity principle, i.e. VAT will be refunded to non-EU businesses, provided the claimant's home country grants the same rights to Estonian taxable persons. There is no official list of countries for which reciprocity exists, but VAT refunds can be obtained by companies established in Iceland, Israel, Norway and Switzerland.

Non-refundable VAT

Although the Estonian government can establish a list of goods and services with respect to which the VAT is not refundable, it has not issued such list. A VAT refund is available if an Estonian company can apply a similar VAT deduction on its business expenses. This limits the VAT deduction, for example, on meals and entertainment expenses. VAT on accommodation costs is deductible if the trip is not for leisure purposes.

Partially refundable VAT

Up to 50% of input VAT costs incurred on the purchase or operating lease costs of company passenger cars and for goods and services acquired in relation to such cars (fuel, repair, maintenance, parking, etc.) may be refunded.

Making claims

Minimum amounts

VAT paid by a third-country taxable person in Estonia upon the import or acquisition of goods or receipt of services used for business purposes is refunded on the basis of a written application (Form KMT) from the taxable person if the following conditions are satisfied:

- The taxable person is required to pay VAT as an undertaking in its home country;
- The amount of VAT to be refunded per calendar year is at least EUR 320;
- Taxable persons in Estonia have the right to deduct input VAT paid on the import or acquisition of goods or receipt of services from the output VAT under the same conditions; and
- Estonian residents have the right to a VAT refund in the home country of the claimant.

Time limits

The application must be submitted to the Estonian tax authorities by 30 September of the year following the refund period.

Proxy

An authorized third-party representative of the claimant must, upon filing the refund claim, provide a hard copy original of the power of attorney, which must be sent by mail to the Tax and Customs Board, Lõõtsa 8a, 15176 Tallinn, Estonia. The power of attorney does not need to be notarized or legalized.

Application forms

Form KMT is used to apply for a VAT refund. The application must be signed by an individual from the non-EU country, a head of the entity or an authorized representative.

Supporting documentation

The following documents must be attached to the application:

- Readable invoices meeting the requirements in the VAT Act and documents certifying the payment of VAT upon the import of goods; and
- A certificate issued by the tax authorities of the foreign country certifying that the non-resident is registered as a VAT taxpayer in its home country.

The form and supporting documentation must be sent to:

Tax and Customs Board
Lõõtsa 8a
Tallinn 15176
Eesti (Estonia)
Phone: +372 676 1187
Email: vatrefund@emta.ee

Information: <http://www.emta.ee/eng/business-client/income-expenses-supply-profits/general-information-value-added-tax/vat-refund-non-ec>.

E-invoicing

E-invoices are accepted by the Estonian tax authorities. To reclaim VAT under Directive 2008/09/EC or the 13th Directive, e-invoices must be printable (printed out and included in supporting documentation) and readable.

Refunds and appeals

The Estonian tax authorities will verify the accuracy of the refund application and the relevant supporting documents, and if no further information is required, they will refund the amount within six months from the date the application and supporting documents are received. If the claimant has appointed a representative, the additional questions are sent to the representative first and if no response is received by the stipulated deadline, the questions also are sent to the claimant.

The refund will be paid to the bank account indicated in the application. If the refund is to be transmitted to a bank account of a credit institution located in a foreign country, the recipient of the refund will bear any transfer costs.

The claimant's bank account can be in any EU/non-EU country, as there is no requirement that the claimant should have an Estonian bank account.

The Estonian Tax and Customs Board marks all received original documents and will return them to the claimant, along with a copy of the application within one month from the date the refund is issued.

If additional documents are requested, the decision deadline will be extended, since the six month period is counted from the date the application and supporting documentation is received.

If no additional questions are asked, the Estonian Tax and Customs Board will issue their decision within the six-month deadline and send the VAT refund decision by regular mail.

The Estonian tax authorities may be liable for late payment interest of 0.06% per day if the refund is not processed in a timely manner.

If there are issues with one invoice, the VAT refund claim generally will be rejected with respect to that invoice (i.e. the entire claim will not be rejected). However, if the VAT refund amount remaining after taking into account the rejected amount is below the threshold for the particular period (EUR 320), the entire claim will be rejected.

If the refund is not granted, the grounds for rejection must be stated.

Common format reasons for rejecting a VAT refund claim include the following: the claimed amount does not correspond to the particular period or is smaller than the threshold, the claim is late, etc.

Common substance reasons for rejecting a claim include the following: invoices are not issued to the name of the claimant, the invoice does not contain VAT or Estonian VAT, the added VAT is not in accordance with the VAT Act, VAT is not refundable (e.g. VAT in connection with catering), etc.

An appeal on a rejected claim must be filed within 30 days from the date the person was notified about the decision. The appeal must be in writing and must contain the information required in that article. There are no other specific requirements regarding the format of the appeal (it can be filed via email, in hard copy via courier, etc.).

There are no penalties imposed for incorrect VAT refund claims. However, where in the VAT refund claim false information has been intentionally provided to increase the amount reclaimed, the penalty is a fine of up to EUR 32,000.

In practice, if no additional questions are raised, a refund claim will be settled within six months.

Finland

Finnish VAT is known as “*Arvonlisävero*” (ALV) in Finnish and “*Mervärdesskatt*” (MOMS) in Swedish.

The standard VAT rate is 24%, and there are reduced rates of 14%, 10% and 0%.

An extensive overview of the VAT rates applied in Finland can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Finnish fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Finland is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Finnish-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

With regard to companies established in Finland that are applying for a VAT refund from other member states, the application must be filed electronically (in Finnish, Swedish or English) through the Finnish tax portal (ALVEU system):

<http://portal.vero.fi/Public/default.aspx?culture=en-US&contentlan=2&nodeid=7958>

If the claimant is a member of a VAT group in the member state of establishment, the application must be filed at the level of the group. However, if the individual entity has been issued its own VAT number, an application may be submitted for its own purchases.

The request must be submitted by the claimant or an authorized person.

The claimant may appoint a proxy to file the application on its behalf provided the third party holds a KATSO ID to access the ALVEU system and a power of attorney must be attached to the first application. The power of attorney must clearly indicate whether the agent is appointed only for purposes of submitting the application or whether he also is authorized to receive the refund in his/her bank account. A non-established company also may be appointed.

The KATSO ID and password can be set up for:

- Finnish or foreign citizen representatives of a Finnish-registered company; and
- Finnish or foreign citizen representatives of a foreign-registered company.

The “master user” can manage an organisation’s details in the KATSO interface and grant and receive authorizations. The master user of a company must be an individual who has the right to sign for the company. Master privileges may be granted to one or more persons. The company’s employees also may set up KATSO identifiers for themselves to manage the interfaces details and authorizations.

Foreign citizens must present notarized documentation to prove their identity and their right to sign for the company as a KATSO master user.

As member state of establishment, the Finnish tax authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

Finnish taxpayers registered for VAT purposes must file their refund claims electronically using the ALVEU web portal of the Finnish tax authorities.

Access to the portal is granted using a KATSO ID log-in, which must be requested in advance. Independent entrepreneurs also can access the system with a bank log-in or a Finnish electronic ID card. Information on the procedure to obtain access to the web portal to file the VAT refund claim can be found at: http://www.vero.fi/en-US/Precise_information/eFiling/Katso_Identification.

The ALVEU web portal allows to upload a computer file and import the details of the invoices or import documents to the application. This requires that the details have been correctly set up.

The import file must be formatted as a CSV file. The maximum number of invoices or import documents is 100 per import file. Several attachments can be attached to the application, but the claimant must import each document separately.

The electronic form is divided into four main sections:

- General information on the claimant;
- Basic information about the application;
- Detail of the invoices and import documents (scanned invoices/annexes are uploaded taking the following into account):
- Accepted file formats are TIFF, JPEG and PDF. The recommended format is PDF;
- Maximum file size: 5MB
- Submission of the application, after which a confirmation and summary of the application(s) is displayed.

Non-EU countries (13th Directive equivalent)

This refers to a Finnish-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

A refund application for a Finnish-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Finnish portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*Todistus verovelvollisuudesta*” in Finnish.

Finland is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Finland.

Eligibility for refund

A foreign taxable person established in another EU member state is entitled to recover Finnish VAT if the following conditions are satisfied:

- The company does not have a fixed establishment in Finland from which business transactions are carried out;
- The purchase relates to business operations abroad which, if carried out in Finland, would have given rise to liability to account for VAT or would have entitled the entrepreneur to a VAT recovery in Finland and the company carries out such sales in its member state of establishment, which entitle the foreign company to a deduction in that member state;
- The company does not carry out any other business in the form of the sale of goods and services in Finland, except for:
- Supplies to which the reverse charge applies, or supplies to the state; and
- Sales of exempt transportation services and ancillary services.

Non-refundable VAT

VAT cannot be recovered on:

- Immovable property that the taxable person or its staff uses as a residence, nursery, recreational or leisure facility, as well as goods and services connected with it or its use;
- Goods and services related to transportation between the place of residence and place of work of the taxable person or its staff;
- Goods and services used for business entertainment purposes, e.g. restaurants, business gifts, etc.;
- Passenger cars, motorcycles, caravans, vessels intended for recreational or sports purposes and aircraft with a maximum permissible take-off weight not exceeding 1,550 kg, or on goods and services related to their use. However, input VAT is recoverable if related to vehicles and vessels acquired for sale, lease or use in professional passenger transport or for driving school purposes and passenger cars solely acquired for business purposes;
- Purchases intended for the private consumption of the entrepreneur or his/her staff;
- Purchases related to exempt sales of investment gold;
- Purchases of taxable goods and services for direct benefit of passengers made in the name of a foreign travel service company; and
- Purchases that are VAT-exempt, but have erroneously been charged with VAT.

Partially refundable VAT

There are no expenses for which non-established companies will be granted only a partial refund of Finnish VAT. However, the claimant only may claim a partial refund if the relevant purchase is related to both the taxable and non-taxable business of the claimant.

Making claims

Minimum amounts

If the application relates to a period of a calendar year or the remainder of a calendar year (October, November and December), the minimum amount is EUR 50. If the application is submitted during a calendar year, the minimum amount is EUR 400.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year or not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The refund period must be in the past.

A VAT refund application may not be submitted merely on the basis that the claimant received an invoice for a purchase. The goods must have been supplied, services must have been rendered or payment must have taken place.

The correct application period is the period during which the later of the following events occurred:

- The delivery of goods, the provision of services, or a payment or a partial payment made before the delivery of goods/provision of services; or
- The invoicing for the goods/services.

The application period for imported goods is the month in which the goods clear customs.

The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during the calendar year. However, in such cases, the application period must be adjusted accordingly.

A claimant may submit multiple claims for the same application period, and it is possible to make overlapping claims for the period regarding the remainder of the year. The maximum number of claims that can be submitted for a calendar year has not been established.

Proxy

When Finland is the member state of refund, the Finnish tax authorities will request a third party to prove its authorization through a written document.

If a third party completes the application, a power of attorney must be enclosed, and it must specify the agent's powers. The power of attorney must clearly indicate whether the agent is appointed only for submitting the application and whether he/she is entitled to receive the payment in his/her bank account. A power of attorney granted for an indefinite period is valid for six years from the date it was signed. Therefore, a new power of attorney must be attached every sixth year. To avoid delays, the power of attorney should be scanned and attached to the application. There are no specific notarization requirements, but the power of attorney must be in English, Finnish or Swedish.

Supporting documentation

As of 1 January 2017, the scanned copies of original invoices and customs decisions no longer have to be enclosed with the refund claim.

The codes describing the nature of purchased goods and services have been updated and should be used as from 1 January 2017. The updated codes can be found here:

<https://www.vero.fi/download/ENcod/%7BFEC535B3-699D-4B08-898B-CB46FFE63C60%7D/13237>

E-invoicing

E-invoices generally are accepted and are sufficient to claim input VAT via the former 8th Directive procedures. There are no specific requirements/restrictions in this respect.

Refunds and appeals

The Finnish tax authorities must issue a decision on a refund claim within four months of receipt of the claim.

The authorities can send their decision to the claimant by regular mail, with an unofficial electronic copy to the tax authorities of the member state in which the claimant is established (regardless of whether the refund claim is accepted or rejected).

If the authorities request additional information, the claimant will be informed by regular mail. The claimant must provide all information within the time specified in the request (a maximum of one month from the notification day). The additional information must be provided by using the means of communication requested by the tax authorities, generally through regular mail.

If the claimant has engaged the services of an agent, requests for information will be sent only to the agent.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request. If a refund is granted, it will be processed in EUR within 10 business days after the relevant period and paid to the bank account specified in the application. The refund will either be paid to a bank in Finland or in another EU country. The refund will not be paid to a bank outside the EU.

The Finnish tax authorities will be liable for late payment interest if the refund is not processed in a timely manner. Late payment interest will not be due if the claimant failed to submit requested additional information on time.

If the refund is not granted, the grounds for rejection must be stated. The appeal procedure with the Finnish Tax Administration changed as from 1 January 2017. Appeals against decisions issued after 1 January 2017 now must be addressed to:

Tax Appeals Board

Verotuksen muutoksenhakulautakunta, Verohallinto, PL 560, 00052 VERO.

The content requirements of an appeal have not changed; it should contain the appellant's name, business ID, information on the decision against which the appeal is based, specification of which part of the decision is being appealed, suggested changes and arguments. Any documentary evidence should be enclosed with the appeal. A power of attorney signed by a person authorized to sign on behalf of the company also should be enclosed, if applicable. The appeal must be made within three years of the end of the calendar year for which the application is made.

Appeals of decisions issued before before 1 January 2017 are subject to the old procedure and should be addressed to:

Helsinki Administrative Court

Uusimaa Regional Tax Office, PL 30, 00052 VERO.

The appeal period is 60 days from the date the decision was communicated to the claimant (excluding the notification day). The appeal must be submitted by letter and must be in Finnish or Swedish.

An entire refund claim cannot be rejected in Finland merely because one of the submitted invoices was not correct/could not be provided in a readable/acceptable scanned copy; in such a case, only the invoice in question will be rejected.

In addition, an entire refund claim cannot be rejected only if a query on one particular invoice has not been answered; again, only the invoice in question will be rejected.

Typical reasons for the rejection of a refund claim include failure to attach a power of attorney to the first application if the claim is submitted by an agent, or where the invoices relate to non-deductible expenses, such as private use or entertainment.

Penalties may be levied by the Finnish authorities as follows:

- If the claimant provides insufficient or incorrect information, the Finnish tax authorities can order the VAT refund to be repaid;
- If an undue or excessive refund has been paid because of insufficient or incorrect information, the tax authorities may reclaim the VAT refund within three years as of the end of the calendar year of the VAT refund period;
- A debiting decision may order the reclaimed amount to be increased up to 30% if the application or its attachment contained incorrect information; and
- If the reason for giving incorrect information is aggravated by negligence or deliberate actions, reclaimed amounts may be increased threefold (maximum) and a surtax added to the amount.

There is no specific timeframe for a refund payment but if the refund is granted, it is usually paid within two weeks following the decision.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Finland.

Eligibility for refund

A foreign taxable person established outside the EU is entitled to recover Finnish VAT if the following conditions are satisfied:

- The company does not have a fixed establishment in Finland from which business transactions are carried out;
- The purchase relates to business operations abroad which, if carried out in Finland, would have given rise to liability to account for VAT or would have entitled the entrepreneur to a VAT recovery in Finland. If the country of establishment of the company has a VAT system it is also required that the company has purchased the goods and services for transactions giving rise to VAT recovery right in the country of establishment;
- The company does not carry out any other business in the form of the sale of goods and services in Finland, except for:
 - Supplies to which the reverse charge applies, or supplies to the state; and
 - Sales of exempt transportation services and ancillary services.

Reciprocity is not required.

Non-refundable VAT

VAT cannot be recovered on:

- Immovable property that the taxable person or its staff uses as a residence, nursery, recreational or leisure facility, as well as goods and services connected with it or its use;
- Goods and services related to transportation between the place of residence and place of work of the taxable person or its staff;
- Goods and services used for business entertainment purposes, e.g. restaurants, business gifts, etc.;
- Passenger cars, motorcycles, caravans, vessels intended for recreational or sports purposes and aircraft with a maximum permissible take-off weight not exceeding 1,550 kg, or on goods and services related to their use. However, input VAT is recoverable if related to vehicles and vessels acquired for sale, lease or use in professional passenger transport or for driving school purposes and passenger cars solely acquired for business purposes;
- Purchases intended for the private consumption of the entrepreneur or his/her staff;
- Purchases related to exempt sales of investment gold;
- Purchases of taxable goods and services for direct benefit of passengers made in the name of a foreign travel service company; and
- Purchases that are VAT-exempt, but have erroneously been charged with VAT.

Partially refundable VAT

There are no expenses for which non-established companies will be granted only a partial refund of Finnish VAT. However, the claimant may only claim a partial refund if the purchase concerned is related to the taxable and non-taxable business of the claimant.

Making claims

Minimum amounts

If the application relates to a period of a calendar year or the remainder of a calendar year (October, November and December), the minimum amount is EUR 50. If the application is submitted during a calendar year, the minimum amount is EUR 400.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Finnish tax authorities within six months of the end of the calendar year following the refund period, i.e. by 30 June of the following year. Late claims are not accepted.

Proxy

If a representative is assigned to apply for the VAT refund, the claimant must enclose an original power of attorney with the VAT refund application. The power of attorney must state whether the representative is authorized only to submit the refund application or whether the representative also authorized to receive the refund.

Application forms

The application must be in Finnish, Swedish or English and on the form issued by the Finnish tax authorities. The form can be obtained at: www.vero.fi

All invoices and other documents must be mentioned in point 10 of the application or listed on a separate sheet.

The application must be signed by the claimant, its authorized signatory or an authorized representative.

The form and supporting documentation must be sent to:

Finnish Tax Administration
P.O. BOX 30
FI-00052 VERO
Finland
T: + 358 29 497 051
www.vero.fi

Supporting documentation

The following documents must be submitted with each application:

- As from 1 January 2017, the original invoices and customs documents should no longer be enclosed to the application, but must be detailed on the form. In addition, the nature of purchased goods and services must be described by using specific codes. The codes can be found at:
- <https://www.vero.fi/download/ENkoodit/%7B2B48000D-C1B9-4733-B653-29E666661D5A%7D/13234>
- An original certificate of taxable status of the claimant issued by its country of residence. The certificate needs to confirm the nature of business carried on by the claimant, and if the claimant is a supplier of taxable investment gold, this must be stated in the certificate. The certificate must have been issued within the past year; and
- The original power of attorney if a proxy is used.

E-invoicing

Printed copies of e-invoices are accepted.

Refunds and appeals

There is no binding timeframe for the Finnish tax authorities to decide on a 13th Directive refund claim.

If the claimant has engaged the services of an agent, requests for information and the decision on the refund will be sent only to the agent. Any additional information requested must be provided via the means of communication requested by the tax authorities, generally through regular mail.

The period in which the authorities make a decision will be extended where additional information is requested. The claimant must provide all information within the time specified in the request (usually a maximum of one month from the notification day).

There is no specific timeframe for a refund payment. However, if the refund is granted, it usually is paid within two weeks of the decision. The refund will be paid by bank transfer to a bank in Finland or in another EU country. The refund will not be paid to any bank outside the EU.

The entire refund claim cannot be rejected in Finland merely because one of the submitted invoices was not correct/could not be provided in a readable/acceptable scanned copy; in such a case, only the invoice in question will be rejected. In addition, an entire refund claim cannot be rejected if a query on only one particular invoice has not been answered; again, only the invoice in question will be rejected.

Typical reasons for the rejection of a VAT refund claim include failure to attach a power of attorney to the first application if the claim is submitted by an agent, or where the invoices relate to non-deductible expenses, such as private use or entertainment.

If the refund is not granted, the grounds for rejection must be stated. An appeal against a denied claim must be addressed to the Administrative Court of Helsinki (but the appeal letter must be submitted to the Finnish tax authorities) within three years of the end of the calendar year for which the application is made. The appeal period is 60 days from the date the decision was communicated to the claimant (excluding the notification day). An appeal addressed to the Administrative Court of Helsinki must be submitted by a letter and must be in Finnish or Swedish.

Penalties can be levied by the Finnish authorities only in connection to debiting a refund claim payment.

The processing of a refund claim usually takes six to 12 months.

France

French VAT is known as “*Taxe sur la Valeur Ajoutée*” (TVA).

The standard VAT rate is 20%, and there are reduced rates of 10%, 5.5% and 2.1%.

Special rates apply in Corsica (20%, 13%, 10%, 5.5%, 2.1% and 0.9%) and Overseas departments, except French Guiana and Mayotte (8.5%, 2.1%, 1.75% and 1.05%).

Goods and services supplied to or from the Principality of Monaco are regarded as having been supplied to or from France. However, specific rules may apply: for example, foreign entities that are not established or VAT registered in France and that incur VAT in Monaco must file a specific VAT refund claim in Monaco.

For VAT purposes, the French overseas communities “*collectivités d’outre-mer*” (French Polynesia, Saint Barthélemy, Saint Martin, Saint Pierre and Miquelon, Wallis and Futuna), Nouvelle Calédonie, French Southern and Antarctic Lands and Andorra are not considered as part of the French territory. Thus, these territories are considered as third-party countries with respect to France and other EU member states.

French overseas departments also are considered as third-party countries for VAT purposes, regarding transactions relating to goods supplied to/from France or other EU member states.

An extensive overview of the VAT rates applied in France can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a French VAT representative to claim a VAT refund based on Directive 2008/09EC, but a VAT representative is required for a claim based on the 13th Directive.

EU countries (Directive 2008/09/EC)

This refers to a French-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically (in French or in English) through the portal of the French tax authorities (FTA):

(<https://cfspro.impots.gouv.fr/LoginAccess?op=c&url=aHR0cHM6Ly9jZnNwcm8uaW1wb3RzLmdvdXYuZnIvbWlyZS9hY2N1ZWIsLmRv>).

The claimant or its representative must be registered on the FTA web portal via an “*espace abonné*” (subscriber area) via a log-in and password. Only one person per company will be granted authority to obtain a membership application on behalf of the company on the “*espace abonné*.” If this person is not the legal representative of the company, a formal power of attorney must be attached to the membership application (a template is available on the FTA portal). That person becomes the administrator (‘*administrateur titulaire*’) of the online services.

The administrator may delegate the filing of the VAT refund claim to another person, who becomes the ‘*administrateur suppléant*.’ A refund claim also may be submitted by a third-party service provider authorized by the claimant. A non-established company can be appointed *administrateur suppléant* by the administrator. To be appointed, the *administrateur suppléant* must first create its own space on the FTA’s web portal. The agent must provide the FTA with the original power of attorney by mail.

When acting as the member state of establishment, the FTA will issue a confirmation of receipt of a VAT refund claim.

IT requirements and information required

The preparation and filing of a refund claim is done through the following web portal: www.impots.gouv.fr. The claim then can be accessed through the subscriber area on the “*professionnels*” (professionals) page of the portal.

To access the online procedure, a claimant must have access to its own subscriber area and to access the online VAT refund claim procedure, the claimant must create its own space on the FTA portal, and then opt for “electronic services”.

XML files can be uploaded to complete the claim. Information on the invoice statements can be manually uploaded to the portal or automatically uploaded in XML format. The FTA has provided some guidelines:

https://www.impots.gouv.fr/portail/files/media/3_Documentation/fiches_focus/remboursement_tva_ue.pdf

If the XML format is used, the box “*Parcourir*” (and not a manual upload) must be selected.

The electronic form is divided into two main sections:

- General information relating to the claimant and the goods/services purchased (a list of invoices with a description of the purchased goods/services);
- Scanned invoices/import documents that can be uploaded, taking the following into account:
 - File types accepted: JPEG, PDF or TIFF;
 - Maximum file size: 5 MB;
 - Standard scanning preference: Black and white.

Once the claim is submitted, the taxpayer will receive confirmation from the website, referencing the application.

The claimant must provide the following information:

- Name and address;
- Email address;
- Description of the activities carried out by the claimant and for which the expenses were incurred;
- Period for which the refund is requested;
- Declaration certifying that the claimant has not carried out any taxable transactions in France;
- EU VAT number or the claimant’s fiscal number; and
- Details of the bank account where the refund is to be paid.

The claimant must provide the following information about the invoices subject to French VAT for which the refund is requested:

- Name and the address of the supplier and its VAT number (except in the case of import of goods);
- Date and the number of the invoice or import document;
- Taxable basis;
- Amount of VAT charged by the supplier; and
- Nature of the expense.

The provision of invoices is mandatory if so required by the country.

The XML file can contain up to 2,500 invoices. The limit is 100 for manually uploaded invoices.

Non-EU countries (13th Directive equivalent)

This refers to a French-established company submitting a non-EU (13th Directive equivalent) claim as regards VAT incurred in a non-EU country.

The refund application for a French-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The French portal cannot be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment (i.e. France) usually will be required by the non-EU country of refund. The form named “*Attestation d’assujettissement*” is obtained via the following web portal: www.impots.gouv.fr through the “*Espace abonnés*” on the “*professionnels*” page of the taxpayer’s portal.

France is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in France.

Eligibility for refund

A foreign taxable person is entitled to recover French VAT if the following conditions are satisfied:

- The company is not registered in France or is registered only for Intrastat purposes (i.e. the business does not have to file VAT returns in France);
- The company does not have residence, its seat or a fixed establishment in France;
- The company has not carried out any taxable supplies in France, except for:
 - Certain tax-exempt cross-border transportation or ancillary services from/to non-EU countries;
 - Supplies for which VAT is due by the recipient in accordance with the rules in the EU VAT package;
 - Supplies of goods/services made by a non-established entity to a VAT-registered recipient in France and subject to the domestic reverse charge mechanism;
 - Supplies made under a VAT suspension regime; and
 - Telecommunications, radio and television broadcasting and electronic services, rendered to non-taxable customers that are established in France.
- The *Conseil d’Etat* (Administrative Supreme Court) ruled on 7 December 2015 that a VAT refund claim must be made by the company heading a VAT group (established outside France). If the head company or any company in the group is VAT-registered in France, the situation is more complex. An analysis must be made on a case-by-case basis.

Non-refundable VAT

VAT cannot be recovered on:

- Accommodation costs incurred on behalf of the management or staff of the company. (VAT is recoverable when such expenses are incurred for the benefit of persons not employed by the company, provided the expenses are incurred in the interest of the company or when it supplies the same services for consideration);
- The supply, import, leasing, repair and maintenance of most cars for passenger transport and other related costs, such as fuel. However, VAT is recoverable on the purchase price where the car is purchased by a car dealer for resale or by a person leasing cars. In addition, 80% of VAT on diesel and for 2017, 10% of VAT on petrol fuel used for vehicles and machines excluded from the right to deduct VAT and leased vehicles (where the lessee cannot deduct the VAT). This measure applies only for 2017; the VAT recovery percentage will be modified in 2018 as well as regarding the concerned vehicles. Indeed, to align the VAT treatment of gasoline (currently not deductible) and diesel (currently partly or fully deductible), the non-deductible portion of VAT on gasoline will be progressively reduced as follows: 90% in 2017; 80% in 2018; 60% in 2019; 40% in 2020; and 20% in 2021;
- Goods transferred without remuneration or for remuneration that is much lower than the normal price, unless the value of the goods is very low (except business gifts whose collective value does not exceed EUR 69, including VAT, per beneficiary per year); and
- Domestic transport of passengers and related expenses (except for the benefit of public transport companies and transportation from home to work, subject to conditions).

If French VAT has been incorrectly charged, a foreign taxable person cannot, in principle, obtain a refund through the Directive 2008/09/EC procedure. A specific procedure applies for a supplier to issue a corrective invoice to a customer not registered in France.

Partially refundable VAT

The foreign entity must declare its VAT recovery ratio when filing the claim. The FTA will issue a partial refund after application of the VAT recovery ratio. If the VAT recovery ratio is modified after the submission of the VAT refund claim, the taxpayer should inform the FTA and file a specific form.

Making claims

Minimum amounts

VAT refund claims can be filed on a quarterly or an annual basis. If a quarterly refund claim is made, the amount of refundable VAT must be at least EUR 400. If an annual claim is made, the amount must be at least EUR 50.

A quarterly VAT claim is filed for a three-month period (except at the end of the year where a refund can be filed for a shorter period) for input VAT incurred during that period. The refundable VAT is determined based on the tax point taking place during that period.

Time limits

The VAT refund claim must be filed before 30 September of the calendar year following the year during which VAT was due. Late claims are not accepted.

According to comments issued by the FTA, a claimant cannot submit more than one supplementary refund claim for the remainder of a calendar year.

Proxy

When a foreign company decides to appoint an agent, a proxy in the French language must be prepared, signed by both parties and sent by mail to the FTA (non-residents tax center). The FTA has included a draft proxy in its guidelines: <http://bofip.impots.gouv.fr/bofip/1421-PGP.html>

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is EUR 1,000 or more. However, where the invoice relates to fuel costs, the threshold for providing a copy is EUR 250. The FTA can request additional documents/information (e.g. original invoices).

E-invoicing

The FTA has not issued any specific comments concerning e-invoices in the framework of EU (former 8th Directive) VAT refund claims. Copies of invoices that exceed the above-mentioned threshold must be provided with the claim.

Refunds and appeals

The FTA must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the notification. Responses should be provided by email, but a proof of receipt must be retained.

The notification is always sent by email and the FTA must inform the taxpayer of the grounds for denial in the case of a partial refund or rejection.

In theory, the notifications are sent to the agent.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, and eight months where the authorities request additional information after a first request.

If the FTA fails to issue a decision in a timely manner, the claim will be deemed to have been rejected (the taxpayer then may file an appeal).

If a refund is granted, it will be processed in Euro within 10 business days after the relevant period and paid to the bank account number provided to the authorities. This bank account can be held by the claimant or a proxy holder (in the latter case, a specific document will have to be provided). If the claimant does not hold a bank account in France, bank charges related to the payment will be deducted from the amount refunded.

The FTA will be liable for late payment interest if the refund is not processed in a timely manner.

If one invoice is not correct or is not provided in a readable format, only this invoice will be rejected.

A query on a particular invoice that has not been answered may lead to a rejection of the entire VAT refund claim if the FTA has doubts as to whether the conditions to claim the refund have been fulfilled. If additional information is requested and the claimant fails to respond, the FTA will reject the entire claim. According to French case law, it is not possible to provide such additional information before the Administrative Court. Consequently, it is essential to correctly manage the follow-up of the claim (regularly monitor emails). Generally, the FTA provides a deadline and indicates that the claim will be rejected if no answer is provided.

If the refund is not granted, the grounds for rejection must be stated. An appeal against a denied claim can be made to the Administrative Court before the end of the fourth month following the notification of the decision assuming that the claim has been made for the company. If a VAT agent has been appointed in France, the deadline is two months. The claimant also can request mediation, but this will not affect the appeal deadline.

The appeal must be filed by letter and drafted in French. Lawyers should file the appeal by electronic means.

If the FTA performs an audit after granting a VAT refund to a taxpayer, it must issue a specific reassessment proposal (according to the domestic tax procedure). No late interest can be applied. A fine may be applied for wilful default (40%) or fraud (80%).

If a refund has been unwilfully or incorrectly granted, the FTA may directly recover the overpayment.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in France.

Eligibility for refund

Non-EU businesses may request a VAT refund under the 13th Directive provided the same conditions of eligibility for a refund under Directive 2008/09/EC are satisfied. Non-EU businesses must appoint a French VAT representative to file a refund claim under the 13th VAT Directive.

The claim must be made in hard copy (i.e. applications cannot be filed electronically and original invoices and import documents must be provided).

Non-refundable VAT

VAT cannot be recovered on:

- Accommodation costs incurred on behalf of the management or staff of the company (VAT is recoverable when such expenses are incurred for the benefit of persons not employed by the company, provided the expenses are incurred in the interest of the company or when it supplies the same services for consideration);
- The supply, import, leasing, repair and maintenance of most cars for passenger transport and other related costs, such as fuel. However, VAT is recoverable on the purchase price of the vehicles when the cars are purchased by a car dealer for resale or by a person hiring out cars. In addition, 80% of VAT on diesel fuel and, in 2017, 10% of VAT on petrol fuel used for vehicles and machines excluded from the right to deduct VAT and leased vehicles when the lessee cannot deduct the VAT relating to this rental can be recovered. This measure applies only for 2017; the VAT recovery percentage will be modified in 2018 as well as regarding the concerned vehicles. Indeed, to align the VAT treatment of gasoline (currently not deductible) and diesel (currently partly or fully deductible), the non-deductible portion of VAT on gasoline will be progressively reduced as follows: 90% in 2017; 80% in 2018; 60% in 2019; 40% in 2020; and 20% in 2021.
- Goods transferred without remuneration or for a remuneration that is much lower than their normal price, unless the value of the goods is very low (except business gifts whose collective value does not exceed EUR 69, including VAT, per beneficiary per year); and
- Domestic transport of passengers and related expenses (except for the benefit of public transport companies and transportation from home to work, subject to conditions).

If French VAT has been incorrectly charged, a foreign taxable person cannot, in principle, obtain a refund through the 13th Directive procedure. A specific procedure applies for a supplier to issue a corrective invoice to a customer not registered in France.

Partially refundable VAT

The VAT refund is computed according to the French recovery rules. Therefore, in practice, the FTA will grant a partial refund to foreign taxpayers that carry out both taxable and non-taxable activities.

Making claims

Minimum amounts and frequency of filing

A VAT refund claim may be filed on a quarterly or an annual basis.

- A quarterly claim must be submitted during the month following each calendar quarter (e.g. by 31 October 2017 for input VAT incurred during the third calendar quarter of 2017). The refundable VAT must correspond to the transactions for which the tax point occurred during the relevant quarter (in practice, however, invoices relating to the previous quarters of a same year can be included in the relevant quarterly VAT refund claim). The amount of refundable VAT must be at least EUR 400.
- A VAT refund claim also can be made on a calendar year basis, provided the amount of refundable VAT is at least EUR 50.

Time limits

The VAT refund claims must be filed before 30 June of the calendar year following the year in which the VAT claimed was due. Late claims are not accepted.

VAT representative

Non-EU businesses must appoint a VAT representative. The representative must be a taxable person established and liable to VAT in France and a “good” taxpayer. The representative must provide his/her proxy and must be accredited by the FTA.

Application forms

The application is made on Form 3559-SD issued by the FTA. The form must be completed in French, in block capitals and in Euro. The form can be downloaded from the following site: https://www.impots.gouv.fr/portail/files/formulaires/3559-sd/2011/3559-sd_856.pdf

All invoices must be listed in attachment to the application form. An excel spreadsheet can be used to provide an overview of the claimed amounts, as well as information reported on the attachments. The application must be signed by a person who is legally entitled to bind the company (e.g. managing director or a person duly empowered). In the latter case, a power of attorney must be provided.

The form and supporting documentation must be sent to:

Direction des résidents à l'étranger et des services généraux (DRESG)
Service des Remboursements de TVA des assujettis étrangers
10, rue du Centre - TSA 60015
93465 Noisy-le-Grand cedex
France
Phone: (0033) 01 57 33 84 00
Website: <http://www.impots.gouv.fr>
Email: sr-tva.dresg@dgi.finances.gouv.fr

Applications cannot be filed electronically.

Proxy

A proxy in French must be prepared, be signed by both parties and sent by mail to the FTA (non-residents' tax center). The FTA has included a draft proxy in its guidelines: <http://bofip.impots.gouv.fr/bofip/1421-PGP.html>

Supporting documentation

A non-EU business applying for a VAT refund claim in France does not have to enclose a certificate of VAT-taxable status with the VAT refund claim. Original hard copy invoices must be provided. Invoices are returned to the taxpayer.

E-invoicing

Invoices may be issued electronically in France, but stringent rules apply and practical difficulties arise in the context of the VAT refund claim procedure because original hard copies of invoices must be provided to the FTA.

Refunds and appeals

The FTA must issue its decision on the refund claim within six months following receipt of the claim.

Additional information may be requested from the VAT representative and the final decision on the claim will be sent to the representative.

If the FTA requests additional information or if they need more time to make their final decision, the six-month period can be extended for up to three more months and the claimant should be informed.

If the FTA does not issue a decision within the above deadline, the claim will be deemed to be rejected.

If the claimant does not hold a bank account in France, bank charges related to the payment may be deducted from the amount refunded.

Late payment interest is due if the refund is not granted within six months following the date the claim is deemed to be complete.

If one invoice is not correct or is not provided in original, only this invoice will be rejected. The entire claim should not be rejected. However, the factual background should be taken into account.

A query on a particular invoice that has not been answered may lead to a rejection of the entire VAT refund claim if the authorities have doubts about whether the conditions to claim the refund have been satisfied. If additional information has been requested and no response is submitted, the entire claim may be rejected. According to French case law, it is not possible to provide such additional information before the Administrative Court. Consequently, it is essential to correctly manage the follow-up of the claim (regularly monitor mail and email). Generally, the FTA provides a deadline and indicates that the claim will be rejected if no answer is provided in due time.

Some practical reasons for the FTA to reject a VAT refund claim include the existence of a permanent establishment, failure of the claimant to register for VAT purposes, failure to respond to queries in a timely manner, etc.

If the refund is not granted, the grounds must be stated. An appeal against a denied claim can be made to the Administrative Court before the end of the second month following the notification of the decision. The claimant can also request mediation, but this will not affect the deadline for the appeal.

The appeal must be filed by letter and drafted in French. Lawyers should file the appeal by electronic means.

If the FTA conducts an audit after having granted a VAT refund to a taxpayer, it will have to issue a specific reassessment proposal (according to the domestic tax procedure). No late interest can be applied. A fine may be imposed in case of wilful default (40%) or fraud (80%).

The FTA often requests additional information for a first VAT refund claim and the refund is granted after nine months. The first claim generally is examined carefully but the procedure is usually quicker for subsequent claims.

Germany

German VAT is known as “*Umsatzsteuer*” (USt) or “*Mehrwertsteuer*” (MwSt).

The standard VAT rate is 19%, and there is a reduced rate of 7%.

An extensive overview of the VAT rates applied in Germany can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a German fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Germany is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a German-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities in the country in which the claimant is established (<https://www.elsteronline.de/bportal>). The VAT refund claim may be submitted by the claimant or a third-party service provider, which can be established outside Germany.

When Germany is the member state of establishment, the German tax authorities will issue a confirmation that the claim has been correctly submitted (as a ticket via email).

IT requirements

German taxpayers registered for VAT purposes file their refund claims electronically using the BZSt-Online web service of the German tax authorities.

The entrepreneur must register with the Elsterline Online Portal (<https://www.elsteronline.de/eportal>) before accessing the BZSt-Online web service.

Entrepreneurs must use the ELSTER

(<https://www.elsteronline.de/eportal/eop/auth/Registrierung.tax>) registration file, together with a password or authenticated signature card.

The information required to complete the refund claim can be uploaded in XML or CSV format.

The electronic form is divided into four main sections:

- General information on the taxpayer and the period for which the claim is made;
- Bank details;
- List of invoices in which each document can be manually typed in or all documents uploaded;
- Annexes: scanned invoices/annexes can be uploaded taking the following into account:
 - Maximum one file per country for which a refund is being requested;
 - File types accepted: JPEG, PDF or TIFF;
 - Maximum file size: 5MB; and
 - Standard scanning preference: Black and white / max 200 dpi.

Once the claim is submitted, the taxpayer will receive confirmation from the website, referencing the application.

An excel spreadsheet may be used to import the data. The IT system of the Federal Office of Finance can only read CSV files. However, the excel spreadsheet contains a button to convert the files from XLS to CSV format.

There is no limit on the number of invoices that can be submitted in the same VAT refund claim. However, due to the maximum file size, the invoice upload is limited to 5 MB. If the claimant cannot upload all invoices with its refund claim, an additional email must be sent to the German tax authorities with the missing invoices attached.

Non-EU countries (13th Directive equivalent)

This refers to a German-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a German-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The German portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called *Unternehmerbescheinigung (Bescheinigung nach Muster UST 1 TN)* in Germany.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Germany.

Eligibility for refund

A foreign taxable person is entitled to recover German VAT if the following conditions are satisfied:

- The company is not registered or liable to be registered for VAT in Germany;
- The company does not have residence, its seat or a fixed establishment in Germany;
- The company has not provided any taxable supplies/services in Germany, except for:
 - Certain tax-exempt cross-border transport from/to non-EU countries and ancillary services;
 - Supplies/services for which the reverse charge mechanism applies;
 - Supplies subject to individual transport assessment; or
 - Electronically provided services where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons;
 - Supplies made as intermediary party that are subject to an intra-community triangulation, where the last customer is obliged to pay the tax that becomes payable on the delivery to the last customer.

Non-refundable VAT

VAT cannot be recovered on:

- Supplies of goods and services that are not used for business purposes, including gifts; or
- Supplies of services acquired or goods imported that are connected to certain exempt activities.

Partially refundable VAT

There are no expenses for which non-established companies would only be allowed a partial refund of German VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

Only one refund claim may be submitted for the remainder of a calendar year. However, if the claim for the remainder of the calendar year has not been finally processed/assessed, the scope of the (filed) refund claim may be extended.

Proxy

A valid proxy is required if a third party is filing the VAT refund claim. In principle the proxy must be electronically submitted to the German tax authorities. There are no limits on the electronic format of the proxy. However, if it is not possible to attach the proxy to the VAT refund claim due to a system limitation in the country of residence of the claimant, the German tax authorities will ask to be provided with the proxy at a later stage. Proxies sent to the German tax authorities without a refund request will not be considered.

As the member state of refund, the German tax authorities may require a third-party service provider to hold a power of attorney to follow up on the status of a VAT refund claim.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice requires the taxable basis on the invoice or import document to be at least EUR 1,000 (EUR 250 for invoices relating to fuel costs).

The serial number used in the application form must be included on the documents. Invoices that must be submitted electronically must be provided in full (i.e. including annexes, etc.).

The German tax authorities can request additional documents/information (e.g. original invoices or import documents, authorization documents from the foreign taxpayers stating that payments may be made to a third party).

The Federal Tax Office requires a power of attorney if a third party (e.g. tax consultant) files the refund claim on behalf of the claimant.

E-invoicing

The German tax authorities generally will accept e-invoices for the purposes of the VAT refund claim.

A VAT refund will be granted if the claimant can demonstrate the validity and integrity of an e-invoice. An e-invoice will be validated if the identity of the issuer is guaranteed, and an e-invoice will be deemed to have integrity if the claimant can show that no changes were made to the content of the e-invoice during the transmission and/or during the statutory storage period.

Refunds and appeals

When Germany is the member state of refund, the German authorities will not issue a confirmation that the claim has been received.

The German tax authorities must issue a decision on a refund claim within four months and 10 days of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant. The claimant must provide all information within one month of receipt of the request. An additional request for information will be made in writing. If additional information is requested, the period in which the authorities must issue a decision will be extended to up to eight months.

The German tax authorities will send an email notification to the email address included in the VAT refund claim.

Any queries and/or the decision on the claim will be sent to the appointed representative, and if no representative has been appointed to the claimant.

If the German tax authorities request additional information, the period in which the German tax authorities must make a decision will be extended to eight months.

If the German tax authorities fail to issue a timely decision on a refund claim, it cannot be presumed that the VAT refund has been accepted or rejected. A decision always is required.

The German tax authorities will have to pay interest if a decision is not issued in a timely manner.

If a refund is granted, it will be processed in Euro and paid to the bank account number provided to the authorities. The claimant also can provide a European bank account, which can be held by the claimant, a proxy holder or any other person. The Federal Tax Office will send an email notification to the person that submitted the refund claim. If the bank account is not held by the claimant, the Federal Tax Office will request a written assignment form before transferring the refund to the bank account.

If the refund is not granted, the grounds for rejection must be stated. An appeal against the denied claim must be made in writing to the Federal Tax Office within one month after the “public announcement” of the decision (i.e. the third business day after the date the decision was issued, unless it can be proven that receipt was on a later date) and sent via regular mail.

If the tax assessment notice is sent to the claimant’s address outside Germany, an appeal must be made to the German tax authorities within two months following the date of notification (date of tax assessment) issued by the tax authorities. However, if the rejection is sent to a German resident tax advisor that filed the claim on behalf of the claimant or to another address within Germany, the appeal must be filed within one month.

If some invoices are not attached to the VAT refund claim, the German tax authorities will reject the input VAT relating to these invoices (i.e. they will partly reject the VAT refund claim). The remaining input VAT will be refunded if all other requirements are met.

If the tax authorities query a particular invoice and the claimant does not respond, in principle, the input VAT relating to this invoice may be disallowed. The remaining input VAT must be refunded provided all other necessary requirements are met.

VAT refund claims often are denied because the claimant failed to comply with formalities (e.g. missing invoices, invoicing requirements were not met, etc.).

Appeals against the denial of a refund can be submitted via regular mail or by email. Appeals must be submitted in German within the one-month deadline.

If the appeal is unsuccessful, the national Lower Finance Court may be contacted within one month after the presumed receipt date (i.e. the third business day after the date the decision was issued, unless it can be proven that receipt was later) if the appeal is sent to an address in Germany or within two months if the decision is sent to a non-German address.

The German tax authorities will not impose any penalties if a VAT refund claim is rejected.

The time period for a decision on an input VAT refund depends on the complexity of the VAT refund claim and the documents provided. On average, a refund takes eight to 14 months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Germany.

Eligibility for refund

Reciprocity is required. Germany has signed reciprocity agreements with Andorra, Antigua and Barbuda, Australia, Bahamas, Bahrain, Bermudas, British Virgin Islands, Brunei Darussalam, Bosnia and Herzegovina, Canada, Cayman Islands, Gibraltar, Greenland, Grenada, Guernsey, Hong Kong, Iceland, Iran, Iraq, Israel, Jamaica, Japan, Jersey, Korea (People's Rep.), Korea (ROK), Kuwait, Lebanon, Liberia, Libya, Liechtenstein, Macao, Maldives, Marshal Islands, Macedonia, Norway, Oman, Qatar, Pakistan, St. Vincent, San Marino, Saudi Arabia, Serbia, Solomon Islands, Swaziland, Switzerland, Taiwan, United Arab Emirates, the US and Vatican City.

Non-refundable VAT

VAT cannot be recovered on:

- Supplies of fuel (e.g. diesel or petrol);
- Supplies of goods and services that are not used for business purposes, including gifts; or
- Supplies and services acquired or goods imported connected to certain exempt activities.

Partially refundable VAT

There are no expenses for which non-established companies would only be allowed a partial refund of German VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 1,000; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 500.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application must be submitted to the German tax authorities within six months after the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year. Late claims are not accepted and the deadline will not be extended.

Proxy

A valid proxy is required if a third party is filing the VAT refund claim. Where the input claim is filed in hard copy, the proxy must be provided to the German tax authorities with the claim.

Application forms

To obtain a VAT refund, claims must be submitted via the BZSt (BZStOnline-Portal = BOP) electronic portal. In cases of issues, BZSt may upon specific request allow an exemption from the electronic submittal, accepting a printed application form by post.

To use the BOP for VAT refund claims, all invoices must be listed in attachment to the refund claim. The form must be signed by a person legally entitled to represent the company (e.g. the managing director), who needs to

- First register with the bzst at the following address:

Bundeszentralamt für Steuern
-Außenstelle Schwedt- Passower Chaussee 3b

16303 SCHWEDT/ODER – Germany

- Carry out a one-time registration for the BOP in accordance with the checklist and the brief instructions:

http://www.bzst.de/SharedDocs/Downloads/EN/Checkliste_Registrierungsprozesses_BOP_Vorsteuer.html?nn=13980

If the refund application is submitted electronically via the BOP, it is not necessary to also send the form by post. Original invoices and import documents, however, have to reach the BZSt by post within the deadline. A VAT registration certificate from the country of establishment must also be supplied, but not necessarily within the deadline

The supporting documentation must be sent to:

Bundeszentralamt für Steuern
-Außenstelle Schwedt- Passower Chaussee 3b

16303 SCHWEDT/ODER - Germany

T: + 49 18 88 40 60

F: + 49 18 88 40 64 722

www.bzst.bund.de

Supporting documentation

The following documents must be submitted with each application:

- Original invoices, import documents, bills, vouchers, receipts or customs clearance forms (copies are accepted only if the original has been lost and the copies are certified by the supplier); the invoices must comply with the German invoicing requirements;
- A certificate of taxable status showing that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year;
- A letter of authority if a third party submits an application on behalf of the claimant, but the application must be signed by the claimant;
- The original application form or the first original transfer report must be signed by the managing director of the claimant's company.

E-invoicing

In Germany, e-invoices will be accepted for VAT refunds based on the 13th Directive if the electronic invoice for which a refund is requested is stored on a storage media (e.g. CD) submitted with the application, certificate of taxable status, etc.

Refunds and appeals

The German rules do not provide any binding timeframe for decisions on 13th Directive VAT refund claims.

Any queries and/or the decision on the claim will be sent to the appointed representative, and if no representative has been appointed to the claimant.

The German tax authorities will stamp each invoice and/or import document to prevent their use in subsequent applications and will return the documents within one month after a decision is made on the claim.

The decision on a refund claim must be issued within six months after the date the application and all necessary supporting documents are submitted.

If the German tax authorities do not make a decision on a claim, it cannot be assumed that the VAT refund is accepted or rejected. A decision is always required.

If some invoices are not attached to the VAT refund claim, the German tax authorities will reject the input VAT relating to these invoices (i.e. they will partly reject the VAT refund claim). The remaining input VAT will be refunded if all other requirements are met.

If the German tax authorities query a particular invoice and the claimant does not respond, in principle, only the input VAT relating to this invoice will be disallowed. The remaining input VAT must be refunded if all other requirements are met.

If a refund is granted, it will be made in Euro before the end of the above period and paid to the bank account of the claimant or its representative. If the refund is paid to a bank account outside Germany, the claimant will be responsible for any bank charges on the transfer. The refund also may be transferred to a bank account outside the EU. Notification of the refund will be sent via regular mail. According to a recent decision of the Supreme Tax Court, the authorities will be liable for interest if the (final) VAT refund assessment takes more than nine months calculated from the filing deadline of 30 June.

The Federal Tax Office will send a notification via mail to the person that submitted the claim (i.e. the claimant or an authorized third party).

If the refund is not granted, the grounds for rejection must be stated in a written notification sent via regular mail. An appeal against the denied claim must be made in writing to the Federal Tax Office within one month after the public announcement (i.e. the third business day after the date the decision is issued, unless it can be shown that receipt was later) and sent via regular mail.

If the tax assessment notice is sent to the claimant's address outside Germany, an appeal must be made to the German tax authorities within two months of the date of notification (date of tax assessment) issued by the tax authorities. However, if the rejection is sent to a German resident tax advisor that filed the application on behalf of the claimant or to another address in Germany, the time for filing an appeal is one month. If this appeal is unsuccessful, the national Lower Finance Court may be contacted within one month after the receipt date (i.e. the third business day after the date the decision was issued, unless it can be shown that receipt was later) if mailed to a German address or within two months if mailed to a non-German address.

Claims often are rejected because the claimant failed to comply with the formalities (e.g. missing invoices, invoicing requirements were not met, signature of the wrong person, the certificate of taxable status is missing, etc.).

The German tax authorities will not impose penalties if a VAT refund claim is rejected.

The time period for a decision on an input VAT refund depends on the complexity of the VAT refund claim and the documents provided. On average, a refund takes between 10 and 16 months.

Greece

Greek VAT is known as “*Foros Prostithemenis Aksias*” (ΦΠΑ).

The standard VAT rate is 24%, and there are reduced rates of 13% and 6%. The standard VAT rate has been increased from 23% to 24% as from 1 June 2016.

The special reduced VAT rates (i.e. 17%, 9% and 4%) applying to transactions on/to the Aegean Islands are being phased out.

Mount Athos is not considered part of the EU for VAT purposes.

An extensive overview of the VAT rates applied in Greece can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Greek fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Greece is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Greek-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities in the country in which the claimant is established (http://www.gsis.gr/gsis/info/gsis_site/Services/epixeiriseis.html for Greek-established claimants).

Under Greek legislation, the claimant must file the refund claim. However, given that filing is electronic, any person that has the username and password can access the claimant's account and submit the refund claim in the name of, and on behalf of, the claimant.

A supplementary claim (one per calendar year) can be filed with respect to invoices that are not covered by previous refund applications. If the details of a previously filed application have been changed, an amended claim must be filed. A change in the pro rata percentage can be made electronically through a separate claim correction.

As the country of establishment, the Greek tax authorities will electronically forward the application to the country of refund within 15 days of receipt. If the application is not forwarded to the refund state, then Greece—as the country of establishment— will electronically notify the claimant of its decision.

IT requirements

Taxpayers established in Greece must submit the application through the web portal, http://www.gsis.gr/gsis/info/gsis_site/Services/epixeiriseis.html, to which access is granted using a log-in password. Prior registration with the system is required. The Greek tax authorities must electronically transmit the claim to the refund state within 15 days after receipt of the claim. If the taxpayer is not eligible for a refund, the Greek authorities will not send the claim and the head of the VAT department will issue a decision that is electronically communicated to the claimant.

The procedure for registration on the Greek portal involves several steps:

1. Electronic application for registration at:

<https://www1.gsis.gr/registration/chooseRegistrationType.htm>

Select “Αρχική Εγγραφή” (First Registration), then select the type of user, which is “Νομικό Πρόσωπο” for legal entities.

Complete the application (username, password, password verification, Tax/VAT ID number, name of entity, email, phone and fax numbers, and the tax ID number of the entity’s legal representative, his/her full name, the father’s name and some numerical-alphabetical characters).

Press “Υποβολή” to submit the application; a message will appear indicating that the claim has been submitted and that the legal representative must visit a tax office within three months.

2. Presence at the competent tax office for approval of the claim

The claimant or its legal representative must appear at the registry division of a tax office and present identification documents (passport or ID card) to collect a certification with the “Κλειδάριθμος” (passcode). An email also will be sent to the entity with a link “Ενεργοποίηση λογαριασμού TaxisNet” (Activation of TaxisNet Account) to the web portal.

3. Activation of user account

The claimant or its legal representative should go to:

<https://www1.gsis.gr/registration/chooseRegistrationType.htm> to activate the account.

“Ενεργοποίηση Λογαριασμού” (Activation of Account) should be selected and the claimant should fill in the username, password, Tax/VAT ID number, passcode and numerical-alphabetical characters and select “Επόμενο” (Next). The password must be changed by filling in New Password, repeat the password and press “Ενεργοποίηση” (Activation). A verification of the activation will appear and an email will be sent automatically.

4. Filing the claim

The username and new password are used to enter all TaxisNet services, including the electronic VAT refund claim.

The electronic application must be in Greek and the requested information must be in Greek. However, the language(s) accepted by the refund state must be used for specific fields (e.g. “description of supply” box) when the choices provided do not cover the claimant’s position and when “other” is selected.

Taxpayers established in other EU member states must submit the application (either in Greek or English) through the electronic portals of the tax authorities in their state of establishment, and those authorities will transmit the claims to Greece.

The electronic form must include:

- General information relating to the claimant (full name, registered seat, email address, VAT number in the member state of establishment, NACE activity code number and a description thereof), the refund period, the refund state and the bank account (IBAN and BIC);
- A declaration by the claimant that it did not supply goods or services in the refund state apart from transport and ancillary services, VAT-exempt supplies, as well as supplies of goods and services to a person liable for VAT payment, and details of a representative/proxy (if any);
- Information regarding the VAT invoices or import documents (in the refund state) the supplier’s name and address, VAT number of the supplier in the refund state, date and sequential number of the tax record, the VAT amount charged in the currency of the refund state, pro rata percentage and amount of VAT that may be deducted, description/nature of services/goods supplied and classification per special codes.

A file can be uploaded to complete the form. The file must be in zip format and must contain the VAT refund application data in XML format, along with any relevant files. To create the XML file, the claimant should use the application/software access provided free of charge by logging into its account with www.gsis.gr using their unique username and password. Additional information is provided while creating the file.

There is no limit on the number of invoices that can be submitted within a same refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Greek-established company submitting a 13th Directive equivalent claim in a non-EU country.

A refund application for a Greek-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Greek portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. If the VAT refund application is filed by a non-EU business, it must be accompanied by a certificate of taxable status issued by the competent tax authorities of the claimant’s country.

Greece is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Greece.

Eligibility for refund

A taxable person registered for VAT purposes in another EU member state can obtain a refund of VAT paid in Greece on movable goods and services supplied to it, as well as on imports to Greece it makes for commercial purposes, provided the person:

- Does not have the seat of its entrepreneurial activities or an establishment in Greece to carry out its entrepreneurial activities;
- Has used the goods or services supplied to it for taxable transactions that give rise to a right to deduct input VAT in Greece or has used the goods/service for specific exempt supplies;
- Has not carried out any taxable supplies of goods or services in Greece, except for:
 - A supply of goods or services for which the recipient is liable for the VAT payment; or
 - A supply of transport and ancillary services exempt from Greek VAT because they are related to the import/export of goods or to the international carriage of goods.

Non-refundable VAT

A VAT refund is not possible in the following cases:

A. When the claimant:

- Is not a taxpayer in its state of establishment;
- Is engaged solely in exempt transactions without the right to deduct input VAT;
- Falls within the scope of the special exemption for small enterprises; or
- Falls within the scope of the special regime for farmers.

B. For VAT amounts imposed on:

- Intra-community supplies and exports.

Goods and services for which no right to deduct the input VAT is granted include:

- The supply, import or intra-community acquisition of tobacco products or alcoholic beverages that are destined for use in non-taxable transactions;
- Entertainment expenditure, including expenditure on hospitality and amusement;
- The acquisition, leasing or hire, modification, repair or maintenance of passenger vehicles with up to nine seats, pleasure boats and private aircraft, provided the transport means mentioned above are not used for the sale, leasing or transportation of persons for a fee;
- Accommodation, food, transport and entertainment expenses incurred for company personnel or representatives;
- The supply of goods and services in connection with real estate located in Greece (in certain circumstances);
- Expenses unrelated to the business activity of the claimant; and
- Incorrect VAT invoicing.

If the VAT imposed is used for both taxable and exempt transactions, a refund will be granted only in respect of the taxable transactions.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Greek VAT

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year, but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application must be submitted to the authorities of the residence country by 30 September of the year following the refund period.

The claimant may submit only one supplementary refund claim per calendar year for invoices not covered by a previous application (even if the supplementary application is for the remainder of a calendar year).

Proxy

The appointment of special proxies is not regulated. If further clarifications are required, the Ministry of Finance will inform the claimant. However, if the claimant wishes to appoint a third party as a contact person, the contact details of that person must be mentioned on the VAT refund application or in a separate file accompanying the application. In such a case, a special authorization letter for the appointment of the person signed by the legal representative of the claimant, duly notarized and apostilled usually is required. The authorization must be drafted in Greek or, if not in Greek, be accompanied by an official translation.

Follow up on submitted claims

The claimant can follow up on the status of a VAT refund claim by requesting information via an email sent to the 14th VAT Directorate of the Ministry of Finance. No specific documents are required for such requests. If a third party requests information, an authorization likely will be requested.

In principle, a claim can be tracked through the country of establishment of the claimant, and both the eligible person and the procedure for tracking the claim should be regulated by that country. In some cases, the competent Greek VAT department will reply directly to the claimant or a person with the required details identifying the claim.

Supporting documentation

Depending on the refund state, a file of up to 5MB, including scanned copies of records of which the taxable amount equals or exceeds the threshold of EUR 1,000 must be submitted with each application (EUR 250 for invoices relating to fuel costs). Greece will request the file as the member state of refund. The Greek tax authorities can request additional documents/information. Once the claim is submitted, the taxpayer will receive a confirmation from the website, referencing the application.

The competent tax authorities are:

Hellenic Republic
Ministry of Finance
General Secretariat of Public Revenues
General Directorate of Tax Administration
Directorate of Implementation of Tax Policy & Legislation
Self-Department C'
2-4, Sina Street
10672 Athens
Greece
T: + 30 210 36 44 960 or + 30 210 36 44 990
F: + 30 210 36 45 413
Email: dfpa.a1@1992.syzefxis.gov.gr

E-invoicing

Greek rules on the VAT refund procedure do not specify the form of the tax records, but only the necessary data related to an invoice or import document that must be included in the electronic application (see above, "Filing the claim"). Invoices can be issued electronically or in printed form. Therefore, although not explicitly allowed by the law, given that e-invoices are legitimate and acceptable forms of invoices, they should be accepted as the basis for input VAT claims.

Refunds and appeals

As the country of refund, the Greek tax authorities will notify the claimant electronically, either directly or through the country of establishment, that the claim has been received. The competent Ministry of Finance Department may request additional information via electronic means from the claimant or the competent authorities of the country of establishment during an examination of the VAT refund claim.

The tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail;
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request. The claimant may provide the competent VAT refund department with the requested information electronically (e.g. scanned copies of invoices or any relevant agreements), unless otherwise requested. The period for the authorities to make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request; or
- The authorities can refrain from issuing a decision, which will be deemed to be a rejection.

An electronic notification will be sent to the email address(es) indicated in the “contact details” section of the application. The competent Ministry of Finance department will communicate its queries and decision on the claim to the contact person(s) as indicated in the contact details section of the application, as well as to any other agent/third party that the claimant wishes to receive such information as per a written request (either through a special reference on the claim, or separately in a PDF file).

If a refund claim is accepted, the refund will be processed in EUR by the 10th business day following the date the decision was required to be issued. The time limit within which the claimed VAT amount is refunded following the issuance of an approval decision may vary. According to the competent VAT refund department, the payment will be processed within three months at the latest. The amount is first paid to a temporary bank account of the Bank of Greece and then transferred to the bank account provided to the authorities. This account can be held by the claimant or a proxy and it is not necessary to have a Greek bank account.

The Greek tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection must be stated. Recourse against the denied claim may be filed under an administrative procedure conducted by the Internal Re-examination Service of the Tax Administration. The official rejection decision is considered to be notified to the claimant within 10 days following the electronic transmission of the decision by the Greek authorities to the claimant’s email address. An administrative recourse must be filed with the competent VAT refund department of the Ministry of Finance within 30 days or 60 days (if the claimant is established or resides overseas) as from the decision notification date.

The competent VAT refund department will transmit the administrative recourse, the relevant documentation and its position to the Internal Re-examination Service of the tax administration within seven days from its submission; the latter authority will issue its decision within 120 days from the date the administrative recourse was filed. The decision on the administrative recourse will be sent to the claimant.

The claimant may file a recourse with the competent Administrative Court against the decision or the tacit rejection of the administrative recourse following the expiration of the deadline set for the issuance of a decision. The administrative recourse procedure is mandatory if a taxpayer wishes to take the case to court; failure to comply will result in the rejection of the recourse by the Administrative Court.

The deadline for filing a recourse with the Administrative Court of First Instance is 30 days or 90 days (if the claimant is established or resides overseas) from the date the claimant is notified of the decision.

The recourse must be submitted to the competent Administrative Court by a Greek lawyer. If the recourse is rejected, then (if the value of the dispute exceeds EUR 5,000) the claimant can further appeal to the Court of Second Instance (Administrative Court of Appeal within 60 days as from the notification of the First Instance Court decision. If this is rejected, then (if the value of the dispute exceeds EUR 40,000), a reversal can be filed before the Supreme Administrative Court within 60 days from the date the taxpayer is notified of the decision of the Court of Second Instance.

Where a claimant prevails on an appeal at the first level court (Administrative Court of First Instance), the Greek tax authorities may refer the case back to the Appeals Court for a final determination. As a result, a refund will be made only after the Supreme Court rules on the case.

VAT refund claims generally will not be rejected because the invoices were unreadable, since in such cases, the competent Ministry of Finance officials request the original invoices or more readable scanned copies. A refund of the VAT amount claimed will not prevent the tax authorities from imposing penalties on the Greek supplier for failure to comply with the Greek invoicing rules. VAT refund claims will be rejected if the invoices are fake or falsified, and penalties may be imposed on the Greek supplier and the claimant following a tax audit.

Incorrect VAT invoicing is the most common reason for rejection of a VAT refund claim, followed by the claimant carrying out exempt transactions without the right to deduct input VAT.

The rejection of the claim itself will not result in the imposition of penalties; however, if during the course of the examination of a claim, an audit of the Greek supplier/service provider is initiated, penalties may arise as a result of the audit if any tax infringements are identified. If the claimant owes the Greek state any tax, the authorities may automatically offset the refundable VAT amount claimed against the outstanding obligation, with the remaining VAT amount (if any) refunded to the claimant.

A refund generally will take about eight months, although this time may be longer in cases involving complex claims.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Greece.

The rules for non-EU businesses are similar to the rules for EU businesses, except for the filing procedure.

Eligibility for refund

Reciprocity is required. Greece has signed reciprocity agreements with Norway and Switzerland.

Non-refundable VAT

A VAT refund is not possible in the following cases:

- A. When the claimant:
 - Is not a taxpayer in its state of establishment;
 - Is engaged solely in exempt transactions without the right to deduct input VAT;
 - Falls within the scope of the special exemption for small enterprises;
 - Falls within the scope of the special regime for farmers;
 - Operates under the Tour Operators Margin Scheme (TOMS); or
 - Carries out intra-community supplies of goods.

B. Goods and services for which no right to deduct the input VAT is granted include:

- The supply, import or intra-community acquisition of tobacco products or alcoholic beverages that are destined for use in non-taxable transactions; Entertainment expenditure, including expenditure on hospitality and amusement;
- The acquisition, leasing or hire, modification, repair or maintenance of passenger vehicles with up to nine seats, pleasure boats and private aircraft, provided the transport means mentioned above are not used for the sale, leasing or transportation of persons for a fee;
- Accommodation, food, transport and entertainment expenses incurred for company personnel or representatives;
- The supply of goods and services in connection with real estate located in Greece (in certain circumstances);
- Expenses unrelated to the business activity of the claimant; and
- Incorrect VAT invoicing.

If the VAT imposed is used for both taxable and exempt transactions, a refund will be granted only in respect of the taxable transactions.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Greek VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year, but not less than three months, the amount for which the application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application must be submitted to the Greek tax authorities by 30 September of the year following the refund period. Late claims are not accepted and the deadline will not be extended.

Proxy

A proxy holder may be appointed to file the claim in hard copy the competent department of the Ministry of Finance and monitor the progress of the claim. The proxy holder may receive the VAT refund where a refund is granted. The appointment of a proxy can be made with the refund claim or later. Finally in the case of administrative recourse, the appointment of a Greek attorney will be required.

Application forms

The application must be made on Form ΦΠΑ 015 issued by the Greek tax authorities and completed in duplicate in Greek or English, and in Euro. The form can be filled out in block capitals or typed. Application forms can be obtained from the local VAT offices. It is preferable to have the form printed in the same language as used in the application.

All invoices must be mentioned in the attachment to the application. An excel spreadsheet may be used to provide an overview of the claimed amounts, but the spreadsheet must contain the information requested on the second page of the form, i.e. the sequential number, nature of services provided, supplier's name and VAT number, invoice number and VAT charged.

The application must be signed by a person who is legally entitled to represent the company (e.g. managing director). The signatory must be a full legal representative of the company, i.e. his/her signature should bind the company against third parties. This person could be the managing director or chairman of the board, or the authority could be given to two persons (two signatures may be needed), depending on the claimant's internal procedures.

One supplementary claim per calendar year can be filed with respect to invoices that are not covered by previous refund applications. If the details of a previously filed application have been changed, an amended claim must be filed. A change in the pro rata percentage can be made electronically by a separate claim correction.

Supporting documentation

The following documents must be submitted with each application: original invoices, import documents, bills, vouchers, receipts or customs clearance forms (copies are not accepted), which must include the following details: sequential number and date of issue, names and addresses of the contracting parties, VAT number of the issuer and the recipient, taxable transaction and its value, VAT rate and amount, licence plate of the vehicle (in the case of transport companies) and a certificate of VAT status showing that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year.

The Greek tax authorities will stamp each invoice and/or import document to prevent use on subsequent applications and will return the documents to the claimant within one month after a decision is made.

The form and supporting documentation must be sent or submitted to:

Hellenic Republic
Ministry of Finance
General Secretariat of Public Revenues
General Directorate of Tax Administration
Directorate of Implementation of Tax Policy & Legislation
Self-Department C'
2-4, Sina Street
10672 Athens
Greece

T: + 30 210 36 44 960 or + 30 210 36 44 990

F: + 30 210 36 45 413

Email: dfpa.a1@1992.syzefxeis.gov.gr

Applications cannot be filed electronically.

E-invoicing

Invoices issued by the supplier of goods or services and sent via electronic means to its clients can be used for VAT refunds, provided the authenticity of origin and integrity of the content of the tax record can be proved. The authenticity of origin and integrity of the content of invoices that are issued electronically or in hard copy must be safeguarded.

For invoices issued as from 1 January 2015, the authenticity of origin and integrity of the content of electronic invoices are safeguarded through the use of an Advanced Electronic Signature (AES), the use of Electronic Data Exchange (EDI), the sales clearance statement provided by a payment services provider subject to the Bank of Greece supervision and the use of special tax electronic devices. Given that the above list is not exhaustive, entrepreneurs can select any method technically safeguarding the authenticity of origin and integrity of the invoice content.

In this respect for refund purposes, the claimant will be required to submit the electronic files, code bars (i.e. an numerical/alphabetical sequence) as produced by the Greek issuer's computer along with its application or any other suitable means for the Greek authorities to be able to verify the validity of the transaction (regarding both the content and the electronic signature).

Refunds and appeals

VAT refunds generally take about eight months, although the period may be longer for complex cases.

Since Greece does not have an electronic portal for 13th Directive VAT refund claims, the procedure usually is facilitated through a specially authorized person. An authorization letter should exist that allows the authorities to notify that person of their decision.

The period for the issuance of the decision may be extended if additional information is required.

If a refund claim is accepted, the payment will be processed in Euro by the 10th business day following the date the decision should have been issued. The amount first will be paid to a temporary bank account of the Bank of Greece and then transferred to the bank account provided to the authorities, which can be a foreign bank account.

The Greek tax authorities are liable for late payment interest if the refund is not processed in a timely manner.

The authorities will not reject a claim if an invoice is a scanned copy rather than the original, unless there are other grounds for rejection of the claim. If there is any indication that invoices have been falsified, further clarifications or data may be requested.

The entire refund claim can be rejected if the claimant fails to respond to a query on a particular invoice.

In practice, the VAT refund department will issue a note requesting information from the claimant on the Greek supplier via the competent tax office. The claimant must provide the requested data through an official reply which can be done via electronic means, unless otherwise requested. If the refund claim still has not been supported, additional information may be requested. The VAT refund department must issue a decision on the claim within two months from receipt of the information.

The most common reason for the rejection of a VAT refund claim is incorrect VAT invoicing.

An administrative recourse may be filed against the competent VAT refund department within 30 days or 60 days (if the claimant is established or resides overseas) as from the decision notification date.

Notification is made through a registered letter and is considered to have taken place within 15 days (30 days for overseas claimants) from the date the decision was actually sent. Therefore, the time limit for filing the recourse is 45 or 90 days as from the date the Ministry of Finance actually sent the decision. For overseas claimants, this should be the case unless a Greek address is included in the contact details or an agent/proxy has been appointed in Greece.

Notwithstanding the above, the competent Greek Ministry officials suggested that if a specific email address is mentioned in the relevant application form, the notification can be made electronically. In such case, the official decision will be considered to be notified to the claimant within 10 days following the electronic transmission of the decision by the Greek authorities to the claimant's email address. In case of rejection of the VAT refund claim, an administrative recourse should be filed with the competent department of the Ministry of Finance within 30 days or 60 days (in case the claimant is established or resides overseas) as from the notification date. The option for electronic notification of the decision will apply to new and non-pending VAT refund claims.

Penalties may be imposed on the issuer if the authorities identify any falsified invoices. If there are "fictitious invoices," penalties may be imposed on the claimant as well, unless there is sufficient evidence that the claimant was acting in good faith.

Hungary

VAT is known as “*Általános Forgalmi Adó*” (ÁFA).

The standard VAT rate is 27%, and there are reduced rates of 18% and 5%.

An extensive overview of the VAT rates applied in Hungary can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Hungarian fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Hungary is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Hungarian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically (in Hungarian, English, French or German) via the portal of the tax authorities in the country in which the claimant is established (www.magyarorszag.hu).

The claimant or a third party may submit the VAT refund claim. As the member state of establishment, the Hungarian tax authorities will examine the authorization of a third party on the basis of Hungarian rules.

If the claimant's representative is Hungarian, he/she must have special skills (e.g. auditor, tax advisor, accountant, tax expert, accountant, etc.). If the representative is not Hungarian, there are no special skill requirements but the representative must register with the authorities. The claimant may be represented before the tax authorities by a foreign individual, a legal person or other company.

The VAT refund claim relating to one calendar year must be filed with the Hungarian tax authorities within nine months of the end of the calendar year in which the tax became chargeable, i.e. by 30 September of the following year. Late claims are not accepted and the deadline will not be extended.

When Hungary is the member state of establishment, the Hungarian authorities will issue a confirmation of receipt of a VAT refund claim. The tax authorities will send a confirmation but there is no deadline for the confirmation.

IT requirements

The claimant must complete Form 16 ELEKAFÁ, which can be downloaded from: http://www.nav.gov.hu/nav/letoltesek/nyomtatvanykitolto_programok

To be able to submit the form electronically, it is necessary to register with the Central Document Office, which generally requires a personal presence in Hungary. The application also can be submitted by a representative appointed by the claimant; in this case, the representative must sign Form EGYKE. The representative can obtain access codes to the electronic system at the Central Document Office.

The information must be uploaded manually on a line-by-line basis.

The electronic form is divided into the following sections:

- General information relating to the claimant and the period for which the claim is made;
- Details of relevant invoices or import documents, where each document can be manually typed in, indicating the code numbers regarding the nature of acquired goods and services determined by Directive 2008/9/EC; and
- Annexes: scanned invoices/annexes can be uploaded taking the following into account:
 - File types accepted: JPEG, PDF, TIFF and zip;
 - Maximum file size: 4MB.

There is no limit on the number of invoices that can be submitted within a refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Hungarian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Hungarian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Hungarian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This certificate may be requested using the IGAZOL form in Hungary.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Hungary.

Eligibility for refund

A foreign taxable person is entitled to recover Hungarian input VAT if the following conditions are satisfied:

- The company does not have residence, its seat or a fixed establishment in Hungary; and
- The company has not carried out any taxable supplies in Hungary, except for:
 - Certain tax-exempt cross-border transport from/to third countries;
 - Tax-exempt cross-border passenger transport;
 - Supplies for which the reverse charge mechanism applies; or
 - Electronically provided supplies where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons.

Non-refundable VAT

VAT cannot be recovered if:

- The taxable person uses the goods or the services directly for the exempt (without a right to a deduction) supply of goods and/or services;
- The taxable person uses all goods or services for purposes other than taxable business activities, except when the goods or services are used entirely in the interest of achieving taxable objectives;
- VAT was charged by the supplier incorrectly or otherwise in violation with the law;
- Input VAT occurred on the purchase of goods whereby the sale was VAT exempt due to intra-Community supply or export of goods; or
- VAT charged regarding immovable property.

VAT generally cannot be recovered on:

- Motor fuel and other fuels, goods that are necessary directly for the operation of passenger cars;
- Passenger cars, motorcycles above 125 cc, yachts, sporting and leisure boats;
- Residential buildings (except where a taxable person engaged in the leasing of such buildings opted for taxation of the rental);
- Purchases of goods and services related to the construction and renovation of residential buildings;
- Food and beverages;
- 50% of services received in connection with the operation and maintenance of passenger cars;
- Services of restaurants and other public catering services;
- Entertainment services;
- Services related to construction of residential buildings and renovation of immovable goods;
- Taxi services; and
- Parking services and highway tolls, with the exception of parking services used and highway tolls paid for a motor vehicle whose gross weight is equal to 3.5 tons or more (including buses).

Partially refundable VAT

The VAT on telephone and mobile phone costs and services related to data submission by internet protocol is only 70% deductible (i.e. 30% is non-refundable).

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400. If the application relates to a period of a calendar year or the remainder of calendar year (less than three months), the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

It is not possible to file two claims for the same period, but there can be an overlap between the periods. No more than five claims may be submitted for a calendar year.

Proxy

Appointing a proxy holder is optional during a refund procedure. If a proxy is to be provided, it must be submitted in hard copy (electronic copies of the authorization are not sufficient).

Follow up on submitted claims

The Hungarian tax authorities will communicate with the claimant through the email address indicated on a refund claim (unless the claimant chooses to communicate through the electronic system of the Hungarian administration, which requires personal registration at the Central Document Office).

In the case of email communications, the authorization of the representative is checked only by the tax authorities of the country in which the claimant is established. No specific documents are required.

When Hungary is the member state of refund, the Hungarian authorities may request a third-party service provider to prove its authorization to follow up on the status of a VAT refund claim.

Supporting documentation

The following documents must be submitted with each application:

- Electronic copy of invoices or customs declarations where the taxable basis of the invoice or import documents is EUR 1,000 or more (EUR 250 for invoices relating to fuel costs). The serial number used in the application form must be included on the documents; and
- Any additional documents/information (e.g. invoices or import documents even if the taxable basis does not exceed the above thresholds) requested by the Hungarian tax authorities.

E-invoicing

E-invoices generally are accepted and are self-sufficient to claim input VAT via the 8th Directive procedure. No specific requirements/restrictions related to e-invoicing (besides the general requirements as described in the Second EU Invoicing directive) apply.

Refunds and appeals

The Hungarian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the refund claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request. If the authorities request original documents, the claimant must provide the documents by courier. However, if copies of the documents are sufficient, the claimant may provide the documents via email.

Where the phrase “via electronic means” is used, this implies that either an email notification is sent or a notification through the portal of the authorities (www.magyarorszag.hu). Notifications received through this portal also are sent via email.

Any queries and/or the decision are sent to the claimant or its agent.

The period in which the authorities must make a decision will be extended to seven months where additional information is requested, or eight months where the authorities request additional information after a first request.

A refund claim will not be deemed to be accepted or rejected if the authorities do not issue a timely decision.

If a refund is granted, it will be processed within 10 business days in Hungarian Forint or in another currency before the end of the relevant period, and paid to a bank account in Hungary or in the state in which the claimant is established. Any bank charges for the transfer are borne by the claimant.

The Hungarian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

The entire refund claim will not be rejected in Hungary if one of the submitted invoices proves to be incorrect/cannot be provided in a readable/acceptable scanned copy or if the claimant fails to respond to a query on a particular invoice. Only the portion of the claim relating to that invoice will be rejected.

If a refund is not granted, the grounds for rejection must be stated. An appeal against the denied claim may be made to the Hungarian tax authorities within 15 days of the date of notification (tax assessment). The appeal may be filed through a letter, drafted in the Hungarian language and all relevant documents and evidence must be enclosed with the appeal and a fee paid. If the appeal is unsuccessful, the claimant may appeal to the national court.

Typical reasons for the tax authorities to reject a VAT refund claim include the filing of multiple claims for the same period or the submission of insufficient documentation of the transactions indicated in the claim.

The Hungarian tax authorities can levy penalties on rejected refund claims, according to the general rules applicable to domestic taxpayers in relation to an unlawful refund claim.

The tax authorities usually meet the refund deadlines, as late refunds trigger late payment interest.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Hungary.

Eligibility for refund

Reciprocity is required between Hungary and the country of establishment under the 13th Directive VAT refund procedure. Hungary has reciprocity agreements with Liechtenstein, Norway and Switzerland.

The refund request should be filed with the Hungarian tax authorities using the IFAK form.

Non-refundable VAT

VAT cannot be recovered if:

- The taxable person uses the goods or the services directly for the exempt (without a right to a deduction) supply of goods and/or services; or
- The taxable person uses all goods or services for purposes other than taxable business activities, except when the goods or services are used entirely in the interest of achieving taxable objectives.

VAT generally cannot be recovered on:

- Motor fuel and other fuels, goods that are necessary directly for the operation of passenger cars;
- Passenger cars, motorcycles above 125 cc, yachts, sporting and leisure boats;
- Residential buildings (except where a taxable person engaged in the leasing of such buildings opted for taxation of the rental);
- Purchases of goods and services related to the construction and renovation of residential buildings;
- Food and beverages;
- 50% of services received in connection with the operation and maintenance of passenger cars;
- Services of restaurants and other public catering services;
- Entertainment services;
- Services related to construction of residential buildings and renovation of immovable goods;
- Taxi services; and
- Parking services and highway tolls, with the exception of parking services used and highway tolls paid for a motor vehicle whose gross weight is equal to 3.5 tons or more (including buses).

Partially refundable VAT

The input VAT related to telephone and mobile phone costs and services related to data submission by internet protocol is only 70% deductible (i.e. 30% is non-refundable).

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400. If the application relates to a period of a calendar year or the remainder of calendar year (less than three months), the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

Proxy

Appointing a proxy holder is optional during a refund procedure. If a proxy is to be provided, it must be submitted in hard copy (electronic copies of the authorization are not sufficient).

Application

The application relating to a calendar year must be submitted to the Hungarian tax authorities within nine months of the end of the calendar year in which the tax became chargeable, i.e. by 30 September of the following year. Late claims are not accepted and the deadline will not be extended.

The application, which can be downloaded from the internet, must be on a form issued by the Hungarian tax authorities. It must be completed in Hungarian, be in Hungarian Florint and signed by a person or persons who are fully legally entitled to represent the company based on the company records. The application can be submitted in hard copy or electronically, along with all relevant supporting documentation.

A hard copy application must be sent to:

Nemzeti Adó- és Vámhivatal Kiemelt Adó- és Vámigazgatósága (KAVIG)

1077 Budapest, Dob utca 75-81., Hungary

Mailing address: 1410 Budapest, Pf. 138, Hungary

Tel: + 36 1 461 3300

Fax: +36 1 461

www.nav.gov.hu

Supporting documentation

The following documents must be submitted with each application:

- Electronic copy of invoices or customs declarations for which the taxable basis of the invoice or import documents equals or exceeds the threshold of EUR 1,000 (EUR 250 for invoices relating to fuel costs). The serial number used in the application form must be included on the documents; and
- An original certificate of VAT status confirming that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year.

The Hungarian tax authorities can request additional documents/information (e.g. invoices or import documents even if the taxable basis does not exceed the above thresholds).

E-invoicing

Electronic invoices must be attached to the application in a form that is valid at the time of issue. Such invoices must be issued in accordance with Hungarian law. The law does not contain any detailed procedures for the submission of electronic invoices.

Refunds and appeals

The Hungarian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant either electronically or by regular mail;
- The authorities can reject the claim (in whole or in part) and notify the claimant either electronically or by regular mail; or
- The authorities can request additional information and notify the claimant either electronically or by regular mail. The claimant must provide all information within one month upon receipt of the request. If the authorities request original documents, the claimant must provide the documents by courier. However, if copies of the documents are sufficient, the claimant may provide the documents via email.

Where the phrase “via electronic means” is used, this implies that either an email notification is sent or a notification through the portal of the authorities (www.magyarorszag.hu). By the default setting, notifications received through this portal also are sent via email.

Any queries and/or the decision are sent to the claimant or its agent.

The period in which the authorities must make a decision will be extended to seven months where additional information is requested or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be processed within 10 business days in Hungarian Forint or in any other currency before the end of the relevant period, and paid to the bank account in Hungary or in the state in which the claimant is established. Any bank charges for the transfer are borne by the claimant.

The Hungarian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection must be stated. An appeal against the denied claim may be made to the Hungarian tax authorities within 15 days of the date of notification (tax assessment) issued by the tax authorities. All relevant documents and evidence must be attached to the appeal request and a fee paid. If the appeal is unsuccessful, the claimant can appeal to the national court.

A refund claim will not be deemed to be accepted or rejected if the authorities do not issue a timely decision on the claim.

The entire refund claim should not be rejected if only one of the submitted invoices proves to be incorrect or cannot be provided in a readable/acceptable scanned copy, or if the claimant fails to respond to a query on a particular invoice; only the part of the claim relating to the relevant invoice will be rejected.

Typical reasons for the tax authorities to reject a VAT refund claim include the filing of multiple claims for the same period or the submission of insufficient documentation of the transactions indicated in the claim.

An appeal of a rejected claim must be filed by letter and drafted in Hungarian.

The tax authorities can impose penalties on rejected refund claims, according to the general rules applicable to domestic taxpayers in relation to an unlawful refund claim.

The tax authorities usually comply with the deadline for issuing a refund since late refunds trigger late payment interest.

Iceland

Icelandic VAT is known as “*Virdisaukaskattur*” (VSK).

The standard VAT rate is 24%, and there is a reduced rate of 11%.

It is not necessary to appoint an Icelandic fiscal representative to claim a refund of VAT.

Iceland is the Member State of Establishment

13th Directive

This refers to an Iceland-established company, submitting a 13th Directive claim in an EU country.

The refund application for an Iceland-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund.

Reciprocity rules (which determine whether an Icelandic company can submit a refund claim) must be verified with the country of refund.

An original “certificate of taxable status” issued by *Ríkisskattstjóri – Fyrirtækjaskrá* (e. Directorate of Internal Revenue – Companies Registrar) of Iceland usually will need to be provided to the country of refund. This certificate is called “*vottorð úr fyrirtækjaskrá*” in Iceland.

Iceland is the Member State of Refund

13th Directive equivalent legislation in Iceland (Regulation no. 288/1995)

Since Iceland is not part of the EU, the EU Directive 2008/09/EC and the 13th Directive are not applicable to companies requesting a VAT refund in Iceland.

However, there is a possibility to reclaim VAT in Iceland for foreign companies via a “13th Directive equivalent legislation”.

Eligibility for refund

A non-resident business without a fixed establishment or liability to register in Iceland can recover VAT. No reciprocal agreement with the home country of the non-resident business is required to obtain a refund.

Refunds can only be made to a non-resident business that otherwise would have been liable to register for VAT in Iceland had it carried on a business in Iceland.

Non-refundable VAT

VAT cannot be recovered on:

- Cars used for personal transportation, including car hires and fuel;
- Food and drinks, including restaurant expenses;
- Gifts and entertainment expenses; and
- Residential housing of employees.

In addition, a number of items such as health, social, educational and cultural services, insurance and banking, artistic or sporting activities and most real estate rental costs, are not liable to Icelandic VAT.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Iceland VAT, provided the costs are fully related to the taxable activities of the non-established company.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than two months, the amount for which application is made may not be less than ISK 65,500; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than ISK 12,700. These amounts are linked to the building cost index as defined by Statistics Iceland.

Time limits

The application must refer to purchases of goods and taxable services over a period of at least two months, i.e. January-February, March-April, May-June, July-August, September-October, November-December, and not exceed one calendar year. The period may be less than two months if the application relates to the remainder of a calendar year. The application must be submitted at least 15 days after the relevant period and no later than six years after the end of the calendar year to which the application refers.

A claimant may submit more than one refund claim for the remainder of a calendar year; for example, if a claimant has submitted a refund claim for the remainder of a calendar year but then receives additional invoices from certain suppliers, another application may be submitted provided the submission is within the above deadlines.

Proxy

A proxy is required by the authorities if the non-resident company appoints a representative to apply for a reimbursement of VAT in Iceland. The authorities provide a sample proxy that claimants may fill out, granting an agent authorization to apply for and collect a VAT reimbursement. This letter is available online at https://www.rsk.is/media/rsk10/rsk_1036.en.pdf. Any party, foreign or established, and whether or not registered in Iceland can submit the refund claim on behalf of the claimant if the proper authorization letter is provided.

This proxy is to be provided together with the refund claim and it may be valid for a maximum of five years from the date of issue. It is necessary to submit an original of the proxy.

There is no requirement to have the proxy notarized, but it must be prepared in Icelandic or English.

Application forms

The application must be made by completing Form RSK 10.29 issued by the Icelandic tax authorities. It must be completed in Icelandic or English, in block capitals or typed and in ISK. Application forms can be obtained from the local VAT offices or online at: http://www.rsk.is/media/rsk10/rsk_1029.en.pdf for all claimants.

All invoices must be mentioned in the attachment to the application form.

The application must be signed by a person who is entitled to represent the company. Otherwise, a letter of authority must be provided (see above).

The Iceland tax authorities will not issue a specific confirmation of receipt of the claim.

The form and supporting documentation must be sent to the Directorate of Internal Revenue:

Ríkisskattstjóri Laugavegur 166
150 Reykjavík
Iceland

Email: rsk@rsk.is

The application must include a declaration by the claimant about the purpose of the purchases. The claimant also must declare that, during the refund period, it did not deliver goods or provide taxable services in Iceland in respect of which it would be liable for registration and taxation.

Follow up on submitted claims

The claimant and its nominated representative can follow up with the authorities on the status of a VAT refund claim.

Supporting documentation

The original invoices or receipts of payment from the customs authorities referring to the amounts of VAT paid by the company must be enclosed with the application, as well as other relevant documentation. Only original invoices are accepted.

The documents are returned to the claimant after the application has been processed.

All submitted invoices must be drafted according to Icelandic VAT regulations.

The claimant must enclose a certificate issued by the competent authority in the state where the claimant is established stating the type of business the claimant carries on.

This certificate of registration is valid for a period of two years from the date of issue. The tax authorities may extend this period by two years at a time if they deem that the relevant information remains unchanged.

E-invoicing

There is no specific procedure to reclaim VAT based on e-invoices. If a claim is based on an e-invoice, a hard copy of the invoice must be printed out and supplied. Otherwise, all invoices must be originals; no copies are accepted. It is not possible to e-file refund claims.

Refunds and appeals

Applications received on the 15th day of the month following the VAT reimbursement period and supported by all required documents must be processed no later than one calendar month and five days after the end of the VAT reimbursement period. This period may be extended when the authorities determine that additional information is requested, and the claimant is not able to promptly answer such a request.

The authorities inform the claimant by letter that the refund is rejected or granted. Correspondence is directed to the claimant or the claimant's authorized representative if such an authorization was granted. The claimant can either respond to the authorities via letter or via email to rsk@rsk.is. The email subject line should clearly refer to the claimant's reimbursement application.

There are no specific consequences if the authorities are late with responding to a refund claim.

Applications received after the deadline will be processed with applications for the next VAT reimbursement period.

The tax authorities are not liable for late payment interest if the refund is not made within the required timeline.

The claimant may request that the reimbursement is made in its country of residence or in Iceland. Bank account details must be stated in part D of the application form. The bank account, which can either be a domestic or a foreign bank account, must be owned by the claimant. If the refund is to be paid to a bank account in the claimant's country of residence, the claimant is responsible for all costs arising from the transfer. The claimant can also specify the payment method, i.e. deposit into a bank or giro account or sent by mail.

If the application is rejected, an appeal may be filed within 30 days to the Directorate of Internal Revenue, either by written letter or via email. If that appeal is rejected, a second appeal may be filed within three months to the Ministry of Finance and Economic Affairs. Once these appeal procedures have been closed, the claimant can initiate a procedure before the national court.

If the refund is not granted, the authorities must clearly state the grounds for rejection. The authorities generally will not reject the entire refund claim due to problems with individual invoices. These invoices will simply be excluded from the refund and the grounds for rejecting of the invoice will be detailed. In practice, the authorities promptly issue refunds if the claimant's application and documents are correctly submitted.

The submission of incorrect or misleading information or non-disclosure of information required in connection with an application for a reimbursement of VAT or in declarations is punishable by law.

Ireland

Irish VAT is known as “Value Added Tax.”

The standard VAT rate is VAT is 23%, and there are reduced rates of 13.5%, 9%, 4.8% and 0%.

An extensive overview of the VAT rates applied in Ireland can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint an Irish fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Ireland is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to an Irish-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be electronically submitted through the portal of the tax authorities in the country in which the claimant is established (www.ros.ie for Ireland-established claimants). This electronic VAT refund (or EVR) application will have to be made by the claimant or by an authorised third-party service provider directly to the Irish Revenue Authorities through ROS, the Revenue On-line Service, under the tax head “EVR”. The authorized third-party service provider does not have to be established in Ireland to file the refund claim, but it must have a tax identification number (TIN) or Tax Agent Identification Number (TAIN) if an Irish agent is appointed. They will have to satisfy the Irish revenue authorities that they are authorized to act on the claimant’s behalf by submitting a letter of authority from the claimant and/or power of attorney indicating that they are authorized to submit claims and/or receive refunds, on the claimant’s behalf.

When Ireland is the member state of establishment, the Irish tax authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

Irish taxpayers registered for Irish VAT purposes must file any refund claim for VAT incurred outside Ireland but within the EU electronically through the Irish Revenue's online filing system (ROS). To file a refund application, the claimant must be registered for Irish VAT and also be registered to use the ROS system. An agent may file a claim on behalf of a claimant provided it is registered for ROS and the claimant provided authority for the agent to file the claim.

To obtain access to the web portal to file the VAT refund claim, the claimant must follow the instructions in this portal:

<http://www.ros.ie/PublisherServlet/info/setupnewcust>.

Data must be uploaded on a line-by-line basis with a limit of 1,400 invoices per application. The Bulk Upload Facility allows preparing claims offline and uploading the information once ready by selecting the "Populate from CSV" button on the import / invoice entry screen. The format is that of a comma separated value Excel file containing the information on the invoices and imports that make up the claim.

Non-EU countries (13th Directive equivalent)

This refers to an Irish-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for an Irish-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Irish portal cannot be used.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim seeking a refund of Irish VAT.

Eligibility for refund

A foreign taxable person is entitled to recover Irish VAT if the following conditions are satisfied:

- The company is not registered, liable or eligible to be registered for VAT in Ireland;
- The company does not have residence, its seat or a fixed establishment in Ireland; and
- The company has not carried out any taxable supplies in Ireland, except for:
 - Certain tax-exempt cross-border transport from/to non-EU countries;
 - Supplies for which the reverse charge mechanism applies;
- Telecommunication, broadcasting and electronically supplied services where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying these type of services to non-taxable persons.

Non-refundable VAT

VAT generally cannot be recovered on:

- Petrol, although VAT on diesel is recoverable;
- Food, drink, hotels / accommodation or other personal services (VAT on accommodation with effect from 1 July 2007 is recoverable provided certain stringent conditions are met);
- Entertainment expenses; and
- The purchase, hire or importation of passenger motor vehicles (VAT on motor vehicles used for certain purposes is recoverable).

Partially refundable VAT

Vehicles first registered after 1 January 2009 and with a level of CO2 emissions of less than 156g/km may reclaim a maximum of 20% of the VAT incurred provided at least 60% of the vehicle's use must be for business purposes and other conditions are satisfied.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The refund period will be based on a calendar year. The application must cover a period of not less than three consecutive calendar months in one calendar year or not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application must be submitted by 30 September in the calendar year directly following the calendar year in which the expenditure was incurred.

A claimant may submit up to five claims, including the calendar year claim, in any calendar year.

As the member state of refund, the tax authorities in the claimant's own member state should notify the claimant when the application is received by the Irish Revenue.

Applicants established outside of Ireland should state their VAT registration number when contacting Irish Revenue.

An authorized agent can be appointed to follow up on submitted claims.

Proxy

For a power of attorney document to be valid in Ireland, it must:

- Be received in hardcopy format prior to the submission of the application;
- Confirm that the agent is authorized to submit claims and/or receive refunds on the claimant's behalf;
- Contain the signatures of both parties;
- Contain the VAT number of the client;
- State the Tax Identification number (TIN) number of the agent (TAIN if an Irish agent); and
- State the date when the agreement commenced.

Supporting documentation

The application will incorporate an online declaration and the following information will be required:

- Name and full address;
- An address for contact by electronic means;
- A description of the business activity for which the goods and services are acquired;
- The refund period covered by the application;
 - Bank account details, including IBAN and BIC codes;
 - Details of each invoice or importation document, to include:
 - Name and full address of the supplier;
 - The VAT identification number or tax reference number of the supplier;
 - The prefix of the member state of refund (i.e. Ireland = IE);
 - Date and number of the invoice or importation document;
 - Taxable amount and amount of VAT expressed in the currency of the member state of refund;
 - The amount of deductible VAT calculated expressed in the currency of the member state of refund; and
 - Nature of the goods and services acquired.

The Irish tax authorities can request additional information to be forwarded at a later date, i.e. within a four-month period.

Refunds and appeals

The decision on the application will be announced within four months of the date when the application was submitted to the Irish tax authorities. However, if the authorities request additional information in respect of the claim, the maximum time limit for making a decision may be extended to eight months.

When an agent is acting on behalf of a claimant, in most cases, any queries or decisions will be sent to both claimant and agent.

Generally speaking, correspondence with the Irish tax authorities can be by mail or by electronic means.

An online contact facility, MyEnquiries, makes it easier for taxpayers or their agents to securely send and receive correspondence to and from Revenue instead of using email. Customers are able to access MyEnquiries via either ROS or MyAccounts depending on the type of business query. There is no separate registration process for MyEnquiries.

Taxpayers and their agents can access MyEnquiries via www.revenue.ie. For individual taxpayers, the link to MyEnquiries can be found under the “My Services” tab in the “Other Services” section. For ROS administrators, the MyEnquiries icon will always be shown. For “sub-users,” the icon will appear only if the user has permissions on an active MyEnquiries email address.

In addition to the types of customers mentioned above, there also are some types of contacts that are not suitable for MyEnquiries, such as third-party data exchanges. Currently, the only options for these customers to raise queries are by using standard email, regular mail, phone or fax.

If a refund is granted, payment will be made via electronic funds transfer (EFT) into the bank account provided when the application was submitted.

The bank account must be a Euro-denominated account located in any of the Single Euro Payments Area (SEPA) participating countries (Ireland is participating in SEPA). The Irish taxation authorities do not require the bank account to be located in Ireland.

If the refund is not granted, the grounds for rejection must be stated. An appeal against a denied claim can be made to Irish Revenue within 21 days of receipt of the notification.

If the Irish tax authorities do not query a refund, it generally is deemed to be accepted as a valid refund.

The Irish tax authorities generally will not reject a refund on the basis of one invoice. Depending on the circumstances either an amended refund claim would be submitted or the tax authorities will request more information on the invoice concerned before they will process the refund.

Some of the most common reasons for a refund application not being processed by the Irish tax authorities are the following:

- The claimants registered for VAT in Ireland for the period of the claim;
- It only carries out supplies of goods or services that are exempt without deductibility for VAT;
- The claimants mentioned an incorrect VAT number;
- Information requested during the application process is not provided;
- The maximum number of claims in a calendar year has been exceeded (up to five claims are allowed in a calendar year);
- The amount claimed is less than the minimum allowed;
- A claim or invoice has been previously submitted;

E-invoicing

E-invoices generally are accepted and are sufficient to claim input VAT via the former 8th Directive procedure. In Ireland, the issuance of invoices or other documents in electronic format is subject to the following conditions:

- There is prior agreement between the issuer and the recipient in relation to the issue and acceptance of invoices or documents in electronic format;
- The electronic system being used conforms to the following specifications:
 - The system must be able to produce, retain and store electronic records and messages in such form and containing such particulars as are required for VAT purposes, and make them available to the Irish Revenue upon request;
 - The system must be able to reproduce in hard copy or electronic format any electronic record or message required to be produced, retained or stored;
 - The system must be able to maintain electronic records in a manner that allows their retrieval by reference to the name of the person who issues or receives the message or the date of the message or the unique identification number of the message;
- The issuer and recipient of an invoice or other document have an obligation to ensure the authenticity of origin, the integrity of content and a reliable audit trail between the invoice and the supply for the duration of the period of storage of the invoice. This can be done using business controls and the Irish Revenue may require evidence of those business controls.

Simplified arrangements for issuing invoices may be allowed when commercial, technical or administrative practices in a particular business sector make it difficult to comply with general invoicing requirements, or if the amount of the invoice is minor. Applications for approval of simplified invoicing arrangements should be made to the tax authority in their own member state.

Under a simplified arrangement, the relevant documents must include the following details:

- Date of issue;
- Identification of the supplier, including the supplier's VAT number;
- Identification of the types of goods or services supplied;
- Tax due or the information needed to calculate the tax due;

Simplified invoices will be accepted only for amounts less than EUR 100. It is important to ensure the correct invoice category is chosen when submitting EVR claims. Where "simplified" is selected in the "Invoice" field and the total (gross) amount of that individual invoice is greater than EUR 100, the invoice will be refused.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Ireland.

The rules for non-EU businesses are similar to those for EU businesses. Persons who carry out businesses outside the European Union and supply no good or services in Ireland may claim repayment of Irish VAT on most business purchases in Ireland should they provide written proof of economic activity issued by the competent authority of his/her own State to Irish Tax Authority.

Application for repayment by VAT registered traders established outside the EU (under the 13th EU VAT Directive) can be made on Form VAT 60OEC.

Eligibility for refund

Reciprocity is not required.

Non-refundable VAT

VAT generally cannot be recovered on:

- Petrol, although VAT on diesel is recoverable;
- Food, drink, hotels / accommodation or other personal services (VAT on accommodation with effect from 1 July 2007 is recoverable provided certain conditions are satisfied);
- Entertainment expenses; and
- The purchase, hire or importation of passenger motor vehicles (VAT on motor vehicles used for certain purposes is recoverable).

Partially refundable VAT

Vehicles first registered after 1 January 2009 and with a level of CO2 emissions of less than 156g/km may reclaim a maximum of 20% of the VAT incurred provided at least 60% of the vehicle's use must be for business purposes and other conditions are satisfied.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 200; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 25.

Time limits

The application must be filed within six months of the end of the calendar year in which the tax paid became chargeable.

Follow up on submitted claims

Claimants established outside of the EU must state their VAT registration number when contacting Irish Revenue.

An authorized agent can be appointed to follow up on submitted claims.

Proxy

For a power of attorney document to be valid in Ireland, it must:

- Be received in hardcopy format prior to the submission of the application;
- Confirm that the agent is authorised to submit claims and/or receive refunds on the claimant's behalf;
- Contain the signatures of both parties;
- Contain the VAT number of the client;
- State the Tax Identification number (TIN) number of the agent (TAIN if an Irish agent); and
- State the date when the agreement commenced.

Application forms

The application is made on Form VAT 60OEC issued by Irish Revenue.

To receive a refund, the business for which the goods/services were purchased must be a business that would be taxable if carried on in Ireland.

Supporting documentation

The following documents must be submitted with each application:

- Original invoices containing the following particulars:
 - The supplier's name, address and VAT registration number;
 - The name and address of the person to whom the goods or services were supplied;
 - The date of issue of the invoice;
 - A sequential number which uniquely identifies the invoice;
 - A detailed description of the goods and services supplied;
 - The total cost, the rate of VAT and the VAT charged.
- A certificate issued by the competent authorities of the country in which the claimant is established stating the economic activity in which the claimant is engaged. The certificate must have been issued within the past year; and
- A letter of authority if the amount is to be refunded to a third party.

E-invoicing

E-invoices generally are accepted and sufficient to claim input VAT via the former 8th Directive procedures. In Ireland, the issue of invoices or other documents in electronic format is subject to the following conditions:

- There is prior agreement between the issuer and the recipient in relation to the issue and acceptance of invoices or documents in electronic format;
- The electronic system being used conforms to the following specifications:
 - The system must be able to produce, retain and store electronic records and messages in such form and containing such particulars as are required for VAT purposes, and make them available to Revenue on request;
 - The system must be able to reproduce in hard copy or electronic format any electronic record or message required to be produced, retained or stored;
 - The system must be able to maintain electronic records in a manner that allows their retrieval by reference to the name of the person who issues or receives the message or the date of the message or the unique identification number of the message; and
 - The issuer and recipient of an invoice or other document have an obligation to ensure the authenticity of origin, the integrity of content and a reliable audit trail between the invoice and the supply for the duration of the period of storage of the invoice. This can be done using business controls and Revenue may require evidence of those business controls.

Refunds and appeals

There is no timeframe binding the Irish VAT authorities for deciding on a 13th Directive refund claim.

When an agent is acting on behalf of a claimant, in most cases, any queries or decisions will be sent to both claimant and agent.

The decision on the application will be announced within four months of the date when the application was submitted to the Irish tax authorities. However, if the authorities request additional information in respect of the claim, the maximum time limit for making a decision may be extended to eight months.

Correspondence with the Irish tax authorities can be by mail or by electronic means.

An online contact facility, MyEnquiries, makes it easier for taxpayers or their agents to securely send and receive correspondence to and from Revenue instead of using email. Customers are able to access MyEnquiries via either ROS or MyAccounts depending on the type of business query. There is no separate registration process for MyEnquiries.

Taxpayers and their agents will be able to access MyEnquiries via www.revenue.ie. For individual taxpayers, the link to MyEnquiries can be found under the “My Services” tab in the “Other Services” section. For ROS administrators, the MyEnquiries icon will always be shown. For “sub-users,” the icon will appear only if the user has permissions on an active MyEnquiries email address.

In addition to the types of customers mentioned above, there also are some types of contacts that are not suitable for MyEnquiries, such as third-party data exchanges. At present, the only options for these customers to raise queries are by using standard email, regular mail, phone or fax.

If the Irish tax authorities do not query a refund, it generally is deemed to be accepted as a valid refund.

Refunds usually take between two to six weeks, although this may vary depending on the size of the refund. The repayment will be made via electronic funds transfer (EFT) into the bank account provided in the application.

The bank account must be a Euro-denominated account located in any of the Single Euro Payments Area (SEPA) participating countries (Ireland participates in SEPA). The Irish tax authorities do not require the bank account to be located in Ireland.

If a refund is not processed in a timely manner, the Irish tax authorities may pay interest on refunds of VAT to a claimant in two circumstances:

- Where there is a mistaken assumption in the operation of the tax made by the authorities; or
- Where there is a delay of more than 93 days in processing a fully completed claim.

Simple interest is calculated from the date on which the amount becomes payable and is chargeable at a rate of 0.011% per day.

The Irish tax authorities generally will not reject a refund on the basis of one invoice. Depending on the circumstances, either an amended refund claim would be submitted or the tax authorities will request more information on the invoice concerned before they will process the refund.

Some of the most common reasons for a refund application not being processed by the Irish tax authorities are the following:

- The claimant is registered for VAT in Ireland for the period of the claim;
- It only carries out supplies of goods or services which are exempt without deductibility for VAT;
- Information requested during the application process is not provided;
- The amount claimed is less than the minimum allowed;
- The claimant has inserted an incorrect VAT number;
- A claim or invoice has been submitted previously; and
- Additional invoices are added to a claim that has been submitted previously.

If the refund is not granted, the grounds for rejection must be stated. An appeal against a denied claim can be made to Irish Revenue within 21 days of receipt of the notification.

Correspondence with the Irish tax authorities can be by mail or by electronic means.

Claim forms together with supporting documentation should be sent to:

Office of the Revenue Commissioners,
Collector-General's Division,
Ground Floor,
Sarsfield House,
Francis Street,
Limerick.

Lo-Call: 1890 25 24 49

Tel: +353 61 488 060

Fax: +353 61 488 095

Email: unregvat@revenue.ie

Italy

Italian VAT is known as “*Imposta sul Valore Aggiunto*” (IVA).

The standard VAT rate is 22%, and there are reduced rates of 10%, 4%, 5% (for certain health or educational services) and 0%.

Livigno, Campione d’Italia and the territorial waters of Lake Lugano are not considered part of the EU for VAT purposes.

An extensive overview of the VAT rates applied in Italy can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint an Italian fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Italy is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to an Italian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities of the country in which the claimant is established. For refunds of input VAT paid by Italian-established entities on purchases made in another EU member state, the claim must be submitted to the Italian tax authorities via the web portal: <http://www.agenziaentrate.gov.it/wps/portal/entrate/home>.

The application can be filed by the claimant or its “authorized intermediary.” In principle, authorized intermediaries are the same persons as those permitted to file tax returns, i.e. Italians with specific recognized professional skills (e.g. associations of chartered tax consultants, etc.). However, the Italian tax authorities allow a claim to be filed on behalf of the claimant by an EU entity if certain requirements are met. In particular, the third party must have “adequate technical, economic, financial and structural capacity” and must obtain a proxy from the Italian claimant before registering to access the Italian portal.

Italian-established companies filing their claims with the Italian tax authorities will receive several receipts confirming that the application for a VAT refund was received by the state responsible for the refund. The final decision on the claim will be processed by the state of refund.

IT requirements

The preparation and filing of a refund claim is done through the web portal of the Italian tax authorities (Entratel or Fisconline). To use this service, registration and licensing are required (unless an Italian authorized intermediary is used). If the third party applying for the e-filing authorization is an EU company (and not a private individual), the following steps must be followed: the legal representative or the authorized proxy in charge of the e-filing (EU company) must request an Italian fiscal code; access to the Entratel system for the EU company must be requested; and an authorization/proxy to operate through the e-system must be obtained.

The information must be uploaded manually on a line-by-line basis. Data for each invoice must be entered showing the invoice number, date, supplier’s name, taxable amount and VAT amount. A scanned copy of the invoices must be attached to the claim when uploading it (in PDF, JPEG, TIFF or zip format).

There is no limit on the number of invoices that can be submitted in a refund claim or per year. However, the maximum size for the annexes (i.e. invoices) is 5MB. If the annexes exceed 5MB, the files will have to be compressed as much as possible or the claimant must contact the tax authorities of the member state of refund.

Non-EU countries (13th Directive equivalent)

This refers to an Italian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for an Italian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Italian portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*certificato di partita IVA*” in Italy.

Italy is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Italy.

Eligibility for refund

A foreign taxable person is entitled to recover Italian VAT if the following conditions are satisfied:

- The company is not registered or liable to be registered for VAT in Italy;
- The company does not have residence, seat or a fixed establishment in Italy (in the case of a branch with an Italian VAT number, a VAT refund may not be claimed under Directive 2008/09/EC for purchases made by the head office); and
- The company has not carried out any taxable supplies in Italy, except for:
 - Certain tax-exempt cross-border transport and ancillary services; or
 - All supplies of goods and/or services to a subject that is VAT-established in Italy at the time of the relevant supply who applies VAT via the reverse charge mechanism.

Non-refundable VAT

VAT incurred on hotel and catering services supplied during conventions linked to the business of the company may be recovered. VAT related to accommodation (restaurant, bar and hotel expenses) is 100% deductible, unless related to entertainment expenses.

Based on case law of the CJEU, it should be possible to deduct the relevant VAT paid on cars/fuel/car maintenance used for the company's business. The deduction percentage set by Italian VAT legislation is 40% in the case of cars used for both private and business purposes and 100% if the vehicle is used exclusively for business purposes.

Partially refundable VAT

Where a non-resident business carries out both VAT-exempt and taxable supplies in its country of establishment, the VAT refund will be granted only with respect to the deductible VAT percentage applicable in its country of establishment. In some cases, VAT can be refunded based on the VAT deduction percentage allowed by Italian law (e.g. the deduction percentage for cars/fuel/maintenance).

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The claimant can either submit four claims related to each quarter of the year or one annual claim. The quarterly claims can only include invoices issued in the relevant quarter, but the annual claim can include invoices issued during the entire year.

Proxy

If the VAT refund claim is submitted by a third party, a proxy must be filed with the claim. An electronic scanned copy is accepted and a copy of the identity document/passport of the subscriber must be attached.

The Italian tax authorities have clarified that in the case of an EU-established company submitting an EU claim in Italy, the non-resident claimant is allowed to appoint a third party entitled to collect (on behalf of the non-resident claimant) the amount under the refund claim. In this case, a special power of attorney is needed; the power of attorney must be in writing, along with a notarized signature. The special power of attorney must be retained by the authorized representative in case of a request from the Centro Operativo of Pescara.

Since in principle, Italian law allows taxpayers to be represented by a third party before the tax authorities on the basis of a special power of attorney (e.g. in the case of tax assessments, tax litigation or issues concerning tax payments), the third party also may be entitled to deal with the above actions relating to the VAT refund claim procedure.

As a result, even though no official guidelines clarify who can follow up on a submitted refund claim, it should be possible for a third party to request information on the status of a refund at the competent Pescara VAT office. In this case, the requesting person, if different from the claimant, will have to show a power of attorney to act on behalf of the claimant. No specific rules apply for the power of attorney, but it must be drafted on the claimant's letterhead and signed by a person authorized to legally bind the company (a copy of the identity document/passport must be attached).

E-invoicing

Italian law does not contain any specific provision on refunds of Italian VAT based on electronic invoices. However, in principle, e-invoices should be accepted. Italy has e-invoicing requirements/restrictions, basically implementing the EU Invoicing Directive.

Refunds and appeals

The Italian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the refund claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within of one month of receipt of the request.

The decision will be sent to the email address included in the claim form or through the platform used for transmitting the claim.

Any queries made and/or the decision issued by the Italian tax authorities will be sent electronically to the claimant to the member state of establishment or to the appointed third party.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be processed in Euro within 10 business days after the relevant period. A local bank account is not required.

The Italian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If one of the submitted invoices is not correct/not provided in a readable/acceptable scanned copy, the entire refund claim generally will not be rejected; only the part of the refund request relating to the relevant invoice will be rejected. If the required information is not provided, the refund process may be suspended. Failure of a claimant to respond to a query on a particular invoice may have different consequences, depending on the type of the query and the amounts involved.

If the refund is not granted, the grounds for rejection must be stated. The decision will be sent to the claimant. In principle, a refund claim will be deemed to be rejected (the “silent denial”) if a decision is not issued within 90 days from the date the claim was filed. However, considering the time limits provided by the relevant legislation for issuing a decision or to request additional information under a former 8th Directive EU VAT refund claim, it is likely the tax authorities will issue an explicit decision after 90 days.

An appeal against the denial of a claim may be made to the Italian tax authorities within 60 days of receipt of the notification. If the appeal is unsuccessful, a further appeal to the second level Tax Court may be initiated, and if this appeal is unsuccessful, the claimant can go to the Supreme Court. Specific formal and requirements must be complied with and the appeal must be filed through a defense attorney.

According to Italian law, penalties ranging from 100% up to 200% of the VAT will be levied if VAT is unduly refunded. There is no specific provision referring to penalties where an application is rejected, but the rejection of the claim may have consequences depending on the reasons for rejection.

Refund claims typically take four to six months if documentation has been requested by the Italian tax authorities, and eight months if additional documentation is requested, assuming the responses are provided in a timely manner.

Non-EU businesses (13th Directive)

This refers to a non EU-established company submitting a 13th Directive claim in Italy.

Eligibility for refund

Reciprocity is required. Italy has signed reciprocity agreements with Israel, Norway and Switzerland.

Non-refundable VAT

VAT incurred on hotel and catering services supplied during conventions linked to the business of the company may be recovered. VAT related to accommodation (restaurant, bar and hotel expenses) is 100% deductible, unless related to entertainment expenses.

Based on case of of the CJEU, it should be possible to deduct the relevant VAT paid on cars/fuel/ car maintenance used for the company's business. The deduction percentage in Italian VAT legislation is 40% if the car is used for both private and business purposes and 100% if the car is used exclusively for business purposes.

Partially refundable VAT

If a non-resident business carries out in its country of establishment both VAT exempt and taxable transactions, the VAT refund will be granted only with respect to the deductible VAT percentage applicable in its country of establishment. Moreover, in some cases, VAT can be refunded based on the VAT deduction percentage allowed under Italian law (e.g. deduction percentage for cars/fuel/car maintenance).

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year, the amount may not be less than EUR 50.

Time limits

The application can cover a period of (not less than) three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year or a period of (not more than) one calendar year. However, applications can relate to a period of less than three months where the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The claimant can either submit four claims relating to each quarter of the year or one annual claim. The quarterly claims only can include invoices issued in the relevant quarter, but the annual claim can include invoices issued during the entire year.

Proxy

If the VAT refund claim is submitted by a third party, a proxy must be filed with the claim. An electronic scanned copy is accepted and a copy of the identity document/passport of the subscriber must be attached.

The Italian tax authorities have clarified that in the case of an EU-established company submitting an EU claim in Italy, the non-resident claimant is allowed to appoint a third party entitled to collect (on behalf of the non-resident claimant) the amount under the refund claim. In this case, a special written power of attorney is needed, which must be in writing and notarized. The special power of attorney must be retained by the authorized representative in case of a request from the Centro Operativo of Pescara.

Since, in principle Italian law allows taxpayers to be represented by a third party before the tax authorities on the basis of a special power of attorney (e.g. in the case of tax assessments, tax litigation or issues concerning tax payments), the third party also may be entitled to deal with the above actions relating to the VAT refund claim procedure.

As a result, even though no official guidelines clarify who can follow up on a submitted refund claim, it should be possible for a third party to request information on the status of a VAT refund claim from the competent Pescara VAT office. In this case, the requesting person, if different from the claimant, will have to show a power of attorney to act on behalf of the claimant.

No specific rules apply for the power of attorney, but it must be drafted on the claimant's letterhead and signed by a person authorized to legally bind the company (a copy of the identity document/passport must be attached).

Application forms

Refund claims must be completed on Form VAT 79 issued by the Italian tax authorities and either personally delivered or sent by registered mail or courier to:

Centro Operativo di Pescara
Via Rio Sparto, 21
65129 Pescara, Italy

Fax and email submissions are not allowed.

Supporting documentation

The following documents must be attached to the claim:

- Original invoices;
- Documentation confirming the payment of the invoices; and
- A tax administration certificate of taxable status for VAT purposes that has been issued within the last year.

E-invoicing

Italian law does not contain any specific provision on refunds of Italian VAT based on electronic invoices. However, e-invoices should be accepted. Italy has e-invoicing requirements/restrictions, basically implementing the EU Invoicing Directive.

Refunds and appeals

The deadline for the authorities to issue a decision on a 13th Directive refund claim is six months starting from the date of receipt of the refund request. If additional information is requested, the deadline is eight months starting from the date of receipt of the refund request, assuming the responses are provided in a timely manner.

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request.

Any queries and/or the decision will be sent to the fax/email address included in the form.

According to Italian legislation, a tax refund claim will be deemed to be rejected (“silent denial”) if a decision is not issued within 90 days from the date the claim was filed. However, considering the time limits provided by law for issuing a decision or requesting additional information on a 13th Directive VAT refund claim, a decision is likely to be issued by the tax authorities within 90 days.

The deadline for payment of the refund depends on the availability of the funds. An Italian bank account is not required.

The Italian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

A VAT refund claim will not be rejected in its entirety if only one of the submitted invoices is not correct; only the part of the claim relating to the invoice will be rejected, and if requested information is not provided, the refund process may be suspended. If a query on a particular invoice is not answered, this may have different consequences, depending on the type of query and the amounts involved.

The decision will be sent to the claimant, stating the reasons for rejection.

An appeal against the rejection of a VAT refund claim must be filed within 60 days from the date of the notification of the decision.

Penalties ranging from 200% up to 400% of the VAT are applied if VAT is unduly refunded.

The refund process typically takes six to eight months, assuming responses are provided in a timely manner.

Latvia

Latvian VAT is known as “*Pievienotās vērtības nodoklis*” (PVN).

The standard VAT rate is 21%, and there is a reduced rate of 12%.

An extensive overview of the VAT rates applied in Latvia can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Latvian fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Latvia is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Latvian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically (in Latvian or English) through the website of the tax authorities in the country in which the claimant is established. This is <https://eds.vid.gov.lv/login> for companies established in Latvia.

When Latvia is the member state of establishment, the Latvian authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

A Latvian VAT payer must file its refund claim electronically using the Electronic Declaration System (EDS) web service of the Latvian tax authorities. To access the EDS web service, the company must conclude an agreement with the tax authorities and then file an application listing the persons who will be using the system. The EDS can be accessed at: <https://eds.vid.gov.lv/login>

The form can be uploaded in XML format, but the file cannot exceed 1MB.

Guidance on how to file the form can be obtained at:

<https://www.vid.gov.lv/default.aspx?tabid=11&id=1676&hl=1&mod=33>

The electronic form is divided into three main sections:

- General information about the taxpayer and the period for which the refund is requested;
- List of invoices, in which each document can be typed in manually;
- Annexes: scanned invoices if required;
- File types accepted: JPEG, PDF or TIFF or zip;
- Maximum file size: 1 MB. If the information cannot be uploaded in the system due to its size, it can be emailed to the Latvian tax authorities.

There is no limit on the number of invoices that may be submitted in a refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Latvian-established company submitting a non- EU (13th Directive equivalent claim) in a non-EU country.

The refund application for a Latvian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Latvian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*VID izziņa par PVN maksātāja statusu Latvijā*” (VAT certificate), and it must have been issued within the past year.

Latvia is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Latvia.

Eligibility for refund

A foreign registered taxable person is entitled to recover Latvian VAT if the following conditions are satisfied:

- The claimant is not registered or liable to be registered for VAT in Latvia;
- It does not have residence, its seat or a fixed establishment in Latvia;
- The claimant has not carried out any taxable supplies in Latvia, except for:
 - Tax-exempt cross-border transport from/to EU countries and ancillary services;
 - Supplies to which reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on the following:

- The acquisition of unused immovable property and services received in relation to the construction, reconstruction, renovation, restoration or repair of immovable property;
- Goods and services purchased for personal use, such as:
- Rental, maintenance and repair of a passenger car if these services are not used for business purposes. If the vehicle is used for business purposes, 50% of the VAT amount can be recovered for the business use (in proportion to that use), but the claimant must provide supporting documentation with the application;
- Acquisition, rental, maintenance and repair of vehicle registered as cargo van the full weight of which is below 3 000 kilograms, has more than three seats (including the driver's seats) and the value of which is EUR 50,000 or above;
- Purchase of fuel, lubricants and spare parts intended for a passenger car if the car is not used for business purposes. If the car is used for business purposes, 50% of the VAT amount can be refunded;
- Expenses for recreation activities;
- Catering, including restaurants (if catering is provided for representation purposes, 40% of the VAT amount can be refunded);
- Health improvement activities; and
- Entertainment.
- A tour operator applying the special VAT margin scheme for travel agents.

Partially refundable VAT

A partial VAT refund in Latvia can be obtained for the following:

- Rental, maintenance and repair of a passenger car if the vehicle is used for business purposes: 50% of the VAT amount can be recovered for the business use, but the claimant must provide supporting documentation with the application;
- Purchase of fuel, lubricants and spare parts intended for a passenger car if the car is used for business purposes: 50% of the VAT amount can be refunded; and
- Catering provided for representation purposes: 40% of the VAT amount can be refunded.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a calendar year or to the remaining months of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

Additional refund claims for the same time periods are accepted if the deadlines are met and minimum amounts are respected.

Proxy

The request can be submitted by the claimant or a person authorized to act on behalf of the claimant. A company not established in Latvia may act as the authorized person.

The proxy must be provided only if so requested by Latvian tax authorities. Documents relating to VAT refunds must be provided in English or Latvian.

Supporting documentation

Electronic copies of invoices for transactions equal to or exceeding EUR 1,000 (EUR 250 for invoices relating to fuel costs) must be submitted with the application. The invoice number must be mentioned on the application.

If the Latvian tax authorities have reasonable doubts regarding the validity or accuracy of a claim, they may request the original or a copy of the relevant invoice or import document.

E-invoicing

To issue electronic invoices, a written agreement on the acceptance of such invoicing system must be in place between the provider and the claimant. In practice, the Latvian tax authorities will not request a copy of the e-invoicing agreement.

Refunds and appeals

The Latvian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant or the tax authorities in the claimant's country of establishment via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant or the tax authorities in the claimant's country of establishment via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request. The method of responding to the request (electronic or regular mail) depends on whether the authorities have requested original documents.

If original documents are required, courier/regular mail should be used. The correspondence address to be used will be included in the request made by the authorities.

The tax authorities always send an email notification.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, the payment will be made in Euro within 10 business days after the decision is made and transferred to the bank account stated in the application. This bank account can be held by the claimant or a proxy holder. There are no restrictions on the location of the bank account (Latvia, another EU member state or outside the EU). However, any costs associated with the bank transfer will be deducted from the refundable tax amount.

If the refund is to be sent to the bank account of a legal person other than the claimant or its authorized person, the Latvian tax authorities will require that person to prove it is authorized to receive the funds on behalf of the claimant or the authorized person.

When Latvia is the member state of refund, the Latvian authorities will issue a confirmation of receipt of a VAT refund claim.

The Latvian tax authorities can request a copy or the original of the power of attorney when considering a claim filed by an authorized person.

The refund may be paid to the bank account of the authorized person, but not to the bank account of a private individual. If the refund claim contains a bank account other than that of the claimant or the authorized person, the refund will be transferred after extensive control procedures have been carried out.

The Latvian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection must be stated in the official letter sent to the tax authorities of the claimant's country. If the relevant country has indicated that it will not notify the claimant, the Latvian tax authorities will send the information to the claimant. An appeal against a denied claim may be filed with the Latvian tax authorities within one month after receipt of the decision.

In most cases, if one of the invoices submitted was not correct or a readable/acceptable copy could not be provided, only the relevant invoice will be rejected.

The most common cause for rejection of a VAT refund claim is the submission of incomplete or incorrect documentation (e.g. wrong amounts, wrong invoice numbers indicated, missing VAT number of the supplier/recipient, etc.).

Although invoices must be provided only for transactions starting from EUR 1,000 (EUR 230 for fuel invoices), the Latvian tax authorities can request invoices for amounts below the threshold if they question the invoice.

The appeal must be sent by letter to the Latvian tax authorities: Valsts ieņēmumu dienests, Talejas ielā 1, Rīgā, LV–1978.

The Latvian tax authorities will not levy penalties if a VAT refund claim is rejected.

A decision on a VAT refund generally will be made within three to four months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Latvia.

Eligibility for refund

Reciprocity is required. The Latvian authorities currently will issue a refund to VAT-taxable persons established in Iceland, Monaco, Norway and Switzerland.

Non-refundable VAT

VAT cannot be recovered on the following:

- The acquisition of unused immovable property and services received in relation to the construction, reconstruction, renovation, restoration or repair of immovable property;
- Goods and services purchased for non-business use, such as:
- Rental, maintenance and repair of a passenger car;
- Purchase of fuel, lubricants and spare parts intended for a passenger car;
- Expenses for recreation activities;
- Catering (including restaurants);
- Health improvement activities; and
- Entertainment.
- A tour operator applying the special VAT margin scheme for travel agents.

Partially refundable VAT

A partial VAT refund in Latvia is available for the following:

- Rental, maintenance and repair of a passenger car if the vehicle is used for business purposes: 50% of the VAT amount can be recovered for the business use (in proportion to that use), but the claimant must provide supporting documentation with the application;
- Purchase of fuel, lubricants and spare parts intended for a passenger car if the car is used for business purposes: 50% of the VAT amount can be refunded; and
- Catering provided for representation purposes: 40% of the VAT amount can be refunded.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the minimum amount claimed must be EUR 400; if the application relates to a period of a calendar year or the remaining part of a calendar year (the last two months of the calendar year), the amount claimed may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application may relate to invoices or import documents not covered by previous applications with respect to transactions carried out during the calendar year.

The application must be submitted:

- By 30 September of the following year if the application relates to a calendar year or the remaining months in a relevant year; or
- Within three months after the end of the period covered by the application if the application relates to a period of not less than three months and does not exceed one calendar year.

Late claims are not accepted and the deadline will not be extended.

If the application is sent by regular mail, the date the application was delivered to the post office (i.e. the postmark date) will be deemed to be the submission date.

Proxy

The request can be submitted by the claimant or an authorized person. A company not established in Latvia may act as the authorized person.

The proxy must be provided only if requested by Latvian tax authorities. Documents relating to VAT refunds must be provided in English or Latvian.

Application forms

The application is made on a form that is annexed to Cabinet of Ministers Regulation No. 1507 for claims covering the calendar year or the remaining months of a calendar year.

The form can be downloaded from the official website of the Latvian tax authorities at: <http://www.vid.gov.lv/default.aspx?tabid=8&id=4449&hl=2>

The form must be completed in Latvian or English and in Euro.

All invoices must be listed in the attachment to the application. An excel spreadsheet may be used to provide an overview of the claimed amounts.

The application must be signed by a person who is legally entitled to represent the company (e.g. managing director); otherwise, a letter of authority must be provided.

The form and supporting documentation must be sent to:

State Revenue Service Tax Administration Non-resident Tax Data Reliability
Assessment Department
Talejas iela 1
Rīga, LV-1978
Latvia

Supporting documentation

The following documents must be submitted with each application:

- Original invoices, import documents, bills, vouchers, receipts or customs clearance forms (copies are not accepted). Invoices must comply with the VAT invoicing requirements;
- Proof that the invoices have been paid (e.g. bank orders of payment, internet banking printouts, cash register receipts, etc.);
- Original customs declarations (translation of the statement is not required) must be submitted if the VAT refund is claimed for the import of goods;
- An original certificate of VAT status confirming that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year; and
- Original power of attorney if a third party submits an application on behalf of the claimant; the power of attorney must be certified with the Hague apostille.

E-invoicing

To issue electronic invoices, a written agreement on the acceptance of such invoicing system must be in place between the provider and client. In practice, the Latvian tax authorities will not request a copy of the e-invoicing agreement.

Refunds and appeals

The Latvian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request. The means of responding (electronic or regular mail) to the request depends on whether original documents are requested by the authorities. If original documents are required, courier should be used. The correspondence address to be used is included in the request made by the authorities.

Notification always is sent to the contact in the refund form. If an email address is provided, tax authorities normally send all notifications electronically rather than by regular mail.

The Latvian tax authorities will stamp each invoice and/or import document to prevent their use in subsequent applications and will return the documents within one month after a decision on the claim is made.

The Latvian tax authorities can request additional information from the claimant, in which case the deadline is extended to six months.

If a refund is granted, the payment will be processed in Euro within 10 business days after the decision. There are no restrictions on the location of the bank account (Latvia, another EU member state or outside the EU). However, any costs associated with the bank transfer will be deducted from the refundable tax amount.

The Latvian tax authorities are not liable for interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection must be stated.

An appeal against the denied claim may be made to the Latvian tax authorities within 30 days of receipt of the notification (tax assessment). The appeal must be addressed to the Director General of the SRS and sent to the following address:

Non-resident Tax Data Credibility Assessment Division
Tax Board
State Revenue Service
1 Talejas Street
Riga, LV-1978
Latvia

If the appeal is unsuccessful, a further appeal can be filed within 30 days after receipt of the decision. If the VAT is not refunded after the appeal, the claimant can initiate proceedings before the national court.

A claimant can submit a “reapplication” if the first application is rejected. The amended application and supporting documents must be submitted within one month from the date of the decision.

The following documents must be submitted for an application to be reconsidered:

- Relevant corrected, updated or additional documents;
- Original invoices and customs declarations;
- Proof of payment of invoices; and
- Letter stating the date of receipt of the previous decision and listing the attached documents.

In most cases, if one of the invoices submitted was not correct or a readable/acceptable copy could not be provided, only the relevant invoice will be rejected.

The most common cause for rejection of a VAT refund claim is the submission of incomplete or incorrect documentation (e.g. wrong amounts, wrong invoice numbers, failure to include the VAT number of the supplier/recipient, etc.).

The Latvian tax authorities do not impose penalties if a VAT refund claim is rejected. A decision on a VAT refund generally will be made within three to four months.

Lithuania

Lithuanian VAT is known as “*Pridėtinės vertės mokestis*” (PVM).

The standard VAT rate is 21%, and there are reduced rates of 9% and 5%.

An extensive overview of the VAT rates applied in Lithuania can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Lithuanian fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Lithuania is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Lithuanian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically (in Lithuanian or English) through the portal of the tax authorities (<https://www.vmi.lt/sso/login?TARGET=https%3a%2f%2fwww.vmi.lt%2fmanovmi%2ft%2fManoVMlep.aspx>) by 30 September of the calendar year following the refund period.

The request can be submitted by the claimant or an authorized person established in any EU member state. If a third party is to submit the application, a power of attorney (“contract of mandate”) must be submitted electronically with the VAT refund claim. If the power of attorney is not in Lithuanian or English, it must be translated into Lithuanian.

When Lithuania is the member state of establishment, the Lithuanian tax authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

Lithuanian claimants registered for VAT purposes file their refund claims electronically using the EPRIS system (“*Elektroninė prašymų registravimo informacinė sistema* (EPRIS)”) of the Lithuanian tax authorities.

A claimant must register to be able to apply for a refund through EPRIS. An application for the EPRIS registration may be sent to the tax authorities by mail or presented to the tax authorities physically or uploaded on tax authorities’ electronic system “Mano VMI”. If the refund application is to be filed by an authorized person on behalf of the claimant, both the claimant and that person must obtain access to EPRIS, and the authorized person must ensure that its power of attorney is submitted to the tax authorities.

The claimant or its authorized representative must provide the following information on the application:

- General information relating to the claimant;
- Economic activities the claimant is engaged in and for which VAT was incurred;
- Information relating to the authorized person, if any;
- Details of the bank account to which the refund is to be paid;
- List of invoices and import documents in which each document can be manually typed in; and
- Annexes: scanned invoices (import documents)/annexes can be uploaded taking the following into account:
 - File types accepted: JPEG, PDF or archived to a zip file;
 - Maximum size of total files uploaded: 5MB.

Once the claim is submitted, the claimant will receive a confirmation from the website, referencing the application.

The input of the above information generally must be made manually on a line-by-line basis. An automatic upload of the information is possible by using a “web service” function in EPRIS. In this case, the software used by the claimant for its accounting (or other special software) must be adapted to the “web service” function. The software requirements can be found at (in Lithuanian):

<https://www.vmi.lt/sso/login?TARGET=https%3a%2f%2fwww.vmi.lt%2fmanovmi%2ft%2fManoVMlep.aspx>.

There are no limits on the number of invoices that can be submitted in a single refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Lithuanian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Lithuanian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Lithuanian portal is not to be used.

Another difference with the 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This certificate is called “*Pridėtinės vertės mokesčio registravimą patvirtinantis sertifikatas*” and is issued by the tax authorities under tax payer’s request in Mano VMI system.

Lithuania is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Lithuania.

Eligibility for refund

A foreign taxable person established in another EU member state is entitled to recover Lithuanian VAT if the following conditions are satisfied:

- During the period for which a VAT refund requested, the claimant did not have a fixed establishment in Lithuania from which economic activities were effected, and, in case of an individual, its usual place of residence was not in Lithuania; and
- The claimant did not carry out any activities in Lithuania that would be subject to VAT, except for:
- The supply of transport services and ancillary services that would be subject to 0% rate; or
- The supply of certain goods or services for which VAT should be applied by the purchaser under reverse charge mechanism;
- The supply of services under a special tax scheme for telecommunications, radio and television broadcasting and electronically supplied services. A taxpayer must only be engaged in telecommunications, radio and television broadcasting and electronically supplied services or in the provision of services for which VAT registration in Lithuania is not required.

Non-refundable VAT

VAT cannot be recovered on:

- The purchase or lease of a passenger car;
- Transport of passengers by cars (taxi services);
- The supply of goods or services on which VAT is incorrectly calculated (e.g. exempt supplies taxed with standard rate);
- Goods supplied to another EU member state if the supply of these goods would have been subject to the 0% rate; and
- Goods exported from the EU if the supply of these goods would have been subject to the 0% rate.

VAT paid on behalf of another person pursuant to the provisions of article 15 subparagraph 2 paragraph 7 of the VAT law also is not recoverable.

Partially refundable VAT

VAT can be partially recovered on:

- Entertainment and representation expenses (goods and services): 75% of VAT may be recovered; and
- Purchases of goods or services by a taxable person that performs both transactions giving a right of VAT deduction and transactions not giving a right of VAT deduction: A pro rata criterion applies.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year shorter than three calendar months, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application for the remainder of a calendar year can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

Lithuanian legislation does not address whether a claimant can submit more than one refund claim for the remainder of a calendar year (e.g. the claimant receives additional invoices after submitting a refund claim).

Follow up on submitted claims

The claimant or its authorized representative can follow up on a claim. When Lithuania is the member state of refund, the Lithuanian tax authorities will request a third-party proxy holder to prove its authorization to follow up on the status of a VAT refund claim, by filing the power of attorney electronically, along with the refund claim.

Proxy

If a refund claim is submitted by an authorized representative, a proxy must be provided with the refund claim. If the proxy is written in a language other than Lithuanian or English, a translation into Lithuanian is required. The proxy must be submitted electronically, although there are no specific requirements relating to format.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is at least EUR 1,000 (EUR 250 for invoices relating to fuel costs). The Lithuanian tax authorities can request additional documents/information (e.g. an authorization document from the foreign claimant stating that payment may be made to a third party).

E-invoicing

E-invoices are accepted to claim input VAT via the 8th Directive procedure and there are no specific requirements/restrictions related to e-invoicing.

Refunds and appeals

The Lithuanian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can satisfy the claim and inform the claimant via electronic means or regular mail (the latter, at the request of the claimant);
- The authorities can reject the claim (in whole or in part) and inform the claimant via electronic means or regular mail (regular mail, at the request of the claimant); or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request. The information usually is delivered via email.

The authorities always inform the claimant about the decision via electronic means.

If the refund claim was submitted by the claimant, the decision will be sent to the claimant; if the refund was submitted by the authorized person, it will be sent to that person.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be paid in Euro or another currency within 10 business days after the end of the relevant period to the bank account provided to the authorities. There is no requirement to hold a Lithuanian bank account.

The Lithuanian VAT authorities will be liable for late payment interest if the refund is not processed in a timely manner.

The Lithuanian VAT authorities may issue a decision to refund only part of the refund, such as where only one incorrect invoice is submitted or if the claimant fails to comply with certain formalities for filing a claim. If the authorities question the nature of the activities carried on by the claimant in Lithuania, there is a risk that the entire refund claim may be rejected.

If the refund is not granted, the grounds for rejection must be stated. A decision to reject the claim will be issued within four months of receipt of the claim.

The claimant will receive a notification via electronic means or regular mail (regular mail, at the request of the claimant). An appeal against a denied claim may be made to the Lithuanian VAT authorities within 20 days following the date of receipt of the decision (if the decision was sent via registered mail, the 20-day period will begin on the fifth business day after the decision was mailed). However, this time limit can be extended upon request. If this appeal is unsuccessful, the claimant can initiate proceedings before the national court (within 20 calendar days after receipt of the decision).

The most common reason for rejection of a claim is that the claimant was required to register as a VAT taxpayer in Lithuania due to activities carried out in Lithuania.

The appeal must be in Lithuanian and delivered or provided by letter to the Lithuanian VAT authorities.

Lithuanian tax law does not provide for any penalties where a VAT refund claim is rejected.

A refund must be made no later than 10 business days after the end of four months of receipt of a claim. There is no typical time frame in which payments actually are made.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Lithuania.

Eligibility for refund

Reciprocity generally is required. Lithuania will refund VAT incurred by taxable persons established in a non-EU country provided Lithuanian taxable persons are entitled to recover the VAT (or any equivalent tax) in that country. Reciprocity currently exists with Armenia, Canada, Iceland, Norway, Switzerland and Turkey (with certain limitations).

A VAT refund for entities established in Turkey is possible only for the following: expenses related to transport activities (fuel, spare parts, goods and services related to maintenance, service and repair of vehicles) and attendance at exhibitions and fairs. There are no other reciprocity restrictions.

VAT also will be refunded to taxable persons established in a non-EU country that supply telecommunications, radio and television broadcasting and electronically supplied services in the EU and, by using a special registration procedure are registered in an EU member state. Non-EU suppliers of e-services registered for VAT but not established in other member states can request a refund of VAT paid in Lithuania regardless of whether the country of their establishment refunds VAT to Lithuanian taxable persons.

The following conditions must be satisfied for a person established in a non-EU state to recover Lithuanian VAT:

- During the period for which the VAT refund is requested, the claimant did not have a fixed establishment in Lithuania from which economic activities were performed, or, if the claimant is an individual, his/her/her normal place of residence was not in Lithuania; and
- The claimant has not carried out any activities in Lithuania that would be subject to VAT, except for:
 - The supply of transport services and ancillary services that would be subject to the 0% rate;
 - The supply of certain goods or services for which the reverse charge mechanism applies; or
 - The supply of services under a special tax scheme for telecommunications, radio and television broadcasting and electronically supplied services applicable for non-EU businesses.

Non-refundable VAT

VAT cannot be recovered on:

- The purchase or lease of a passenger car;
- Transport of passengers by cars (taxi services);
- Entertainment and representation expenses (e.g. food, parties, entertainment or cultural events);
- The supply of goods or services on which VAT does not have to be calculated;
- Goods supplied to another EU member state if the supply of these goods would have been subject to the 0% rate; and
- Goods exported from the EU if the supply of these goods would have been subject to the 0% rate.

VAT paid on behalf of another person pursuant to the provisions of article 15 subparagraph 2 paragraph 7 of the VAT Law also is not recoverable.

Partially refundable VAT

There are no expenses for which non-EU businesses would be allowed only a partial refund of Lithuanian VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Lithuanian VAT authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year. The deadline will not be extended.

Proxy

If a refund claim is submitted by an authorized representative, a proxy must be provided with the refund claim. If the proxy is written in a language other than Lithuanian or English, it must be translated into Lithuanian. If the refund claim is provided electronically, an electronic copy of proxy may be provided.

Application forms

The application is made on Form FR0445, issued by the Lithuanian tax authorities. It must be completed in either Lithuanian or English and in Euro. The forms can be obtained from the local VAT offices or downloaded at:

<https://www.vmi.lt/cms/en/formos>

The application form can be presented in the following ways:

- Electronically using the electronic system “Mano VMI”;
- Delivered to the Lithuanian VAT authorities; or
- Provided by letter to the Lithuanian VAT authorities.

All invoices must be mentioned in the attachment to the application form. The Lithuanian VAT authorities do not have any practical experience with excel spreadsheets, so claimants should have the invoices listed in the application rather than enclosing an excel spreadsheet with the application.

The application must be signed by a person who is legally entitled to represent the company (e.g. managing director); otherwise, a power of attorney must be provided.

The form and supporting documentation must be brought or sent to:

Vilniaus apskrities valstybine mokesciu inspekcija
Ulonu st. 2
LT-08245 VILNIUS
Lithuania
T: + 370 5 268 7621
F: + 370 5 262 1906
www.vmi.lt

Information on the status of the VAT refund can be obtained via email by contacting: vilniaus.apskr.rastai@vmi.lt

Supporting documentation

The following documents must be submitted with each application:

- Originals or copies of invoices (or in certain cases cash register receipts), import documents on the basis of which corresponding amounts of VAT were paid.
- In the case of fuel cards, the originals or copies of documents that allow identification of the person to whom the fuel card is issued;
- A notarized power of attorney (contract of mandate) if a third party submits an application on behalf of a claimant; or
- A notarized certificate of VAT status showing that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year.

If the power of attorney and the certificate of the VAT status are not in Lithuanian or English, the documents must be translated into Lithuanian and include the signature of the translator. These documents, together with the VAT refund claim, can be delivered to the tax authorities in person or sent via mail.

E-invoicing

E-invoices are accepted to claim input VAT via the 13th Directive procedures if a refund claim is submitted electronically, and there are no specific requirements/restrictions related to e-invoicing. Copies of invoices must be provided using the electronic system “Mano VMI.” The maximum size of total files uploaded per one file may not exceed 4MB.

Refunds and appeals

The Lithuanian VAT authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant in writing or via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant in writing or via electronic means; or
- The authorities can request additional information and notify the claimant in writing or via electronic means. The claimant must provide all information within one month of receipt of the request. The VAT authorities can extend the deadline to respond. The additional information usually is provided through electronic means, i.e. email.

If additional or amended information or a tax audit is required for the tax authorities to make a decision on the application, the authorities can request additional documents, ask the claimant to correct the errors in the application or initiate an audit within four months after receipt of the VAT refund claim and all supporting documents.

If the refund claim was submitted via electronic means, the authorities will inform the claimant about the decision electronically. If the claimant submitted the refund claim, the decision will be sent to the claimant; if the authorized represented submitted the claim, the decision will be sent to that person.

When the tax authorities request additional information, request corrections to the application or initiate an audit, the decision on the VAT refund must be made within two months after receipt of the additional information, correction of errors or conclusion of the tax audit. The refund claim may be accepted or rejected only through a decision issued by the Lithuanian VAT authorities.

If a refund is granted, it will be paid in Euro or another currency within 10 business days after the end of the relevant period to the bank account number provided to the authorities. It is not necessary to have a Lithuanian bank account. The Lithuanian VAT authorities will not be liable for late payment interest if the refund is not processed in a timely manner.

The Lithuanian VAT authorities may issue a refund of only part of the amount indicated in a refund claim, such as where an incorrect invoice is submitted or where the claimant failed to comply with all of the formalities for filing a claim. If the authorities question the nature of the activities carried on by the claimant in Lithuania, there is a risk that the entire refund claim could be rejected.

The most common reason for rejecting a VAT refund claim is failure to register as a VAT taxpayer in Lithuania due to activities performed in Lithuania or where expenses related to entertainment / representation (i.e. non-refundable VAT) are claimed.

If the refund is not granted, the grounds for rejection must be stated. An appeal against the denial of the claim may be made to the Lithuanian VAT authorities within 20 days of receipt of the decision (if the decision was sent via registered mail, the 20-day period is calculated from the fifth business day after the decision was issued). However, the deadline can be extended upon written request. If the appeal is unsuccessful, the claimant can initiate proceedings before the national court (within 20 calendar days after receipt of the decision).

Lithuanian tax law does not provide for penalties where a refund claim is rejected.

VAT refund claims must be refunded no later than 10 business days after the end of four months of receipt of a refund claim. There is no common practice when payments actually are made.

Luxembourg

Luxembourg VAT is known as “*Taxe sur la Valeur Ajoutée*” (TVA) in French and “Mehrwertsteuer” (MwSt) in German.

The standard VAT rate is 17%, and there are reduced rates of 14%, 8% and 3%.

An extensive overview of the VAT rates applied in Luxembourg can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Luxembourg fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Luxembourg is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Luxembourg-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

VAT refund claims must be submitted to the tax authorities of the member state in which the claimant is established (<http://www.aed.public.lu/vatrefund/> for companies established in Luxembourg).

The refund claim may be submitted by the claimant or by an authorized third party. If the claimant delegates the preparation and submission of its claim to a third party, it must identify the third party on the relevant page of the VAT refund portal. The third party may be a non-established person. However, it must have a LuxTrust smart card or a LuxTrust signing stick. There is nothing in the Luxembourg VAT law preventing a non-established third party company from submitting VAT refund claims for a claimant; in fact, the website of the Luxembourg VAT authorities confirms that this is possible and that the third-party company also must have a LuxTrust smart card or a LuxTrust signing stick.

When Luxembourg is the member state of establishment, the Luxembourg authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

Luxembourg-based claimants registered for VAT purposes must submit their refund claims electronically via the VAT refund web portal of the Luxembourg VAT authorities: <http://www.aed.public.lu/vatrefund/>.

Access is granted using a LuxTrust smart card or a LuxTrust signing stick that can be ordered online (<http://test.luxtrust.lu/>). It also is necessary to apply for prior registration to the tax authorities' system. A digital certificate is included in the LuxTrust smart card or LuxTrust signing stick. Therefore, the digital certificate, log-in details, etc. are provided when the LuxTrust smart card or LuxTrust signing stick are ordered and received.

The information must be uploaded manually on a line-by-line basis. It is not possible to upload an entire file directly into the system.

In principle, there is no requirement to provide supporting documentation attached to the VAT refund form. Where invoices are submitted, all scanned invoices (PDF or "image") cannot exceed a limit of 5 MB ("scan": 200 dpi, black/white or greyscale in PDF format that allows several pages in one file).

Non-EU countries (13th Directive equivalent)

This refers to a Luxembourg-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Luxembourg-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Luxembourg portal is not to be used.

Another difference with the 8th Directive refund procedure is that a "certificate of taxable status" issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called a "certificate of VAT status" in Luxembourg.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Luxembourg.

Eligibility for refund

A foreign taxable person is entitled to recover Luxembourg VAT if the following conditions are satisfied:

- It is not registered, liable or eligible to be VAT-registered in Luxembourg;
- It does not have its place of business, a fixed establishment or its usual place of residence in Luxembourg during the refund period;
- It has not carried out any taxable supplies of goods or supplies of services in Luxembourg during the refund period, except for:
 - Certain VAT-exempt cross-border transport services and ancillary services; or
 - Certain supplies of goods or services for which the Luxembourg recipient is the VAT debtor.

Non-refundable VAT

VAT cannot be recovered when it has been charged by mistake or for certain supplies of goods that are VAT exempt. VAT cannot be recovered if the goods or services are used for private purposes.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Luxembourg VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which the application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January until 31 March) in one calendar year or not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November until 31 December). The application may relate to invoices or import documents not covered by previously filed applications with respect to transactions carried out during that calendar year.

The application must be submitted by 30 September of the year following the end of the refund period. Late claims are not accepted and the deadline will not be extended.

The claimant can submit only one refund claim for a specific period and for the remainder of a calendar year. There are no clear guidelines in the VAT law as to how the claimant should provide invoices received after the refund claim is submitted for the relevant period. The VAT authorities have informally stated that quarterly returns are recommended, with an annual claim including invoices not reported in the quarterly claims.

Follow up submitted claims

When Luxembourg is the member state of refund, the Luxembourg authorities will request a third-party service provider to prove its authorization to follow up on the status of a VAT refund claim.

Proxy

The taxable person usually must register the proxy on the website (e-TVA) by clicking the relevant “boxes” and indicate the period of validity of the proxy (start date – end date), along with the Luxembourg intracommunity VAT number of the representative (if the representative does not carry out any taxable transactions in Luxembourg, its identification number would start with LU99).

The Luxembourg VAT authorities may request an original written document with an authorization which should be sent via regular mail. All documentation must be in English, French or German.

Supporting documentation

In principle, taxable persons established in the EU are not required to submit any supporting documents with their claim. However, the form must contain the following information:

- The claimant's name and full address;
- An email address;
- A description of the claimant's business activity for which the goods and services are acquired;
- The refund period covered by the application;
- A declaration by the claimant that it did not supply any goods or services in the member state of refund during the refund period, with the exception of exempt transport services and ancillary services or the supply of goods and services to a person that is liable for the payment of VAT;
- The claimant's VAT identification number or tax reference number; and
- Bank account details, including IBAN and BIC codes.

E-invoicing

E-invoices generally are accepted and there are no specific requirements for such invoices. However, the invoices must be attached as a PDF file and the total size cannot exceed 5 MB.

Refunds and appeals

The Luxembourg VAT authorities will notify the claimant by electronic means about their decision to accept or reject the claim within four months from the date of receipt of the request. An email notification always will be sent by the authorities.

Any queries and the decision on the claim will be sent to the person whose email address is mentioned in the eTVA registration. If the claimant indicated a proxy, the notification will be addressed and sent to the proxy holder, with a “cc” to the claimant.

The authorities can request additional information (e.g. original invoices) during this four-month period. The claimant must provide the information within one month from the date a request was received. The authorities should indicate whether the information must be provided by email or regular mail.

Where additional information is requested, the authorities must issue a decision on the claim within two months after the claimant submits the information; if the claimant does not provide the additional information, the decision must be issued within two months from the expiration of the one-month period for the claimant to respond.

In any case, if the authorities request additional information, they have at least six months from the date of receipt of the application to issue a decision. If the authorities again request additional information, the claimant must be notified.

If a refund is granted, it will be paid within 10 business days after the end of the fourth-month period or, if additional information was requested, at the end of the two-month period, to a bank in Luxembourg or another member state. In the latter case, any bank charges for the transfer will be deducted from the amount to be paid to the claimant.

The tax authorities will be liable to pay interest on the amount refunded if the refund is not issued within the relevant time period. Interest is calculated at the rate of 7.2% from the day following the date of expiry of the refund period until the date of actual refund. This provision will not apply where the applicant failed to provide the additional information within the required.

If the refund is not granted, the grounds for rejection are notified by electronic means together with the rejection decision. An appeal against the denied claim can be made to the Luxembourg VAT authorities within three months of receipt of the notification (tax assessment). The appeal must be in letter form in one of the official languages. If the appeal is unsuccessful, the claimant can initiate proceedings before the national court.

Some reasons for a claim to be rejected include the submission of a claim for an invalid refund period, the claimant has a permanent establishment in Luxembourg from which it performs an economic activity, etc.

In cases where a refund has been obtained by fraud or other irregular means, the administration will proceed to recover the wrongly refunded amounts, and may impose fines and interest.

In practice, the processing of a refund claim takes about four to eight months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Luxembourg.

Eligibility for refund

A foreign taxable person is entitled to recover Luxembourg VAT if the following conditions are satisfied:

- It is not registered, liable or eligible to be VAT-registered in Luxembourg;
- It does not have its place of business, a fixed establishment or its usual place of residence in Luxembourg during the refund period;
- It has not carried out any taxable supplies of goods or supplies of services in Luxembourg during the refund period, except for:
 - Certain VAT-exempt cross-border transport services and ancillary services;
 - Certain supplies of goods or services for which the Luxembourg recipient is the VAT debtor; or
 - Certain electronically provided services to non-VAT-taxable persons established in the EU.

Non-refundable VAT

VAT cannot be recovered if it has been charged by mistake or for certain VAT-exempt supplies of goods. VAT cannot be recovered if the goods or services are used for private purposes.

Partially refundable VAT

There are no expenses for which non-established companies will be allowed only a partial refund of Luxembourg VAT.

Making claims

Minimum amounts

The amount for which application is made may not be less than EUR 250 for the calendar year.

Time limits

The application must cover a period of one calendar year.

The application must be submitted to the Luxembourg “*Administration de l’Enregistrement et des Domaines*” by 30 June of the year following the end of the refund period. Late claims are not accepted and the deadline will not be extended.

Proxy

If the claimant decides to be represented by a proxy, it must inform the Luxembourg VAT authorities by submitting the written proxy.

Application forms

VAT refund claims for input VAT incurred in Luxembourg must be submitted to the Luxembourg “*Administration de l’Enregistrement et des Domaines*” on the form issued by the Luxembourg VAT authorities. This form can be ordered or collected in person from the Luxembourg Administration or downloaded from its website at: <http://www.aed.public.lu/formulaires/index.html>

The form must be completed in French or German or in English (in capital letters).

Supporting documentation

The following documents must be submitted with each application:

- Original invoices from domestic suppliers and service providers, import documents, bills, vouchers, receipts or customs clearance forms (copies are not accepted);
- An original certificate of VAT (or similar tax) status showing that the claimant is registered for VAT (or similar tax) purposes in its country of residence (the certificate must have been issued within the past year) or, failing that, a written statement confirming that it independently carries out an economic activity on a regular basis, regardless of the purpose or result of this activity;
- A written statement confirming that the claimant has not carried out any taxable supplies in Luxembourg other from those mentioned above under “Eligibility for refund,” and
- A written statement confirming that the taxable person will reimburse to the Luxembourg VAT authorities any unduly received payments.

The application form and supporting documentation must be sent to:

Administration de l’Enregistrement et des Domaines
Bureau d’imposition XI
Remboursement et Franchises
BP 31
L- 2010 LUXEMBOURG
T: + 352 247-80690 (Bureau XI)

lux.imp11@en.etat.lu

E-invoicing

There is no specific procedure to reclaim VAT under the 13th Directive on the basis of e-invoices. Original copies of invoices must be provided to the Luxembourg VAT authorities along with the VAT refund claim.

Refunds and appeals

The Luxembourg VAT authorities must issue a decision on a refund claim within six months from the date of submission of the claim.

If a refund is granted, it will be paid within the six months following the submission of the VAT refund claim. The Luxembourg tax authorities are not liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection are notified to the applicants at the same time of the decision of rejection. An appeal against the denied claim may be made to the Luxembourg tax authorities within three months following the receipt of the notification (tax assessment).

In cases where a refund has been obtained by fraud or other irregular means, the administration shall proceed to recover the wrongly refunded amounts, and may impose fines and interest.

Where an administrative fine or interest has been imposed but not paid, the administration may suspend all other refund requests up to an amount equal to the unpaid amount.

Malta

VAT in Malta is known as “*Taxxa fuq il-Valur Mizjud.*”

The standard VAT rate is 18%, and there are reduced rates of 7% and 5%.

An extensive overview of the VAT rates applied in Malta can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Maltese fiscal representative to claim a VAT refund based on Directive 2008/09/EC, but the tax authorities may require a fiscal representative for a claim under the 13th Directive.

Malta is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Maltese-established company submitting an EU (former 8th Directive) claim to another EU member state.

Procedure

Filing

Where Malta is the member state of establishment of the taxable person seeking to reclaim foreign VAT incurred, the application must be submitted electronically through the portal set up by the Maltese tax authorities (<http://www.vat.gov.mt/en/Online-Services/Pages/VAT-Online-Services.aspx>).

The claim may be submitted by the claimant or an authorized third party/tax practitioner. In principle, the third party can be a non-established company.

When Malta is the member state of establishment, the Maltese authorities will issue an electronic confirmation of receipt. The claim will be provisionally verified by the authorities to ensure that it meets formal requirements. If the application is correct, the Maltese authorities will forward it to the member state of refund for processing, and if the application is not in compliance, the Maltese authorities will notify the claimant.

IT requirements

Maltese claimants registered for VAT purposes must file their refund claims electronically using the service offered by the Maltese tax authorities (available on <http://www.vat.gov.mt/en/Online-Services/Pages/VAT-Online-Services.aspx>).

Individuals access the system using their electronic identity (e-ID) log-in. Access to the system on behalf of a legal person requires prior registration of the legal person for an e-ID or, alternatively, the submission of various forms to the authorities. Full guidance on the procedures to obtain access to the website of the Maltese tax authorities can be found at: <http://www.vat.gov.mt/en/Online-Services/Pages/VAT-Online-Services.aspx>.

The guidance does not specifically address the possibility of uploading information and, therefore, it is presumed that all details must be filled in manually. If the electronic portal did permit automatic upload of information, the data would have to be in XML format. The Maltese authorities do not have plans to allow the automatic upload of data through an electronic file for VAT refund claims.

Once the claim is submitted, the taxpayer will receive a confirmation from the website, referencing the application.

There is no no limit on the number of invoices that can be submitted in a refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Maltese-established company submitting a non-EU (13th Directive equivalent) claim in a non EU-country.

The refund application for a Maltese-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Maltese portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. For Maltese VAT purposes, the Maltese VAT certificate of established taxable person is proof of that person’s taxable status and a copy must be provided.

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim to Malta.

Eligibility for refund

A foreign taxable person is entitled to recover Maltese VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in Malta;
- It does not have its domicile or normal place of residence, its seat or a fixed establishment in Malta; and
- It has not carried out any taxable supplies in Malta, except for:
- Certain tax-exempt cross-border transport services and ancillary services; or
- Supplies for which the reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on:

- Tobacco or tobacco products, except those intended for resale;
- Alcoholic beverages, except those intended for resale or for the supply of a service (e.g. bars, hotels and restaurants);
- Works of art, collectors' items and antiques, except those intended for resale;
- Non-commercial motor vehicles (and goods and services for the purpose of repairing, maintaining, fuelling and keeping non-commercial motor vehicles), except those intended for resale, hire (with a driver or for self-drive hire), driving instructions or for the purpose of the carriage of goods or passengers for consideration;
- Vessels or aircraft (as well as goods and services for repairing, maintaining, fuelling and keeping vessels or aircraft), except those intended for resale, charter/hire, the carriage of goods or passengers for consideration, the carriage of goods or personnel in the course of an economic activity or where the use of such vessels or aircraft constitutes a specific and essential element of the carrying out of the economic activity that would otherwise entitle the person to deduct input tax;
- Purchases relating to the provision of receptions, hospitality or entertainment, except where the provision is made for consideration in the normal course of that person's economic activity; and
- Purchases relating to the provision of transport or entertainment to employees and officers, subject to certain exceptions.

Partially refundable VAT

Non-established persons will be allowed a refund of Maltese VAT provided that the expenses on which the VAT was incurred can be attributed to transactions giving rise to a right of deduction in the member state of its establishment. Thus, if the non-established person carries out transactions giving rise to a right of deduction and transactions not giving rise to a right of deduction in its member state of establishment, Maltese VAT incurred on general overhead will be partially refundable.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount of VAT for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount of VAT may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The refund application must be submitted to the member state of establishment by 30 September of the calendar year following the refund period.

Although Malta's legislation does not specifically address whether it is possible for a claimant to submit more than one claim for a particular refund period, as long as a claim is made for a minimum amount (see above) and within the deadline, it may relate to a refund period for which a claim already was submitted.

Proxy

If certain aspects of the refund claim procedure (e.g. the submission of the refund claim, follow up on submitted claims, etc.) are carried out by an authorized third party, that party will have to prove its authorization to act on the claimant's behalf by submitting a proxy, authorization letter or other document having similar effect.

Maltese VAT legislation does not contain specific (formal) requirements for proxies, authorization letters or documents. Common civil law principles apply. The legislation also does not address when such authorization documents must be provided. The documents must be presented to the local authorities at the "appropriate time," depending on the type of actions the third party is authorized to perform according to the documents.

The Maltese authorities have introduced specific procedures enabling claimants to delegate the execution of the entire refund claim to tax practitioners. The formalities of these procedures depend on whether the persons involved are in possession of a Maltese e-ID.

When Malta is the member state of refund, the Maltese VAT authorities may require evidence of the third party's authorization to request information on behalf of the claimant.

Supporting documentation

The claimant may be requested to provide an electronic copy of the invoice or import document where the taxable amount on the invoice or import document equals or exceeds EUR 1,000 (EUR 250 for invoices relating to fuel costs). In addition, the claimant may be required to provide a description of its business activity by using the harmonised codes determined in accordance with the second subparagraph of article 34a(3) of Council Regulation (EC) No 1798/2003.

The Maltese authorities can request from the claimant or the competent authorities of the member state of establishment of the claimant additional documents/information (e.g. originals or copies of relevant invoices or import documents where the VAT authorities have reasonable doubts regarding the validity or accuracy of a claim, in which case the thresholds mentioned above will not apply) if they consider that they do not have all the relevant information necessary to make a decision on a claim.

The VAT authorities can specify the language(s) that must be used by the claimant for the provision of information in the refund application.

E-invoicing

As mentioned above, the claimant may be requested to provide (by electronic means) a copy of the invoice or import document where the taxable amount on the invoice or import document equals or exceeds EUR 1,000 (EUR 250 for invoices relating to fuel costs). While Maltese legislation is silent on this matter, e-invoices must be acceptable. Malta does not have specific requirements/restrictions related to e-invoicing (aside from the general requirements in the Second EU Invoicing Directive).

Refunds and appeals

The Maltese VAT authorities must issue a decision on a refund claim within four months from receipt of the claim:

- The authorities can accept the claim and notify the claimant by electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant by electronic means; or
- The authorities can request additional information from the claimant or from the competent authorities of the member state of establishment, and notify the claimant via electronic means. The claimant must provide all information within one month upon receipt of the request, preferably by electronic means. The VAT authorities also accept registered mail (courier) provided the mail is from the claimant or his/her representative and is submitted within the requested period.

Any notifications and/or requests for further information will be sent to the claimant or its agent appointed to act on behalf of the claimant.

The period in which the authorities must issue a decision will be extended to two months from the date on which the additional information is received or, when the information requested has not been received, from the date on which the request for additional information reached the claimant, and in any case, may not be shorter than six months from the date of receipt of the refund application by the tax authorities.

If further additional information is requested by the authorities after a first request, the period in which the authorities must make a decision on the refund application will be extended to eight months from receipt of the application.

Refunds will be granted in Euro within 10 business days after the relevant period and paid to an EU bank account number provided to the authorities. The refund will be paid in the member state of refund or, at the claimant's request, in any other member state. In the latter case, any bank charges for the transfer will be deducted by the member state of refund. If the refund is to be made on the representative/agent's bank account, an original notarized power of attorney must be mailed to the VAT authorities.

The Maltese VAT authorities will be liable for late payment interest if the payment is not processed in a timely manner.

The Maltese VAT authorities generally will not reject an entire refund application based on an error in the readability/acceptability of a single invoice, if a particular invoice was not provided or if the claimant failed to respond to a question about one invoice; only the claim relating to the relevant invoice will be rejected. If the Maltese VAT authorities request additional information/documents that they consider relevant for the other invoices/the entire claim, they may reject the entire claim or suspend a decision until the necessary information/documents have been provided and issues clarified.

If the refund is not granted (in whole or in part), the grounds for rejection must be stated. If the authorities fail to issue a decision within the prescribed deadlines, the refund application must be deemed to have been rejected. The grounds for rejection will not be explicitly communicated to the claimant at this stage.

An appeal against a denied claim can be made to the Maltese Administrative Review Tribunal by means of a written application (in Maltese or English) that clearly states the relevant facts and the claimant's position on the matter. Although not specifically addressed in Maltese VAT legislation, the appeal must be filed within the same period that applies to appeals against assessments (of Maltese VAT due, administrative penalties etc.), i.e. within 30 days from the date of the decision.

Reasons for rejecting a VAT refund claim include the claimant's failure to provide the authorities with appropriate invoices or other supporting information/documents, because the expenditure is "blocked" and the input VAT incurred is not eligible for a refund (e.g. with respect to entertainment and hospitality expenses).

Maltese VAT legislation does not contain provisions allowing administrative penalties to be levied on claimants where a refund claim is rejected. However, where a refund has been obtained in a fraudulent/incorrect manner, the authorities will recover the wrongly paid amount and impose an administrative penalty and interest, and the authorities need not pay any further refunds until the relevant amounts have been repaid.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Malta.

Eligibility for the refund

While, in principle, reciprocity between Malta and the country of establishment of the claimant is required, in practice, this is not applied. However, no refunds will be granted:

- To non-EU-established persons under conditions that are more favourable than those applied to EU-established taxable persons; and
- On supplies made by a non-EU-established person where its business would, by its nature, be treated as exempt without credit had the business been carried out in Malta.

The Maltese VAT authorities may require the appointment of a tax representative to file a claim for a VAT refund.

Non-refundable VAT

VAT cannot be recovered on:

- Tobacco or tobacco products, except those intended for resale;
- Alcoholic beverages, except those intended for resale or for the supply of a service (e.g. bars, hotels and restaurants);
- Works of art, collectors' items and antiques, except those intended for resale;
- Non-commercial motor vehicles (and goods and services for the purpose of repairing, maintaining, fuelling and keeping non-commercial motor vehicles), except those intended for resale, hire (with a driver or for self-drive hire), driving instructions or for the purpose of the carriage of goods or passengers for consideration;
- Vessels or aircraft (as well as goods and services for the purpose of repairing, maintaining, fuelling and keeping vessels or aircraft), except those intended for resale, charter/hire, the carriage of goods or passengers for consideration, the carriage of goods or personnel in the course of an economic activity or where the use of such vessels or aircraft constitutes a specific and essential element of the carrying out of the economic activity that would otherwise entitle the person to deduct input tax;
- Purchases relating to the provision of receptions, hospitality or entertainment, except where such provision is made for consideration in the normal course of that person's economic activity; and
- Purchases relating to the provision of transport or entertainment to employees and officers, subject to certain exceptions.

Furthermore, Maltese input VAT incurred in relation to electronically supplied services provided by a non-EU-established company registered in the EU under the mini One Stop Shop scheme is not recoverable through a 13th Directive refund claim.

Partially refundable VAT

In principle, non-established persons will be allowed a refund of Maltese VAT only to the extent the expenses on which the VAT was incurred are attributed to transactions that would have given rise to a right of deduction had they taken place in Malta. Hence, if the non-established person carries out both transactions that would give rise to a right of deduction and transactions that would not give rise to a right of deduction, Maltese VAT incurred on general overhead generally will be partially refundable.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 186; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 23.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Maltese tax authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year.

Proxy

If certain aspects of the refund claim procedure (e.g. the submission of the refund claim, follow up on submitted claims, etc.) are carried out by an authorized third party, that party will have to prove its authorization to act on the claimant's behalf by submitting a proxy, authorization letter or other document having similar effect.

Maltese VAT legislation does not contain specific (formal) requirements for proxies, authorization letters or documents. Common civil law principles apply. The legislation also does not address when such authorization documents must be provided. The documents must be presented to the local authorities at the "appropriate time," depending on the type of actions the third party is authorized to perform according to the documents.

As mentioned above, the Maltese VAT authorities may require the appointment of a tax representative to file a VAT refund claim.

Application forms

The application is made on Form 008/2004, which can be obtained at the address below or online at: <http://www.vat.gov.mt/>.

The form must be completed in Maltese or English and in Euro.

All invoices must be mentioned in the attachment to the application form.

The application must be signed by a person who is legally entitled to represent the company (e.g. director); otherwise, a letter of authority must be provided.

The form and supporting documentation must be sent to:

The Commissioner for Revenue

VAT Department

16, Centre Point Building

Ta' Paris Road

Birkirkara BKR4633

Malta

Telephone: (00 356) 2149 9330

Fax: (00 356) 2149 9365

Email: vat@gov.mt

Web: www.vat.gov.mt

Supporting documentation

The following documents must be submitted with each application:

- An official certificate on a prescribed form in either Maltese or English and endorsed by the competent authority of the country in which the claimant is registered for VAT or where it carried out its economic activity; and
- Original invoices or import documents. The serial number used in the application form must be included on the documents.

E-invoicing

As mentioned above, each application must be supported by original invoices. On this basis, where an e-invoice was duly issued in respect of a supply for which the Maltese VAT is reclaimed, the original e-invoice should support the claim. Malta does not have specific requirements/restrictions related to e-invoicing (aside from the general requirements in the Second EU Invoicing Directive). However, Maltese legislation is silent on this matter and it is not clear whether a printed/hard copy version of the e-invoice also would be acceptable.

Refunds and appeals

The Maltese VAT authorities must issue a decision on a refund claim within six months from receipt of the duly documented claim:

- The authorities can accept the claim and notify the claimant in writing; or
- The authorities can reject the claim (in whole or in part) and notify the claimant in writing.

A notification will be sent electronically to the claimant or its agent/tax representative if the latter is appointed to act on behalf of the claimant.

Refunds must be issued before the end of the six-month period mentioned above. Maltese legislation does not provide for interest to be paid if the refund is not issued in a timely manner.

The refund will be paid in Euro or in the national currency of the claimant, according to the choice of the claimant. Refunds normally are made through a bank transfer to a non-EU IBAN bank account number qualified by a bank identifier code. Although bank drafts issued by the Central Bank of Malta also may be issued, it may prove difficult to cash cheques issued through the Central Bank of Malta outside Malta.

If the refund is not granted (in whole or in part), the grounds for rejection must be stated. If no decision is made within the established time limits, the application will be deemed to be rejected. The grounds for rejection will not be explicitly communicated to the claimant at this stage.

The Maltese VAT authorities generally will not reject an entire refund application based on an error in the readability/acceptability of a single invoice, if a particular invoice was not provided or if the claimant failed to respond to a question about one invoice; only the claim relating to the relevant invoice will be rejected. If the Maltese VAT authorities request additional information/documents that they consider relevant for the other invoices / the entire claim, they may fully reject the claim, or suspend a decision until the necessary information/documents have been provided and any relevant issues clarified.

An appeal against a denied claim can be made to the Maltese Administrative Review Tribunal by means of a written application (either in Maltese or English) that clearly states the relevant facts and the claimant's position on the matter. Although not specifically addressed in Maltese VAT legislation, the appeal must be filed within the same period that applies to appeals against assessments (of Maltese VAT due, administrative penalties, etc.), i.e. within 30 days from the date of the decision.

Reasons for rejecting a VAT refund claim include the claimant's failure to provide the authorities with appropriate invoices or other supporting information/documents, because the expenditure is "blocked" and the input VAT incurred is not eligible for a refund (e.g. with respect to entertainment and hospitality expenses).

Maltese VAT legislation does not contain provisions allowing for administrative penalties to be imposed on claimants where a refund claim is rejected.

However, where a refund has been obtained in a fraudulent/incorrect manner, the authorities will recover the wrongly paid amount and will impose an administrative penalty and interest. If fraudulent applications cannot be subject to an administrative penalty, the Maltese authorities will refuse to issue any further refunds to the claimant for up to two years from the date the fraudulent application was made. If an administrative penalty has been imposed and interest is due but not paid, the Maltese authorities will suspend any further refunds until the payment is made.

Furthermore, the authorities have the right to deduct the administrative penalty and interest from any future refunds claimed.

The Netherlands

Dutch VAT is known as “*Belasting over de toegevoegde waarde*” (BTW).

The standard VAT rate is 21%, and there is a reduced rate of 6%.

An extensive overview of the VAT rates applied in the Netherlands can be found at:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Dutch fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

The Netherlands is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Dutch-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The refund application must be submitted electronically through the portal of the tax authorities of the country in which the claimant is established:

<https://eubtw.belastingdienst.nl/vrca-applicant/> for companies established in the Netherlands. Applications for VAT refunds in different member states must be separately submitted.

The refund request may be submitted by the claimant or by an authorized person, which may be a non-established company. However, the third party must have a VAT registration in an EU member state to obtain log-in codes.

To access the Dutch tax authorities' portal as an intermediary, the third-party service provider must obtain log-in codes from the Dutch tax authorities and complete the form "*Aanvraag inloggegevens teruggaaf btw uit andere EU-landen voor intermediairs*," which can be downloaded at:

https://download.belastingdienst.nl/belastingdienst/docs/aanvraag_inloggeg_btw_andere_%20eu_land_ob4082z7fol.pdf

For claimants established in the Netherlands, the following documents must be submitted with each claim for Belgium, Croatia, Cyprus, Germany, Estonia, Finland, France, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Spain, Czech Republic, and the UK:

- Copies of invoices/import documents, bills, vouchers, receipts or customs clearance forms. Most countries have a threshold of EUR 1,000 (EUR 250 for fuel), excluding VAT; Cyprus, Hungary, Romania and the UK have thresholds in their local currency, while the Czech Republic does not have a threshold; and
- Authorization if a third party submits a claim on behalf of the claimant. This authorization is required for all member states. Countries can impose additional conditions to these authorizations.

A certificate of VAT status is not required.

IT requirements

Taxpayers established in the Netherlands and registered for VAT purposes are allowed to file their refund claim using the following website:

<https://eubtw.belastingdienst.nl/vrca-applicant/>

The claimant must request a log-in code and an administrator must be appointed. For an authorized person (e.g. tax advisor) to submit the application, it must be appointed to access the site by the administrator.

Access to the portal to submit the refund claim may be obtained by submitting the form, "*Aanvraag inloggegevens teruggaaf btw uit andere EU-landen*" to the Dutch authorities:

http://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/themaoverstijgend/rokenhulpen/aanvraag_inloggegevens_voor_terugvragen_btw_uit_eu_landen

In the following member states, an authorization must be added, including the address of the authorized person, the claimant's address, written authorization and signature:

- Cyprus, Ireland, Luxembourg, Malta, Poland, Spain, Sweden and the UK;
- For Bulgaria, the authorization must be personally delivered to the tax office: Territorial Revenue Directorate, Aksakov Street 21, BG-1000 Sofia;
- Hungary, Italy and Lithuania require the authorized person to be established in that member state, in addition to providing a written authorization;
- Authorizations must be in English or the official language of the member state;
- Added files must be in JPEG, PDF or TIFF format and may be in a single zip file. The total size (including added bills and authorization form) of the added forms may not exceed 5MB.

It also is possible to upload data through XML files using a KPN certificate and meeting certain requirements.

There is no limit on the number of invoices that can be submitted in a refund claim or per year. However, the attachment size of the invoices cannot exceed 5 MB.

Non-EU countries (13th Directive equivalent)

This refers to a Dutch-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Dutch-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Dutch portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*verklaring omtrent de hoedanigheid van belastingplichtige*” in the Netherlands.

The Netherlands is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in The Netherlands.

Eligibility for refund

A foreign taxable person is entitled to recover Dutch VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in the Netherlands;
- It does not have residence, a seat or fixed establishment for VAT purposes in the Netherlands;
- The claimant has not carried out any taxable supplies in the Netherlands, except for:
 - Certain tax-exempt cross-border transport services from/to non-EU countries;
 - Supplies for which the reverse charge mechanism applies;
 - Supplies subject to occasional taxation; or
 - Electronically provided supplies where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons.

Non-refundable VAT

VAT cannot be recovered on:

- Supplies of goods and services that are not used for business purposes;
- Supplies and services acquired or imported in connection with an exempt business activity in the state of establishment;
- Incorrectly invoiced VAT;
- Food and drinks in restaurants, hotels and cafes;
- Business entertainment in excess of EUR 227 per year per person; and
- Employee benefits in-kind in excess of EUR 227 per year per person.

Partially refundable VAT

VAT can be partially recovered on:

- VAT on costs for the lease or rental of cars: Limited to an 84% VAT refund (a 16% correction is made for private use); and
- Businesses use goods or services for exempt services: The deductible VAT will be calculated pro rata.
- The 84% is applied by the Dutch tax authorities as per their internal policy (since private use of the car is presumed). If it can be established that the car is used only for business purposes, a 100% VAT deduction should be possible.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50. A claimant can make a maximum of five claims (per member state) annually.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year. To have the right to appeal the decision of the tax authorities, the claim must be submitted within nine months after the end of the calendar year (i.e. before 1 October) in which the VAT was incurred. However, it is possible to submit a claim within five calendar years from the end of the calendar year in which the VAT was incurred, but in this case, no appeal is possible. In some EU countries, it is not possible to submit a refund request after 1 October; in this case, a written request may be submitted to the Dutch tax authorities.

A claimant can submit more than one refund claim for the remainder of a calendar year, and it is possible to add the additional invoices in a subsequent refund claim for the same year (provided the deadlines are met). Additional invoices may not be added to a refund claim for the following calendar year.

If the invoice cannot be reported in the same calendar year, the claimant will have to appeal a decision received for the relevant period.

Follow up on submitted claims

When the Netherlands is the member state of refund, the Dutch authorities will not require a third-party service provider to prove its authorization to follow up on the status of the refund claim, but the third party should retain a copy of the authorization.

Proxy

If the foreign company is represented by a VAT agent (e.g. a tax advisor), the Dutch tax authorities may request a power of attorney. There is no notarization requirement and an electronic scanned copy generally is accepted.

Supporting documentation

In principle, supporting documentation is required only if the Dutch VAT authorities request additional information.

E-invoicing

E-invoices generally are accepted, subject to the approval of the recipient, and are self-sufficient to claim input VAT via the former 8th Directive procedures. The business decides how to ensure the integrity, authenticity and legibility of e-invoice. An advanced electronic signature (or another system) can be used to establish a certain e-invoice.

Refunds and appeals

The Dutch VAT authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant;
- The authorities can reject the claim (in whole or in part) and notify the claimant; or
- The authorities can request additional information via electronic means (not necessarily via email). The claimant must provide all information within one month of receipt of the request.

Queries will be sent by the tax authorities to the claimant and the agent. Decisions will be sent to the claimant.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be processed in Euro within 10 business days after the relevant period and paid to the bank account number provided to the tax authorities. The refund is made in the Netherlands, unless the claimant requests payment in another member state; in the latter case, any bank charges may be deducted from the refundable amount.

The Dutch VAT authorities will be liable for late payment interest if the refund is not processed in a timely manner.

In principle, the tax authorities will not deny the entire refund claim if one of the submitted invoices was incorrect or if the taxpayer did not respond to a query on a specific invoice.

If the refund is not granted, the grounds for rejection must be stated.

An appeal against the denied claim can be made to the Dutch tax authorities within six weeks following the date on the notification of the decision. If the appeal is unsuccessful, the claimant can initiate proceedings before the national court (within six weeks after receipt of notification of the decision).

A common reason for a VAT refund claim to be rejected is where the name and address of the purchaser is not stated on an invoice for the purchase of vehicle fuel.

The appeal must be sent by a letter of objection and should be drafted in Dutch.

The processing of a refund claim typically takes four to eight months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in The Netherlands.

Eligibility for refund

No reciprocity is required. The business must be a “taxable person.”

However, the following documents must be filed with the refund claim:

- Declaration of entrepreneurship, preferably from the tax administration in the country of establishment;
- Original invoices; and
- Import documents.

The tax authorities will handle the request only after registration as a foreign entrepreneur (registration number is obligatory).

A foreign taxable person is entitled to recover Dutch VAT if the following conditions are satisfied:

- The claimant is not registered, liable or eligible to be registered for VAT in The Netherlands;
- It does not have residence, a seat or fixed establishment for VAT purposes in The Netherlands.
- The claimant has not carried out any taxable supplies in the Netherlands, except for:
 - Certain tax-exempt cross-border transport services from/to non-EU countries;
 - Supplies for which the reverse charge mechanism applies;
 - Supplies subject to occasional taxation; or
 - Electronically provided supplies where the foreign taxable person opted for application of the special regime for non-established taxable persons supplying electronic services to non-taxable persons.

Partially refundable VAT

VAT can be partially recovered on the following:

- VAT on costs for the lease or rental of cars: Limited to an 84% VAT refund (a 16% correction is made for private use); and
- Businesses use goods or services for exempt services: The deductible VAT will be then calculated on a pro rata basis.
- The 84% is applied by the Dutch tax authorities as internal policy (since private use of the car is presumed). If it can be established that the car is used only for business purposes, a 100% VAT deduction should be possible.

Non-refundable VAT

VAT cannot be recovered on:

- Supplies of goods and services that are not used for business purposes;
- Supplies and services acquired or imported in connection with an exempt business activity;
- Incorrectly invoiced VAT;
- Food and drinks in restaurants, hotels and cafes;
- Business entertainment in excess of EUR 227 per year per person; and
- Employee benefits in-kind in excess of EUR 227 per year per person.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

To have the right to appeal the decision of the tax authorities, the claim must be submitted within six months after the end of the calendar year in which the VAT was incurred.

However, it is possible to submit a claim within five calendar years from the end of the calendar year in which the VAT was incurred, but in this case, no appeal can be filed.

Proxy

If the foreign company is represented by a VAT agent (e.g. a tax advisor), the Dutch tax authorities may request a power of attorney. There is no notarization requirement and an electronic scanned copy generally is accepted.

Application forms

To submit a VAT refund request, the foreign entity must be registered in the Netherlands. Registration is carried out by completing form “*Aanvraag registratienummer buitenlandse onderneming*,” which can be downloaded at: http://download.belastingdienst.nl/belastingdienst/dl/rekenhulpen/registratie_buitenlandse_ondernemers/btw_identificatnr_buitlnd_ondern_ob711z2fol.pdf

The refund application is Form OB 68 issued by the Dutch tax authorities (other EU forms are also accepted).

The form must be completed in Euro. Whilst forms supplied by the tax authorities in any EU member state are accepted, it is preferable to have the form printed in the same language as in the application.

Supporting documentation

The following documents must be submitted with each claim:

- Original invoices/import documents, bills, vouchers, receipts or customs clearance forms;
- A copy of the articles of association;
- A copy of the extract of the Chamber of Commerce (business registration register);
- A letter of authority if a third party submits a claim on behalf of the claimant; and
- An original certificate of taxable status.

The form and supporting documentation must be sent to:

Belastingdienst Limburg / Kantoor Buitenland
Postbus 2865
6401 DJ HEERLEN
The Netherlands
Tel: + 31 45 560 31 11
Fax: +31 45 560 31 00

E-invoicing

E-invoices generally are accepted, subject to the approval of the recipient, and are self-sufficient to claim input VAT. The business decides how to ensure the integrity, authenticity and legibility of e-invoice. The advanced electronic signature (or another system) can be used to confirm a certain e-invoice.

Refund and appeals

The Dutch tax authorities will stamp or perforate each invoice and/or import document to prevent their use in subsequent applications and will return the documents to the claimant within one month after a decision is made:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim in whole or in part and so notify the claimant via electronic means; or
- The authorities can request additional information via electronic means (not necessarily via email). The claimant must provide all information within of one month of receipt of the request.

Queries by the tax authorities will be sent to the claimant and the agent. Decisions will be sent only to the claimant.

A decision on a refund application will be made within six months of the date the application and all supporting documents are submitted to the Dutch tax authorities.

If the authorities request additional information, the six-month period will be suspended until the claimant has provided the necessary information. If a refund is granted, it will be made in Euro directly to the claimant or its appointed agent before the end of the above period and paid to a bank account in the Netherlands or the state in which the claimant is established. In the latter case, the claimant will be responsible for any bank charges on the transfer.

The Dutch tax authorities will not be liable to pay any interest on the refund if the refund is not processed in a timely manner.

If the refund is not granted, the grounds must be stated. An appeal against the decision may be made to the Dutch tax authorities within six weeks of the receipt of the notification (tax assessment). If this appeal is unsuccessful, the claimant may resort to the national court within six weeks after receipt of the notification of the decision on the appeal.

In principle, the tax authorities will not deny the entire refund claim if one of the submitted invoices was incorrect or because a query on a specific invoice has not been answered.

The time limit for an appeal is six weeks from the day the claimant was notified of the decision.

The processing of a refund claim takes on average four to eight months.

Norway

Norwegian VAT is known as “*Merverdiavgift*” (MVA).

The standard VAT rate is 25%, and there are reduced rates of 15%, 11.11%, 10% and 0%.

It is not necessary to appoint a Norwegian fiscal representative to claim a VAT refund.

Norway is the Member State of Establishment

13th Directive

This refers to a Norway-established company, submitting a 13th Directive claim in an EU country.

The refund application for a Norway-established company claiming input VAT in an EU country must be submitted according to the requirements of the country of refund. Reciprocity rules (allowing or not Norway companies to submit a refund claim) must be verified with the country of refund.

An original “certificate of taxable status” issued by the relevant Norwegian tax office usually will have to be provided to the EU country of refund. This certificate is called “Confirmation of VAT registration in Norway.”

Norway is the Member State of Refund

13th Directive equivalent legislation in Norway (Norwegian VAT Act section 10-1)

Since Norway is not part of the EU, the EU Directive 2008/09/EC and the 13th Directive are not applicable to companies requesting VAT refunds in Norway. However, it is possible for foreign companies to reclaim VAT in Norway via a “13th Directive equivalent legislation”.

Eligibility for refund

Foreign businesses can obtain refunds of VAT paid on purchases of goods and services in Norway or on imports of goods into Norway. No reciprocal agreement with the home country of the non-resident business is required for refunds to be made. However, the foreign business must satisfy the following conditions:

- The foreign business is not liable to register for VAT purposes in Norway;
- The VAT relates to the claimant's business activities carried out abroad;
- The business would have been liable for VAT registration in accordance with the Norwegian Act relating had the supply been made in Norway; and
- The VAT in such a case would have been deductible.

The foreign business must not have been registered or engaged in an activity that is subject to registration in Norway during the period to which the application relates. VAT on goods imported for delivery to a buyer in Norway and on goods imported for sale in Norway is not refunded. The same applies to goods and services purchased locally to be resold in Norway.

Foreign businesses that only carry out VAT-exempt services (zero rated with credit) in connection with transportation directly to or from Norway may opt to register for VAT in Norway. Thus, to recover VAT costs incurred in Norway, airlines could register for VAT purposes in Norway and request a VAT refund through the ordinary VAT return or they could apply for a refund through the refund mechanism for foreign businesses.

Foreign businesses can have VAT refunded to the same extent as businesses in Norway, i.e. the purchase must be for use in a VAT-taxable activity. If the business engages in both VAT-taxable and non-taxable activities, only the part relating to taxable activities will be refunded.

Unless specific exemptions apply, the supply of goods and services is subject to VAT in Norway. Specific exempt services include health services, social services, educational services, cultural services, financial services, (including the procurement of such services), lottery services and the supply and letting of real property. Foreign businesses that are exclusively engaged in such activities, therefore, will not be entitled to VAT refunds.

There is no entitlement to a VAT refund for certain goods and services purchased for business use, e.g. purchases of art and antiques, expenses relating to meals, entertainment and gifts, personal vehicles, work on and management of real property intended to meet housing, leisure or other welfare needs, and benefits in kind, remuneration of the owner, management, employees and pensioned staff of the company.

Sales of certain goods/services are exempt from tax (zero rated), e.g. the supply of goods and services for export and use in offshore petroleum activities. For services to be regarded as exported, the services generally must be used entirely abroad. If a service can be supplied from a remote location, VAT will not be charged if the recipient is a taxable person that is resident abroad.

VAT will not be paid on advertising services and guarantee repairs that are carried out in Norway on behalf of a foreign principal. The seller will not charge VAT on such sales and, therefore, the issue of a refund does not arise.

Any mistakenly charged VAT will not be refunded; foreign businesses applying for the refund must have the mistake corrected by the seller.

Non-refundable VAT

VAT cannot be recovered on:

- Entertainment expenses;
- Food and drinks;
- The purchase, hire or importation of passenger cars, as well as on petrol, oil, repairs, maintenance and other related costs;
- Goods and services acquired for use outside the scope of Norwegian VAT;
- Goods imported and used for activities outside the scope of Norwegian VAT; and
- Benefits-in-kind for employees.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Norwegian VAT.

Making claims

Minimum amounts

A refund must be for at least NOK 2,000. If the application relates to an entire calendar year or the remainder of a calendar year, however, the refund can be as low as NOK 200.

The claimant can choose whether payment is to be made in Euro or in another currency. However, the claimant will be responsible for any costs arising as a result of a refund paid outside Norway.

Time limits

An application must relate to a period of at least three months and at most one calendar year. The period can be less than three months if it is the rest of a calendar year. The claim must relate to goods and/or services supplied/imported during the application period.

The application must be sent to the MOSS tax office no later than 30 June following the calendar year to which the application relates.

A claimant may submit up to four refund claims per year. As a general rule, each claim should cover at least a period of three months, although the final claim of a year may cover a shorter period.

Proxy

If the refund application is submitted by a proxy, an original power of attorney must be enclosed with the refund application. The proxy's rights must be clearly stated. The power of attorney must be in Norwegian, Danish, English or Swedish. If it is issued in another language, a certified translation must be enclosed.

Application forms

The claimant must use Form RF-1032, which can be downloaded at: <http://www.skatteetaten.no/upload/skjemaer/alltid/RF-1032BE.pdf>. The form and information about refund requests also can be obtained from the MOSS tax office.

The form must be completed in Norwegian, Danish, English or Swedish.

Applications cannot be filed electronically. They must be sent to:

Skatt øst – Moss, refusjon

Postboks 103

N-1501 Moss

Norway

T: + 47 800 80 000, +47 22 07 70 00

F: + 47 69 24 41 81

skattost@skatteetaten.no

www.skatteetaten.no

The application must be filled out electronically before being printed and signed and the original must be submitted via mail. If the form is filled out by hand, capital letters must be used. The amount of VAT claimed must in NOK. The application may be signed by the claimant, a person entitled to sign on behalf of the company or a proxy holder authorized by the company.

The Norwegian authorities normally issue a confirmation receipt of the claim by email.

Follow up on submitted claims

As a general rule, the refund claims may be followed up only by the claimant. However, if a power of attorney has been issued to another person, that person may follow up on the claim.

Supporting documentation

The following documents must be submitted with each claim:

- Original invoices and/or import documents evidencing the right to deduction. Invoices must be numbered and dated and include the name and address of the Norwegian seller, its organization number followed by the letters MVA, the name and address of the claimant, a clear description of the goods or services, quantity/extent, the place and date of delivery and the payment. The VAT must be specified and stated in NOK;
- A clear description of the commercial activity carried out abroad (which also should be stated in the application);
- A certificate from a public authority confirming that the claimant is engaged in a commercial activity;
- Certified export documents if the goods covered by the application have been exported; and
- An original authorization if the refund is being applied for by an authorized representative.

The description of the commercial activity and the certificate from a public authority can be omitted if these were submitted previously in the same year.

The application, with all enclosures, must be in Norwegian, Danish, English or Swedish. The description of the commercial activity and the certificate from a public authority can be in another language, but it must be accompanied by a certified translation.

Declarations

The foreign business must declare in the application that the goods or services have been used in the company and state the purpose of these purchases. If the goods/services still are used in the company, the application must state what they are used for in Norway. If the goods have been exported, the claimant must declare that this was carried out as shown in an enclosed certified export declaration.

The claimant also must declare that the goods covered by the refund application have not been or will not be sold in Norway or supplied to a buyer in Norway, and that the VAT paid is not covered by another refund scheme, e.g. the repayment scheme for re-exports of goods managed by the Directorate of Customs and Excise.

E-invoicing

Since Norway is not an EU member state, the EU VAT directives do not apply to Norwegian VAT law.

E-invoicing is accepted if the invoice (sales document) is in a non-editable format, such as a PDF file.

However, the e-filing of VAT refund applications for businesses not registered in Norway is not allowed. As such, electronic invoices must be printed and enclosed with the refund application. The claimant should explain that it uses e-invoicing if the claimant sends print-outs of e-invoices that look like copies.

Refunds and appeals

The time needed to process applications by the county tax office normally may not exceed six months. Even if the application is processed in a shorter time, the refund will not be paid earlier than four months after receipt of the application by the county tax office.

If the claimant has provided insufficient or incorrect information and on that basis received a refund higher than due, the incorrect amount plus interest may need to be repaid. Incorrectly refunded amounts, including interest, also can be offset against later applications for refunds.

Refunds paid can be offset/reclaimed when an incorrect payment is due to an obvious error by the tax authorities, e.g. a calculation error or if a significant amount is involved.

The authorities normally will process applications within six months, but the processing time may be extended where additional information is requested.

Furthermore, the authorities normally will inform the claimant's contact person or the authorized agent via letter by mail. If an agent has been appointed, queries and decisions normally will be sent to him/her, instead of the claimant.

A refund claim that is not decided timely in Norway should not be deemed to be accepted or rejected. If the decision is not issued in due time, the claimant or its authorized agent may contact the MOSS tax office. A contact person at the MOSS tax office normally will confirm receipt of the application via email to both the claimant and its agent, and that person may be contacted for an estimate on when the claimant may expect to receive a decision.

If the refund is not granted, the grounds for rejection must be stated. An appeal against the denied claim can be made by mail/courier to the Norwegian directorate of taxes within six weeks after the rejection. If this appeal is unsuccessful, the claimant can appeal to the civil courts.

If one of the submitted invoices is not correct or it is not in original, the tax office should request that the claimant provides the invoices with the correct/original invoice before rejecting the application. The entire refund claim may not be rejected because a query on a particular invoice has not been answered; however, the claim for the refund of VAT included in that invoice may be rejected.

Since there is no time limit to process a refund, the Norwegian tax authorities will not be liable for interest if they do not issue a decision in due course.

The claimant can list any bank account for the refund.

The payment is made in Euro unless another currency is specified. However, any costs for transfers to international accounts and currency exchange are borne by the claimant. The account holder's name and his/her VAT or business registration number must be stated.

A common reason for rejecting a VAT refund claims is that the Norwegian authorities consider that the claimant should have been required to register for VAT purposes in Norway.

In practice, the refund process in Norway normally takes five to seven months.

Poland

Polish VAT is known as “*Podatek od Towarów i Usług*” (PTU).

The standard VAT rate is 23%, and there are reduced rates of 8%, 5% and 0%.

An extensive overview of the VAT rates applied in Poland can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Polish fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive. However, appointing a Polish contact person (proxy) is recommended since the authorities tend to require additional explanations in Polish (e.g. regarding the nature and reason for the purchases) and, in some cases, can set short deadlines for this information to be delivered (e.g. seven days).

Poland is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Polish-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically in Polish through the portal of the tax authorities in the country in which the claimant is established (<http://www.e-deklaracje.gov.pl> for companies established in Poland).

Although not clearly stated in Polish law, a refund claim can be submitted by a proxy holder on behalf of the claimant. However, the authorization must be filed in hard copy, with stamp duty paid to the competent tax authorities before the refund application reaches the Polish tax office.

As the member state of establishment, the Polish tax authorities will confirm receipt of the claim.

IT requirements

The tax authorities provide specific software and an application form to file a refund request. The form must be filled in manually on a line-by-line basis. There is no mechanism to upload data electronically via XML or CSV.

For VAT refunds from other EU member states, the IT requirements are set by the rules of the relevant country. However, from a Polish VAT perspective, the following must be taken into account:

- All invoices must be included in a single zip file with no passwords or coding;
- The invoices in the zip file can be in the following formats: JPEG, PDF or TIFF;
- Maximum zip file size: 5MB; and
- Standard scanning preference: Black and white / max 200 dpi.

Polish taxpayers applying for refund of VAT incurred in other EU member states must use the form (VAT-REF) on the web page of the Minister of Finance. This form can be downloaded at: [http://www.e-deklaracje.gov.pl/files/pdf/VAT-REF\(2\)_v1_0.pdf](http://www.e-deklaracje.gov.pl/files/pdf/VAT-REF(2)_v1_0.pdf).

VAT refund claims filed in Poland must be signed with a certified electronic signature.

There are no restrictions on the number of invoices that may be submitted in a refund claim or per year. All invoices including Polish VAT and relating to a specific period must be submitted.

Non-EU countries (13th Directive equivalent)

This refers to a Polish-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Polish-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Polish portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called *zaświadczenie o rejestracji podatnika podatku od wartości dodanej lub podatku o podobnym charakterze w kraju siedziby* in Poland.

Poland is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Poland.

Eligibility for refund

Foreign taxable persons are entitled to recover Polish VAT if the following conditions are satisfied:

- The claimant does not have its seat, permanent or usual place of conducting business activities in Poland;
- It has not carried out any taxable supplies in Poland, except for:
- Certain import-related transportation services and their value was included in the taxable basis;
- Certain services related to international transport; and
- Supplies for which the reverse charge mechanism applies; and
- The claimant is a registered VAT payer or registered taxpayer of a similar tax in the country in which it has its registered seat.

Polish VAT law also requires that the claimant use the goods and services purchased in Poland in relation to its taxable activities, which give the right to deduct input VAT in the country in which the VAT is being settled.

Non-refundable VAT

VAT cannot be recovered on:

- Lodging and restaurant services, with some exceptions; and
- Costs borne by the supplier on behalf of the purchaser that subsequently were refunded by the purchaser and only temporarily presented in the supplier's accounting.

Full input VAT recovery is allowed on cars (purchase, lease, fuel and related expenditure), irrespective of their type (i.e. passenger cars/trucks) if the car is used only for business purposes. Specific conditions must be fulfilled for a company car to be considered to be used for business purposes; otherwise, input VAT deductibility is limited to 50% with no value cap on all expenditure (100% or 50% for fuel depending on how the car is used).

Partially refundable VAT

Aside from the above, there are no expenses for which non-established companies would be allowed only a partial refund of Polish VAT. However, if the claimant is allowed partial input VAT recovery because its purchases are used partly for taxable activities, the claimant would be allowed to recover input VAT on a pro rata basis.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the period shorter than the last three months of a calendar year, the amount may not be less than EUR 50. These amounts will be recalculated at an average Euro exchange rate set by the National Bank of Poland on the day before the invoice was issued.

Time limits

The application generally must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year. The application also may be submitted for a period shorter than the remaining three months of the calendar year (e.g. from 1 November to 31 December).

Polish VAT law does not specifically prohibit the submission of VAT refund claims for overlapping periods (e.g. January to June and May to December), assuming no double deduction is requested.

Follow up on submitted claims

The claimant or its authorized proxy can follow up on a claim. The Polish authorities contact claimants using the email address indicated on the VAT refund application. If the claimant intends to appoint a local proxy, the authorization must be filed in hard copy with stamp duty paid to the competent tax authorities. Since a response made to the Polish tax authorities must be in Polish, it is recommended that a Polish proxy be appointed to supervise this process.

Proxy

Where the refund claim is filed by a proxy holder acting on behalf of the claimant, the proxy must be filed with the tax office before the VAT refund claim reaches the Polish tax office. If the proxy is not filed, it may be filed at a later stage—either by the proxy holder or in response to a request by the Polish tax authorities. If no proxy is filed, all correspondence will be sent directly to the claimant. The proxy can be added to the proceedings at any time.

The proxy must be filed in original hard copy, using a specified format and the PLN 17 stamp duty per proxy must be paid. In addition, hard copies of the original statutory documents confirming that the persons who signed the power of attorney are authorized to represent the company must be submitted. All documents must be translated into Polish (including the power of attorney) if drafted in a foreign language.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is at least EUR 1,000 (EUR 250 for fuel costs). The Polish tax authorities can request additional documents or information.

E-invoicing

E-invoices will be accepted by the Polish tax authorities as the basis for the claim. E-invoices issued under the Polish VAT provisions must comply with certain requirements regarding the integrity of the content and the authenticity of origin.

Refunds and appeals

The Polish tax authorities must issue a decision on a refund claim within four months of receipt of the claim.

The decision must be sent via registered mail. If the authorities reject the claim in whole or in part they must send a request to the claimant to acknowledge receipt of the evidence collected and inform the claimant about the identified irregularities before a decision is issued.

The authorities may request additional information via electronic means in Polish. Correspondence with the tax authorities will be done via email unless the claimant does not agree to use electronic means, in which case all correspondence will be in hard copy.

If the proxy is in place, all correspondence will be addressed to the proxy holder; otherwise, all documents will be sent directly to the claimant.

The claimant must provide all information requested within one month of receipt of the request.

Where additional information is requested, the authorities must issue their decision within two months of receipt of the requested information, and in any case no later than eight months from receipt of the claim.

If the claimant fails to submit the information, the decision must be issued within two months after the expiration of the deadline to provide the information, but no later than six months from the date the claim was submitted (if the authorities send only one request for additional information), or eight months (if the authorities requested additional information more than once).

If a refund is granted, it must be paid in Polish currency within 10 business days after the decision is issued and paid to the bank account number provided in the VAT refund claim. This can be a foreign bank account.

The Polish tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If only one of the submitted invoices is not correct or not in compliance with the format requirements, only that part of the refund claim will be rejected.

If the refund is not granted, the grounds for rejection must be stated (in Polish). An appeal against the denied claim can be made to the Polish tax authorities (Tax Chamber via the tax office that rejected the claim) within seven or 14 days of receipt of the decision (the exact term will depend on the legal form of the decision). The appeal can be filed in person, sent by courier or by regular mail. If this appeal is unsuccessful, the claimant can appeal to the national administrative court. The deadline for an appeal to the administrative court usually is 30 days from the date of the decision of the higher tax authorities' body.

Possible reasons for a VAT refund claim to be rejected include failure to provide information necessary to determine whether the refund is justified or that the invoices included in the claim are subject to input VAT recovery restrictions that are not taken into consideration by the claimant.

The appeal against the rejection of the refund claim must be drafted in Polish in a specified format.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Poland.

Eligibility for refund

Taxable persons with a registered seat outside the EU must meet the same requirements as apply to EU taxable persons.

Reciprocity is required, i.e. Poland will refund VAT to claimants from countries that will refund VAT to Polish entities. There is no official list of countries for which reciprocity is granted. However, according to information published on the Ministry of Finance website, the reciprocity rule currently applies to the following countries: Iceland, Macedonia, Norway, Switzerland and some other countries (to be verified on a case-by-case basis).

Non-refundable VAT

VAT cannot be recovered on:

- Lodging and restaurant services, with some exceptions; and
- Costs borne by the supplier on behalf of the purchaser that subsequently were refunded by the purchaser and only temporarily presented in the supplier's accounting.

Full input VAT recovery is allowed on cars (their purchase, lease, fuel and related expenditures), irrespective of their type (i.e. passenger cars/trucks) only if the car is solely used for business purposes.

Specific conditions must be fulfilled for company cars to be considered to be used for business purposes; otherwise, input VAT deductibility is limited to 50% with no value cap on all expenditure (100% or 50% for fuel depending on how the car is used).

Partially refundable VAT

Aside from the above case, there are no expenses for which non-established companies would be allowed only a partial refund of Polish VAT. However, if the claimant is allowed partial input VAT recovery because its purchases are only partly used for taxable activities, the claimant will be allowed to recover input VAT on a pro rata basis.

Making claims

Time limits

The application must be submitted to the Polish tax authorities by 30 September of the year following the calendar year to which the application relates. Late claims are not accepted and the deadline will not be extended. The application also may be submitted at the local Polish consulate or embassy.

Proxy

If the refund claim is filed by a proxy holder acting on behalf of the claimant, the proxy must be filed with the tax office, along with the claim. If the proxy is not filed, the power of attorney may be filed at a later stage either by the proxy holder or in response to a request by the Polish tax authorities. If no proxy is filed, all correspondence will be sent directly to the claimant. A proxy can be added to the proceedings at any time.

The original proxy must be filed in hard copy in a specific format, with the PLN 17 stamp duty paid. In addition, the original statutory document must be filed in hard copy, confirming that the persons who signed the power of attorney are authorized to represent the claimant. All documents must be officially translated into Polish (including the power of attorney) if drafted in a foreign language.

Application forms

The application must be made by filing a hard copy (it cannot be faxed or emailed) of the form attached to the Decree on VAT Refunds, issued by the Minister of Finance. The form can be obtained from the local VAT offices or downloaded at:

http://www.mf.gov.pl/files/_podatki/vat_i_akcyzowy/akty_prawne/2011/zaznacznik_nr_2.pdf

The form must be completed in Polish and in Polish PLN.

All invoices must be mentioned in the application. It is unclear whether an excel spreadsheet can be used to provide an overview of the claimed amounts.

The application must be signed by a person who is legally entitled to represent the claimant; otherwise, an authorization must be provided to the tax authorities, along with a confirmation that stamp duty has been paid and with the hard copies of the original statutory documents of the claimant confirming that the signatories of the proxy are allowed to represent the claimant,

The form and supporting documentation must be sent to:

Drugi Urząd Skarbowy Warszawa – Śródmieście
ul. Jagiellońska 15
03 -719 Warszawa
Poland
T: + 48 22 511 35 01
F: + 48 22 511 35 02

Supporting documentation

The following must be attached to the application:

- Original hard copy invoices and customs documents supporting VAT amounts in the application;
- Confirmation from the tax authorities of the country where tax claimant has its seat showing that the claimant is a registered VAT payer, along with a notarized translation into Polish. If the claimant submits more than one application during a year, the certificate does not have to be submitted with each application, provided it was issued less than one year before the VAT refund claim was submitted and there have not been any changes to the scope of the certificate. The certificate must be officially translated into Polish;
- Confirmation of taxable status (this can be done on a special form in Polish (provided as an appendix to the Decree on VAT Refunds)); and
- A power of attorney if a third party submits/signs an application on behalf of the claimant and confirmation that stamp duty has been paid.

These documents must be originals. The authorities should accept a notarized copy of a VAT certificate, but in practice it is rarely used.

If the refund is granted, the Polish tax authorities will stamp and perforate each invoice and/or import document to prevent their use in subsequent applications and will return the documents to the claimant.

The authorities may request additional information, but the request must be made in Polish and sent via registered mail. The claimant must provide all information within one month of receipt of the request.

E-invoicing

According to Polish VAT law, invoices/customs documents in electronic format that are included in a claim must be sent/provided to the tax office electronically upon submission of the claim. In practice, a CD may be submitted with all documents in electronic format.

Polish VAT law requires that e-invoices comply with the requirements of integrity of content and authenticity of origin.

Refunds and appeals

The Polish tax authorities must issue a decision on a refund claim within four months of receipt of the claim.

The decision must be sent via registered mail. If the authorities reject the claim in whole or in part, they must send a request to the claimant acknowledging receipt of the evidence collected and inform the claimant about the identified irregularities before a decision is issued.

The authorities may request additional information via electronic means in Polish. Correspondence with the tax authorities will be made via email unless the claimant does not agree to use electronic means, in which case all correspondence will be in hard copy.

Where additional information is requested, the authorities must issue their decision within two months of receipt of the requested information, and in any case not later than eight months as from receipt of the claim.

If one of the submitted invoices is not correct/original or if queries on a specific invoice are not answered, that part of the refund claim will be rejected.

If the refund is not granted, the grounds for rejection must be stated.

The current approach is to have the claim processed within four months. If additional information is needed, the deadline is extended, but the authorities will comply with the eight-month time limit.

Portugal

Portuguese VAT is known as “Imposto sobre o Valor Acrescentado” (IVA).

The standard VAT rate is 23%, and there are reduced rates of 13% and 6%. The standard VAT rate in the autonomous region of Madeira is 22%, and the reduced rates are 12% and 5%. In the autonomous region of Azores, the standard VAT rate is 18%, and there are reduced rates of 9% and 4%.

It is necessary to appoint a Portuguese fiscal representative to claim a VAT refund based on the 13th Directive.

Portugal is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Portuguese-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities of the country in which the claimant is established.

For Portuguese taxpayers, such can be found under:

<https://www.acao.gov.pt/jsp/loginRedirectForm.jsp?path=external/vatrefund/suometerPedidoReembolso.action&partID=PFIN>. As from that point, the Portuguese VAT number and password of the claimant must be provided.

The request must be submitted by the claimant or by an authorized person. The third party does not have to be an entity established in Portugal, provided it is authorized by the claimant.

When Portugal is the member state of establishment, the Portuguese authorities will issue a confirmation of receipt of the VAT refund claim.

IT requirements

Portuguese taxpayers registered for VAT purposes can file their refund claims electronically using the web service of the Portuguese tax authorities. The preparation of the refund claim also may be done through the software provided by the tax authorities, which may be downloaded at:

<https://www.portaldasfinancas.gov.pt/pt/menu.action?pai=348> (by clicking “*Pedidos de reembolso a outros Estados Membros*”).

The password used by the claimant to electronically submit VAT returns must be used for downloading purposes.

The information needed to complete the form can be uploaded in XML format. Further information on the uploading process can be found at:

www.portaldasfinancas.gov.pt/de/ajuda/DGCI/FAQSI.htm#VATREFUND. The files under the “VAT Refund - *Pedidos de Reembolso a Outros Estados Membros*” section may be downloaded.

An automatic upload on the portal is possible. The tax authorities provide a file (through the above link) containing the data structure (scheme) of the *.XML file to be uploaded.

The log-in details to be used to file the claim must be obtained through:

<http://www.portaldasfinancas.gov.pt/pt/home.action>.

The electronic form is divided into three main sections:

- General information relating to the claimant, the period for which the refund is requested and the member state to which the claim refers;
- List of invoices (each document can be manually typed in or all documents can be uploaded in XML format); and
- Annexes: scanned invoices or other annexes can be uploaded taking the following into account:
 - Maximum one file per country for which a reclaim has been filed;
 - File types accepted: JPEG, PDF or TIFF;
 - Maximum file size: 5MB;
 - Resolution of standard scanning preference: Black and white and 200 dpi.

Once the claim is submitted, the taxpayer will receive a confirmation from the website, including the reference code for the application.

There is no limit on the number of invoices that can be submitted in a refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Portuguese-established company filing a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Portuguese-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund.

Portugal is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Portugal.

Eligibility for refund

A foreign taxable person is entitled to recover the incurred Portuguese VAT if the following conditions are fulfilled:

- The claimant does not have a head office, fixed establishment or residence in Portugal; and
- It has not carried out any taxable supplies in Portugal, except for:
- Certain tax-exempt cross-border transport services from or to non-EU countries; or
- Supplies for which the reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on:

- Accommodation, food and drinks (except in the case of specific events);
- Entertainment expenses;
- Purchase, hire, importation and repairs of vehicles, boats, and aircraft (unless these assets are used in specific activities). However, it is possible to recover VAT incurred related to commercial vehicles and trucks;
- Fuel expenses (50% of the VAT on diesel, LPG, natural gas and biofuel is recoverable and 100% if certain types of vehicles are involved);
- Tobacco; and
- Travel expenses, including tolls (except in the case of specific events).

Partially refundable VAT

- A partial refund may be obtained as follows:
- 50% of the VAT on diesel, LPG, natural gas and biofuel; and
- Provided certain requirements are met, companies may recover 50% of the VAT incurred for accommodation, transport and food expenses where the expenses are related to the organization of an event to promote their business, and 25% of the VAT incurred where the expenses relate to the participation in an event to promote their business.

Making claims

Minimum amounts

The refund must relate to the previous calendar year and the amount may not be less than EUR 50. If the application relates to the current year and to a period equal to three or more consecutive months, the amount for which the application is made may not be less than EUR 400; if the application relates to a shorter period, the amount may not be less than EUR 50 and the period must end on 31 December of the previous year.

Time limits

The application must be submitted to the Portuguese tax authorities by 30 September of the following year. Late claims are not accepted and the deadline cannot be extended.

A claimant can submit more than one refund claim for the remainder of a calendar year provided the relevant refund amounts are respected.

Follow up of submitted claims

The claimant or an authorized third party can follow up on a VAT refund claim. The follow up also may be made by phone.

The Portuguese tax authorities generally will not ask a third-party service provider to prove its authorization to follow up on the status of a refund claim.

Proxy

It is not necessary to appoint a Portuguese fiscal representative to claim a VAT refund based on the former 8th Directive. Consequently, the need for a proxy must be analyzed on a case-by-case basis and will depend on the situation. However, if a proxy is to be provided, the original (or at least a notarized copy) must be shown (an electronically scanned copy will not be sufficient). If the original proxy language is not Portuguese, the Portuguese tax authorities usually will request a notarized translation.

Supporting documentation

The Portuguese authorities can request additional documents/information (e.g. originals or copies of the relevant invoices).

E-invoicing

There is no specific procedure to reclaim VAT under Directive 2008/09/EC/Decree-Law nr. 186/2009 on the basis of e-invoices.

Refunds and appeals

The Portuguese tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant (a notification is sent to the head office of the claimant);
- The authorities can reject the claim in whole or in part and notify the claimant (a notification is sent to the head office of the claimant); or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide the information within one month of receipt of the request (the information may be provided by email); otherwise, the authorities can reject the claim (in whole or in part).

Any queries made and decisions issued by the tax authorities will be sent only to the claimant and not to the proxy holder.

If only one of the invoices is incorrect or cannot be provided or if a query on a specific invoice is not answered, only the VAT on the relevant invoice will be rejected; the entire claim will not be rejected.

The period in which the authorities must take a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be processed in Euro within 10 business days following the decision and paid to the bank account number provided to the authorities. The bank account must be held within the EU.

The Portuguese tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If the refund is not granted, the grounds for rejection must be stated. However, if there is an implicit denial (i.e. if there is no formal decision of the Portuguese tax authorities within the legal deadline to refund the VAT), there will be no formal notification to the claimant and, therefore, the grounds for implicit denial will not be expressly notified to the claimant.

An appeal against the denied claim (expressly or implicitly denied) can be made to the Portuguese tax authorities (administrative claim) or to a court (judicial claim).

For the administrative claim, the deadline is 120 days as from the date of the notification relating to the rejection of the refund claim or from the date of the implicit denial. The administrative claim can be submitted through the portal of the Portuguese tax authorities, but an active Portuguese VAT number and a password are required; otherwise, the claim must be addressed to the Portuguese tax authorities (Lisbon Local Tax Office nr. 3) by registered mail to the following address (if no other address is expressly indicated): Rua dos Correios, n.º 70, 1100-167 Lisboa.

For a judicial claim, the deadline is three months from the same dates as apply to administrative claims. A lawyer must be appointed to deal with the filing of the claim electronically (through the web portal for legal professionals) by registered mail, fax or at the local tax office.

The most common reasons for a VAT refund claim to be rejected are including non- or partially recoverable expenses in the claim or failure to comply with the invoice requirements.

The appeal (administrative or judicial claim) must be drafted in Portuguese.

Penalties may be imposed by the Portuguese tax authorities if a VAT refund is unduly paid to the taxpayer. In such a case, penalties and interest will be levied in addition to the VAT due. It is arguable that penalties may be imposed if the taxpayer fails to provide information requested by the tax authorities, but the application of such penalties is not common.

The time to process a refund usually is four to six months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Portugal.

Eligibility for refund

Reciprocity is required. The Portuguese tax authorities currently are managing reciprocity on a case-by-case basis, which may result in a contradictory outcome for companies from the same country.

Non-refundable VAT

VAT cannot be recovered on:

- Accommodation, food and drinks (except in the case of specific events);
- Entertainment expenses;
- Purchase, hire, importation and repairs of vehicles, boats, and aircraft (unless these assets are used in specific activities). However, it is possible to recover VAT related to commercial vehicles and trucks;
- Fuel expenses (50% of the VAT on diesel, LPG, natural gas and biofuel is recoverable and 100% if certain types of vehicles are involved);
- Tobacco; and
- Travel expenses, including tolls (except in the case of specific events).

Partially refundable VAT

- 50% of the VAT on diesel, LPG, natural gas and biofuel; and
- If certain requirements are met, companies are entitled to recover 50% of the VAT incurred on accommodation, transport and food expenses where the expenses are related to the organization of an event to promote their business, and 25% of the VAT incurred where the expenses are related to participation in an event to promote their businesses.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period equal to a calendar year or to the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must be submitted to the Portuguese tax authorities before 30 September of the year following the year for which the refund is claimed. Late claims are not accepted and the deadline cannot be extended.

Proxy

To file a VAT refund claim, the non-EU claimant must appoint a Portuguese fiscal representative. Consequently, a proxy must be provided to the tax authorities along with the VAT refund claim (since the fiscal representative will file the VAT refund claim). A notarized copy can be presented, but the original may be required by the Portuguese tax authorities.

Application forms

The application is made on Portugal's Form 1496 (other EU forms will be accepted if they include at least the content found in Form 1496). The form can be downloaded at: <http://www.incm.pt/eforms/request?M=1496>.

The form must be completed in Portuguese and in Euro.

All invoices must be listed in the attachment to the application form. An excel spreadsheet may be used to provide an overview of the claimed amounts.

The application must be signed by a person who is legally entitled to represent the company (e.g. managing director); otherwise, a letter of authority must be provided.

Applications can be filed electronically (although they cost EUR 0.32) and printed. A signed hard copy of the form must be sent directly to the Portuguese tax authorities.

Supporting documentation

The Portuguese authorities can request additional documents/information (e.g. originals or copies of the relevant invoices).

The following documents must be submitted with each application:

- Original invoices and import documents. The serial number as included in the application form must be mentioned on the documents; and
- A certificate issued by the state of establishment of the claimant showing it is subject to a general turnover tax and that Portuguese taxpayers are entitled to a refund of that general tax (this is not required when a reciprocity agreement exists between Portugal and the relevant country).

E-invoicing

Under the 13th Directive and relevant Portuguese legislation, there is no specific procedure to reclaim VAT on the basis of e-invoices.

Refunds and appeals

Any queries made and decisions issued by the tax authorities will be sent to the representative appointed for purposes of the VAT refund.

The rules concerning the extension of the deadline are similar to the rules concerning VAT refunds under the former 8th Directive.

VAT refunds are never deemed/implicitly accepted. If the refund is expressly or implicitly denied (totally or partially), the taxpayer can appeal by filing an administrative claim or a judicial claim.

Refunds under the 13th Directive/Decree Law No. 186/2009 must be paid by the end of the sixth month following the date the application was submitted.

The Portuguese tax authorities will be liable for late payment interest if the refund is not processed in a timely manner. The claimant must provide an IBAN number referencing a bank account held within an EU member state.

If a specific invoice is not correct or a query on a specific invoice is not answered, the VAT refund will be rejected in part, but the entire claim will not be rejected.

The most common reasons for a VAT refund claim to be rejected are including non- or partially recoverable expenses in a claim or failure to comply with the invoice requirements.

For an administrative claim, the deadline for filing an appeal is 120 days from the date of the notification relating to the rejection of the refund claim or from the date of the implicit denial. For a judicial claim, the deadline is 90 days from the same dates as apply to administrative claims.

Penalties may be imposed by the Portuguese tax authorities if the VAT refund is unduly paid to the taxpayer. In such a case, penalties and interest will be levied in addition to the VAT due. It is arguable that penalties may be imposed if the taxpayer fails to provide information requested by the tax authorities, but the imposition of such penalties is not common.

On average, the processing of a refund takes six to eight months.

The rules referred above are applicable to non-EU-established companies with a MOSS registration in another EU member state filing a 13th Directive claim in Portugal (with regard to the Portuguese VAT incurred for the transactions to be reported under the MOSS registration). However, in such a case, neither reciprocity nor a Portuguese fiscal representative are required.

Romania

Romanian VAT is known as “*Taxa pe valoarea adăugată*.”

As from 1 January 2017, the standard VAT rate is 19%, and there are reduced VAT rates of 9% and 5%.

It is not necessary to appoint a Romanian fiscal representative to claim a VAT refund based on Directive 2008/09/EC, but a representative is required for a refund claim under the 13th Directive.

Romania is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Romanian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically via the portal of the tax authorities in the country in which the claimant is established (<http://www.anaf.ro> for companies established in Romania).

The request can be submitted by the claimant or by an authorized resident or non-resident person, based on a proxy. If a third party is to file the claim, it must have a notarized power of attorney.

When Romania is the member state of establishment, the Romanian authorities will issue a confirmation of receipt of a VAT refund claim.

IT requirements

There are no specific provisions in the Romanian VAT legislation on IT requirements that must be fulfilled regarding the claims submitted by EU-established persons.

Romanian taxpayers registered for VAT purposes must electronically file their refund claims using the smart PDF form (Form 318) provided on the website of the National Tax Administration.

An electronic form is available on the website at the following link
https://static.anaf.ro/static/10/Anaf/Declaratii_R/Decl318/D318_2016_181016.pdf

The filing procedure is done electronically, with the form signed using a digital signature and then submitted via the portal of the National Tax Administration (<https://decl.anaf.mfinante.gov.ro>). The same page can be accessed via the portal <http://e-guvernare.ro/> by pressing the first button on the left “*Depunere declaratii.*”

The deadline for submitting Form 318 is 30 September of the year following the reimbursement period.

The electronic form is divided into three main sections:

- General information relating to the claimant and the period for which the claim is requested;
- List of invoices/import documents with details related to each document typed in (e.g. invoice number, date, code and description of goods and/or services, taxable amount, VAT, pro rata, deductible VAT, details about the supplier); and
- Annexes: scanned invoices/annexes can be uploaded taking the following into account:
 - File types: JPEG, PDF or TIFF;
 - Maximum file size: 5MB;
 - If the taxpayer must provide more than one document, the documents can be grouped in a single document.

There is no limit on the number of invoices that may be submitted in the same refund claim. However, documents sent by email (including invoices and other types of appendices) cannot exceed a total of 5 MB.

Non-EU countries (13th Directive equivalent)

This refers to a Romanian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Romanian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Romanian portal is not to be used.

A “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. As there is no specific form in Romania, the tax authorities may issue confirmation that the company is registered in Romania for VAT purposes.

Romania is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Romania.

Eligibility for refund

A foreign taxable person is entitled to recover Romanian VAT if the following conditions are satisfied (during the refund period):

- The claimant was not registered or liable to be registered for VAT in Romania;
- It did not have its business established in Romania and did not have a fixed establishment or place of residence in Romania from which economic operations were performed;
- The claimant did not carry out any taxable supplies in Romania, except for:
 - Certain tax-exempt cross-border transport and auxiliary services from/to non-EU countries; or
 - Supplies for which the reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on:

- Invoices on which VAT was unlawfully charged;
- Acquisitions of goods that can or should be classified as VAT exempt;
- Acquisitions made by tourism agencies, including tour operators that apply the margin scheme, or an equivalent regime, in the member state of establishment;
- Tobacco alcoholic products, except those intended for resale or for supply while performing a service (e.g. bars, hotels and restaurants); and
- Local and intra-community acquisitions, import, rental or leasing of passenger vehicles and all directly related costs (e.g. repairs, maintenance, lubricants, spare parts, fuel), depending on the circumstance, are subject to a 50% limitation on the VAT deduction right.

The following are the most relevant exceptions related to passenger vehicles in relation to which input VAT is fully deductible:

- Vehicles having a total authorized weight of more than 3,500 kg and more than nine seats for passengers, including the driver's seat;
- Vehicles exclusively used for emergency, security, protection and courier services;
- Vehicles used by sales and procurement agents;
- Vehicles used for passenger transport against payment, including taxi services;
- Vehicles used for the provision of services against payment, including training provided by driving schools; and
- Vehicles intended to be sold or leased by a taxable person whose economic activity involves the sale or leasing of motor vehicles.

Partially refundable VAT

- As mentioned above, there is a 50% limitation on the VAT deduction right for vehicle-related acquisitions. The limit does not apply if the taxable person can prove the exclusive use for its business purposes or if the vehicles fall within one of the above exceptions.
- VAT may be partially refundable when the taxable person carries out in the member state of establishment both transactions that give rise to a deduction right and transactions that do not give rise to such a right. In such a case, Romania will reimburse only the VAT proportion corresponding to transactions that give rise to a VAT deduction right.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which the application is made should not be lower than the RON equivalent of EUR 400. If the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50. The RON equivalent must be determined using the exchange rate of RON 4.2282 to Euro 1 on 1 January 2010.

Time limits

The application must cover a period of minimum three consecutive calendar months in one calendar year (e.g. from 1 January to 31 March) and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

A claimant can submit more than one refund claim for the remainder of a calendar year if it receives additional invoices from its suppliers.

Proxy

A proxy must be provided when the claimant is represented by an agent. The proxy may be provided at any stage during the procedure and there are no specific requirements that apply.

The Romanian tax authorities generally require a power of attorney to be notarized (signed and stamped by a public notary).

Supporting documentation

Electronic copies of documents (invoices, import customs declaration) must be attached to the PDF if the taxable amounts exceed EUR 1,000 (EUR 250 for invoices relating to fuel costs).

The Romanian tax authorities usually request additional documents/information to be submitted (e.g. copies of contracts, a description of activity, proof of payment, authorization document from foreign taxpayers stating that the refund may be made to a third party).

All documents that are submitted generally must be prepared or translated into Romanian by an authorized translator.

E-invoicing

E-invoices generally are accepted and are self-sufficient to claim input VAT via the former 8th Directive. The requirements provided in Romanian tax legislation are aligned with the Second EU Invoicing Directive.

Refunds and appeals

The Romanian tax authorities must issue a decision on a refund claim within four months from receipt of the claim:

- The authorities can accept the claim and notify the claimant;
- The authorities can reject the claim (in whole or in part) and notify the claimant; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month from receipt of the request via electronic means. However, if the Romanian tax authorities have reasonable doubts regarding the validity or accuracy of a claim, they may request additional information, including the original acquisition invoice or import document.

When the claimant is notified via electronic means, the tax authorities will send an email notification.

Queries by the tax authorities generally are sent to the claimant or to a third party (the latter only if the third party is authorized to receive the queries and is empowered by a proxy).

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be processed within 10 business days after the relevant period and paid to the bank account number provided to the authorities. The reimbursement will be paid in RON to a bank account in Romania or, upon request, to any other EU member state. The account can be held by the claimant, a proxy holder or other person.

The Romanian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

A refund claim cannot be rejected in its entirety simply because one invoice was incorrect or could not be provided in the correct format. The claimant may provide the authorities with a readable copy of the invoice upon request. The VAT refund likely will be rejected where incorrect invoices are submitted, but the supplier can correct the invoices and then request a refund; if this is not possible, only the input VAT relating to the incorrect or unreadable invoice will be rejected.

A refund claim also cannot be rejected in its entirety merely because the claimant failed to respond to a query on one particular invoice; however, the input VAT relating to that particular invoice may be rejected.

If the refund is not granted, the grounds for rejection must be stated.

Romanian law does not provide for an implicit rejection, i.e. the absence of a decision regarding a VAT refund claim within the term provided by law does not imply rejection or approval of the claim.

An appeal against a denied claim can be made to the Romanian tax authorities no later than 30 days following the notification of the decision.

The most common reasons for a claim to be rejected are incorrect invoices (i.e. invoices that do not comply with the formal requirements), failure to provide additional information as requested by the tax authorities or failure to demonstrate that the acquisitions were made for business purposes.

The appeal letter must be submitted via a letter (signed and stamped) and must be drafted in Romanian.

The Romanian authorities may not impose penalties if a VAT refund claim is rejected. However, if the tax authorities deny a VAT refund because the claimant should have been registered for VAT purposes in Romania, late payment penalties and interest may be assessed.

In practice, VAT refund claims may take four to 12 months to be processed, as the Romanian tax authorities usually need additional information from the claimant.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Romania.

Eligibility for refund

Reciprocity is required for a non-EU taxable person to obtain a refund of VAT paid in Romania. Romania currently has reciprocity agreements with Norway, Switzerland and Turkey (partial reciprocity).

The general eligibility conditions and deductibility limitations governing refund claims by EU businesses also are applicable for non-EU businesses. However, the reciprocity agreements must be observed. The non-EU-established claimant must appoint a locally established representative for the refund procedure.

Non-refundable VAT

VAT cannot be recovered on:

- Invoices on which VAT was unlawfully charged;
- Acquisitions of goods that can or should be classified as VAT exempt;
- Acquisitions made by tourism agencies, including tour operators that apply the margin scheme, or an equivalent regime, in the member state of establishment;
- Tobacco and alcoholic products, except those intended for resale or for supply while performing a service (e.g. bars, hotels and restaurants); and
- Local and intra-community acquisitions, imports, rental or leasing of passenger vehicles and all directly related costs (e.g. repairs, maintenance, lubricants, spare parts, fuel), depending on the circumstances, are subject to a 50% limitation on the VAT deduction right.

The following are the most relevant exceptions related to passenger vehicles in relation to which input VAT is fully deductible:

- Vehicles having a total authorized weight of more than 3,500 kg and more than nine seats for passengers, including the driver's seat;
- Vehicles exclusively used for emergency, security, protection and courier services;
- Vehicles used by sales and procurement agents;
- Vehicles used for passenger transport against payment, including taxi services;
- Vehicles used for the provision of services against payment, including training provided by driving schools; and
- Vehicles intended to be sold or leased by a taxable person whose economic activity involves the sale or leasing of motor vehicles.

Partially refundable VAT

- As mentioned above, there is a 50% limitation on the VAT deduction right for vehicle-related acquisitions. The limitation does not apply if the taxable person can prove the exclusive use for its business purposes or if the vehicles fall within one of the above exceptions.
- VAT may be partially refundable when the taxable person carries out in the member state of establishment both transactions that give rise to a deduction right and transactions that do not give rise to such a right. In such a case, Romania will reimburse only the VAT proportion corresponding to transactions that give rise to a VAT deduction right.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than the RON equivalent of EUR 400. If the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50. The RON equivalent must be determined using the exchange rate of RON 4.2282 to Euro 1 on 1 January 2010.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Romanian tax authorities within nine months of the end of the calendar year in which VAT became chargeable, i.e. by 30 September of the following year. The deadline cannot be extended.

Proxy

Non-EU businesses must appoint a representative in Romania to claim a VAT refund via the 13th Directive. A proxy is required to prove the relationship between the claimant and the local representative and it must be provided before the application is submitted. The law does not contain any specific requirements.

Application forms

The application is made on Form 313 issued by the Romanian tax authorities. The form must be completed in duplicate and in Romanian (https://static.anaf.ro/static/10/Anaf/formulare/cerere_313_2014.pdf).

Specific software is required to complete the form, which can be downloaded at: https://static.anaf.ro/static/10/Anaf/Aplicatii/11/decl308/instal_D308_313_v1032.zip.

All invoices must be mentioned in the attachment to the application form. The form must be signed by a person who is legally entitled to represent the company (e.g. managing director).

The form and supporting documentation must be sent in hard copy to the tax office where the local representative for refund purposes is registered.

Supporting documentation

The following documents must be submitted with each application:

- Original invoices, import documents or credit notes;
- Evidence that the claimant is engaged in an economic activity that makes it a taxable person from a VAT perspective;
- An affidavit that no supplies of goods or services for which the claimant would have to assess Romanian VAT were carried out during the refund period; and
- When there are outgoing transactions, other documents that demonstrate that the taxpayer carried out the transactions enabling the company to deduct Romanian input VAT (e.g. contracts, outgoing invoices, proof of payment of the relevant VAT).

All documents that are submitted generally must be in Romanian or translated into Romanian by an authorized translator.

E-invoicing

E-invoices generally are accepted by the Romanian authorities. However, hard copies usually are required for non-EU businesses, as well as other supporting documents related to the input VAT claimed (such as original import documents). The e-invoicing requirements under Romanian tax law are aligned with the provisions of the Second EU Invoicing Directive.

Refunds and appeals

The time period for the Romanian tax authorities to decide on a VAT refund claim via the 13th Directive is six months from the date the claim and supporting documentation is received by the tax authorities.

Original hard copies of all documentation supporting the claim, as well as the documents issued by the tax authorities, must be submitted.

However, notifications by electronic means may be sent.

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and so notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide, in hard copy, all information within one month of receipt of the request.

The tax authorities generally notify the representatives via mail.

Any queries made and decisions issued by the tax authorities will be sent to the locally established representative of the claimant.

There are no specific provisions concerning the extension of the deadline if the tax authorities request additional information. However, the legislation states that the six- month time period to make a decision on a VAT refund claim starts on the date the request and all supporting documents are submitted.

A VAT refund claim is accepted or rejected only upon issuance of a decision by the tax authorities.

An appeal of a denied refund claim must be made within 30 days from the date the claimant is notified of the decision. The appeal must be submitted to the tax authorities in original copy (signed and stamped) and be drafted in Romanian.

There are no specific provisions relating to time in which payment of a VAT refund must be made.

The Romanian tax authorities are liable for late payment interest if the refund is not made in a timely manner.

The VAT refund will be transferred in RON to a bank account in Romania.

A refund claim cannot be rejected in its entirety if only one invoice was incorrect, was not submitted in original or if a query on a specific invoice is not answered. However, the input VAT relating to the particular invoice can be rejected.

If a refund is not granted, the grounds for rejection must be stated.

The most common reasons for rejecting a VAT refund claim are the submission of incorrect invoices, failure to provide original documents, failure to submit additional information requested by the tax authorities and the inability to demonstrate that acquisitions were made for the purpose of taxable transactions.

The same type of penalties may arise as in the case of EU businesses. A non-EU business may be subject to penalties if the refund was fraudulently or incorrectly obtained.

In practice, refund claims take six to twelve months to be processed.

Slovakia

The Slovak VAT Act is known as the “Act No. 222/2004 Coll. on value added tax.”

The standard VAT rate is 20%, and there is a reduced VAT rate of 10%.

An extensive overview of the VAT rates applied in Slovakia can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Slovak fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Slovakia is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Slovak-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities of the country in which the claimant is established:

<https://www.financnasprava.sk/sk/titulna-stranka> for companies established in Slovakia.

The application must be submitted by the claimant or by an authorized person by using a certified electronic signature.

The Bratislava tax office will notify the claimant electronically upon receipt of the application.

IT requirements

The log-in details are automatically provided by the authorities when the taxable person registers for electronic submissions (i.e. filing of an electronic registration form, authorization of log-in details at the relevant tax office, etc.). Electronic filing is mandatory for Slovak VAT taxpayers.

The form consists of three main sections:

- General information relating to the claimant and the period for which the refund is requested;
- List of invoices and data included on the invoices and import documents relating to the supply of goods or services; and
- Annexes: scanned invoices or import documents submitted electronically (a maximum of 5 MB).

Once the claim is submitted, the claimant will receive confirmation from the website, referencing the application.

The preparation and filing of the VAT refund application is done via the web portal of the Slovak tax directorate: <https://www.financnasprava.sk/sk/titulna-stranka>. The form can be manually completed on a line-by-line basis or uploaded on the portal in an XML file.

There is no limit on the number of invoices that can be submitted within one refund claim or per year.

Non-EU countries (13th Directive equivalent)

This refers to a Slovak-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Slovak established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Slovak portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment often will be required by the non-EU country of refund. This form is called “*Potvrdenie o postavení daňového subjektu*”.

Slovakia is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Slovakia.

Eligibility for refund

A foreign taxable person is entitled to recover Slovak VAT if the following conditions are satisfied:

- It is registered for VAT in the EU member state in which it has its seat, place of business, fixed establishment or domicile;
- It does not have residence, its seat or a fixed establishment in Slovakia during the period for which the VAT refund claim is submitted;
- It has not carried out any taxable supplies in Slovakia during the period for which the VAT refund claim is submitted, except for:
 - Transport services and auxiliary services that are exempt from VAT;
 - Supplies of goods and services in Slovakia if the recipient is obliged to pay VAT pursuant to Article 69 (2), (3) and (12) of the Slovak VAT Act;
 - Supply of natural gas, electricity, heat or cooling if the recipient is obliged to pay VAT;
 - Supply of goods from Slovakia to another EU member state imported from the third country if the foreign person was represented by a tax representative according to the VAT Act;
 - Supply of goods under the triangular simplification rules where the foreign taxable person acts as the first customer and the person liable to pay VAT will be the second customer.
- It is entitled to recover Slovak VAT provided the acquired goods and services are used for carrying out taxable transactions in the member state in which the claimant has a seat, place of business, fixed establishment, domicile or habitual residence;
- The claimed VAT is deductible based on the VAT Act.

Non-refundable VAT

VAT cannot be recovered on:

- Supplies of goods and services where the application of VAT was not in compliance with Slovak VAT legislation;
- Supplies of goods that are or may be exempt from VAT (intra-Community supplies of goods, exports of goods); or
- Supplies made under the tour operator margin scheme.

Partially refundable VAT

There are no expenses for which non-established companies would be entitled to only a partial refund of Slovak VAT.

Making claims

Minimum amounts

If the VAT refund application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three calendar months (e.g. from 1 January to 31 March) in one calendar year or not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application may relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

It is not possible to submit more than one refund claim covering the same period.

Proxy

If a power of attorney is granted to an agent to act on behalf of the company for VAT refund claims, the power of attorney must be provided to the tax authorities. It is recommended that the proxy be attached to the refund claim. The authorities may request the original hard copy of the power of attorney.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is EUR 1,000 for the taxable basis mentioned on the invoice or import document (EUR 250 where the invoices relate to fuel costs).

The Slovak tax authorities can request additional documents/information (e.g. originals or copies of invoices or import documents that do not meet the above thresholds).

E-invoicing

E-invoices generally are accepted and are self-sufficient to claim input VAT via the former 8th Directive procedure. Slovakia does not have any specific requirements/restrictions related to e-invoicing (besides the general requirements as described in the Second EU Invoicing Directive).

Refunds and appeals

The Slovak tax authorities must issue a decision on a VAT refund application within four months from receipt of the application:

- The authorities can accept the claim and notify the claimant;
- The authorities can reject the claim (in whole or in part) and notify the claimant; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month from receipt of the request. In respect to the communication means with the tax authorities, the best practice is communication by email provided originals of documents are not required.

Any queries and/or the decision generally will be sent to the email address of the contact person mentioned on the VAT refund claim.

If additional information is requested, the tax authorities must make a decision on the claim within two months following the receipt of the requested information. If additional information is not provided to the tax authorities, the authorities must make a decision within two months following the deadline for providing the additional information.

If this two-month period ends before the six-month period following receipt of the VAT refund claim by the tax authorities, the authorities must decide on the claim within six months following the date of receipt. If additional information is requested, the tax authorities must make a decision regarding the VAT refund claim within eight months following the date of receipt of the claim.

If the VAT refund is granted, it will be processed in Euro within 10 business days after the relevant period and paid to the bank account of the claimant. The bank account may be in Slovakia or another EU member state.

The Slovak tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If only one submitted invoice is incorrect, the VAT related to that invoice will not be refunded. The tax authorities can reject an entire VAT refund claim if one query on a specific invoice is not answered.

If the refund is not granted, the grounds for rejection must be stated. Generally, an appeal against the denied claim can be made to the Slovak tax authorities within 15 days following the day the decision was notified to the taxpayer.

Common reasons for rejecting a refund claim are filing non-deductible VAT under the Slovak VAT Act (e.g. meals, refreshments) or if VAT is incorrectly stated on an invoice.

The appeal against the rejection of the refund must be in writing and be drafted in Slovak. The appeal must be delivered to the tax authorities by courier unless the claimant granted the power of attorney to an agent who is obliged to communicate with the tax authorities by electronic means.

In principle, the Slovak tax authorities will not impose penalties on a rejected refund claim.

The tax authorities generally will process the VAT refund claim within the legal deadline.

Non-EU businesses (13th Directive)

This refers a non-EU-established company submitting a 13th Directive claim in Slovakia.

Eligibility for refund

A foreign taxable person is entitled to recover Slovak VAT if the following conditions are satisfied:

- It is registered for VAT or other similar tax in the state in which it has its seat, place of business, fixed establishment or domicile;
- It does not have its residence, its seat or a fixed establishment in an EU member state during the period for which the VAT refund claim is submitted;
- It has not carried out any taxable supplies in Slovakia during the period for which the VAT refund claim is submitted, except for:
 - Transport services and auxiliary services that are exempt from VAT;
 - Supplies of goods and services in Slovakia if the recipient is obliged to pay VAT pursuant to Article 69 (2), (3) and (12) of the VAT Act;
 - Supply of natural gas, electricity, heat or cooling if the recipient is obliged to pay VAT;
 - Supply of goods from Slovakia to another EU member state imported from the third country if the foreign person was represented by a tax representative according to the VAT Act;
 - Supply of goods under the triangular simplification rules where the foreign taxable person acts as the first customer and the person liable to pay VAT will be the second customer.
- The claimant is entitled to the VAT refund if the claimed VAT is deductible based on the VAT Act.

Reciprocity is required and the conditions must be confirmed by the tax authorities every quarter. Currently, this is addressed on a case-by-case basis. However, in practice, VAT always should be refunded to Canadian and Swiss companies.

Non-refundable VAT

VAT cannot be recovered on:

- Supplies of goods and services where the application of VAT was not in compliance with VAT Act; or
- Supplies of goods that are or may be exempt from VAT (e.g. exports of goods).

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Slovak VAT.

Making claims

Minimum amounts

The amount of requested VAT may not be less than EUR 50. If the VAT refund application relates to a period of a calendar half year, the amount for which the application is made may not be less than EUR 1,000 for the first half of the year and the amount for the second half year may not be less than EUR 50.

Time limits

The application must cover a period of a calendar year.

The application must be submitted to the Slovak tax authorities within six months of the end of the calendar year, following the year in respect of which the refund is claimed, i.e. by 30 June of the following year. The deadline cannot be extended.

The application can cover the period of calendar half year if the requested amount is not less than EUR 1,000 for the first half of the year and the amount for which the application is made in second half year is not less than EUR 50.

The application for the second half of the calendar year may contain the invoices or import documents related to the transactions performed in the first half of the calendar year if these invoices were not included in the application for the first half of the calendar year.

Proxy

If a power of attorney is granted to an agent to act on behalf of the company, the power of attorney must be provided to the tax authorities. It is recommended that the proxy be attached to the refund claim.

Application forms

The application is made on the form "*Ziadosť o vratenie dane z pridanej hodnoty zahraničnej osobe podľa § 56 az 58 zákona č. 222/2004 Z.z.*"

The form can be completed in Slovak or in English and must be in Euro.

The application must be signed by a person who is legally entitled to represent the company; otherwise, a letter of authority must be provided.

Supporting documentation

The following documents must be submitted with each application:

- Original invoices;
- Original import documents and proof that import VAT has been paid; and
- Confirmation issued by the tax authorities of the country in which the claimant is established that it is registered for VAT purposes (or a similar tax). The certificate must have been issued within the past year.

The tax authorities must return the originals of the invoices and import documents to the claimant within 60 days following the date of submission, but they can mark the relevant documents so they cannot be used on subsequent applications.

E-invoicing

E-invoices generally are accepted and are self-sufficient to claim input VAT via the 13th directive procedure. Normally e-invoices can be provided to the tax authorities in hard copy or via email, depending on the agreement with the tax authorities.

Refunds and appeals

The Slovak tax authorities must issue a decision on a VAT refund application within six months of receipt of the application:

- The authorities can accept the claim and notify the claimant; or
- The authorities can reject the claim (in whole or in part) and notify the claimant.

Any queries and/or the decision by the tax authorities generally will be sent to the contact person mentioned in the VAT refund claim. The best practise with respect to communication means is communication via email.

The deadline cannot be extended even if additional information is requested.

In principle, the VAT refund must be paid within the deadline for the issuance of the decision, i.e. within six months after the VAT refund request is filed. The refund can be paid to a bank account in Slovakia or in another EU member state.

In principle, Slovak tax authorities will be liable for payment of late payment interest.

If only one submitted invoice is incorrect, only the VAT related to that invoice can be rejected. The tax authorities can reject an entire VAT refund claim if a single query on a specific invoice is not answered.

If the refund is not granted, the grounds for rejection must be stated.

Common reasons for rejecting a refund claim are filing non-deductible VAT under the VAT Act (e.g. meals, refreshments) or if VAT is incorrectly stated on an invoice.

An appeal against the rejection must be in writing and drafted in Slovak. The appeal must be delivered to the tax authorities by courier unless the claimant granted a power of attorney to an agent who is obliged to communicate with the tax authorities by electronic means.

In principle, the Slovak tax authorities will not impose penalties on a rejected refund claim.

The tax authorities generally will process a VAT refund claim within the legal deadline.

Slovenia

Slovenian VAT is known as “*Davek na dodano vrednost*” (DDV).

The standard VAT rate is 22%, and there is a reduced rate of 9.5%.

An extensive overview of the VAT rates applied in Slovenia can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Slovenian fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

Slovenia is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Slovenian-established company submitting an EU (former 8th Directive) claim in another EU member state.

Filing

The application must be electronically submitted (in Slovene or English) through the portal of the Slovene tax authorities:

<http://edavki.durs.si/OpenPortal/Pages/StartPage/StartPage.aspx>.

The request must be submitted by the claimant or an authorized person if certain requirements are met. The authorized third party need not be established in Slovenia. A person acting on behalf of the claimant in another EU member state, however, must obtain a tax identification number (applicable to persons established or residing outside Slovenia) and a digital certificate, which allows access to eDavki, the electronic system of the Slovene tax authorities.

Taxable persons granting authorization for representation in VAT refund procedure in another EU member state also must complete a special authorization form specifically designed for the eDavki system.

When Slovenia is the member state of establishment, the Slovene authorities will issue an electronic confirmation of receipt of a VAT refund claim.

IT requirements

Slovene taxable persons registered for VAT purposes must file their refund claims electronically using the e-Davki web service. Registration with the system is required, after which access is granted using a digital certificate. This digital certificate may be obtained by contacting HALCOM d.d. or any other issuer of digital certificates.

Once in the e-filing system, the form VATR-APP must be used. The information must be manually uploaded on a line-by-line basis.

The file size of the supporting documentation cannot exceed 5 MB. Attachments may be in the form of a PDF, JPEG, TIFF or zip file.

There is no specific software required/available except that the taxable person must obtain a digital certificate to enter e-Davki.

Once the claim is submitted, the taxpayer will receive a confirmation from the website, referencing the application.

Non-EU countries (13th Directive equivalent)

This refers to a Slovenian-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Slovenian-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Slovenian portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “Potrdilo o identifikaciji za namene DDV” in Slovenia.

Slovenia is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Slovenia.

Foreign taxable persons registered for VAT purposes in another member state must file their refund claims in the member state of establishment via the electronic portal of the relevant member state or according to the relevant legislation.

The refund claim must include the following information:

- General information relating to the claimant and the period for which the refund is requested and in particular:
- Name and full address of the claimant;
- Email address of the claimant;
- Description of the claimant's business activity for which the goods and services have been acquired;
- The period of refund for which the request is made;
- A statement that, during the refund period, the claimant did not supply goods or services which could be considered to have been supplied in Slovenia, except transactions referred to in point b) of paragraph (1) of article 74 of the Slovenia VAT Act;
- VAT identification number or tax reference number of the claimant; and
- Bank account information including the International Bank Account Number (IBAN) and Bank Identification Code (BIC).
- List of invoices or import documents. Each document can be manually typed and must include the following:
 - Name and full address of the supplier;
 - Slovene VAT number (except for imports) of the supplier;
 - Date and number of the invoice or import document;
 - Taxable basis and the amount of VAT (in EUR), calculated on the invoice or import document (in EUR);
 - Pro rata, if any; and
 - Nature of the goods or services acquired marked with codes, prescribed by the VAT Act.

Eligibility for refund

A foreign taxable person is entitled to recover Slovene VAT if the following conditions are satisfied in the period for which the refund is requested:

- The claimant is not registered, liable or eligible to be registered for VAT in Slovenia;
- It does not have residence, its seat or a fixed establishment in Slovenia;
- The claimant has not carried out any taxable supplies in Slovenia, except for:
 - Certain tax-exempt cross-border transport (and related supporting activities) from/to non-EU countries; or
 - Supplies for which the reverse charge mechanism applies.
- A taxable person established in another member state will be entitled to a refund of VAT for which a taxable person established in Slovenia could claim a VAT deduction pursuant to the VAT Act.

Non-refundable VAT

VAT cannot be recovered for:

- Yachts and boats for sport and amusement, fuel, lubricants, spare parts and closely related services, other than vessels used for the transport of passengers and goods, leasing, renting and resale;
- Aircraft and fuel, lubricants, spare parts and connected services, other than aircraft used for the transport of passengers and goods, leasing, renting and resale;
- Passenger cars and motorcycles, fuels, lubricants, spare parts and services that are closely linked, other than vehicles used for the transport of passengers and goods, leasing, renting and resale, vehicles used in driving schools for the provision of the driver's training and combined vehicles for carrying out an activity of a public line and special line transport, as well as special vehicles exclusively adapted for transport of the deceased;
- Accommodation, meals and beverages, unless these costs are incurred by a taxable person in the course of supplies made as part of its economic activity; and
- Entertainment expenses (where entertainment expenses include only the costs of entertainment and amusement during business or social contacts).

Further to the above restrictions, VAT also cannot be recovered if:

- VAT was charged incorrectly;
- Was calculated on supplies of goods that are exempt or may be exempt (e.g. intracommunity supplies, export); or
- VAT was charged by a taxable person that, according to the VAT Act, is not allowed to charge VAT on its invoices.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Slovenian VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

If a claimant submits one refund claim for the remainder of a calendar year and then receives additional invoices from certain suppliers, it is possible to submit another refund claim in a yearly VAT refund claim for the remainder of the calendar year. The refund application must be submitted to the tax authorities by 30 September following the calendar year in which VAT is charged, at the latest.

Proxy

A proxy granting authorization to submit a VAT refund claim must be submitted as an attachment to the initial VAT refund claim. It must be submitted via the electronic portal (scanned document) or sent to the tax authorities in hard copy, which must be kept in the records of the tax authorities until its expiry date.

There are no legal requirements for the format of a proxy, but the details of the taxable person granting the power of attorney, as well as details of the authorized representative must be provided in the proxy. Additionally, the proxy must contain a statement authorizing the proxy holder to represent the claimant in the VAT refund procedure in Slovenia, as well as the period of validity of the proxy, date and place of the issuance of the proxy and signatures of both parties. If the claimant authorizes the representative to receive the VAT refund, this must be stated in the proxy. The proxy must be in the Slovene language or if in another language, also translated into Slovene.

If the tax authorities question the authenticity of the proxy, it may request a certified/notarized proxy. In practice, however, the authorities only request proxies to be notarized where the VAT refund claim exceeds EUR 4,000 and is requested to be paid to the authorized representative.

E-invoicing

E-invoices are regarded as equivalent to hard copy invoices. As such, e-invoices are accepted and are sufficient to claim input VAT via the former 8th Directive procedure. The requirements that apply to hard copy invoices also apply to e-invoices, so no special requirements exist for e-invoices.

Supporting documentation

Copies of invoices or import documentation are mandatory if the taxable basis of the invoice exceeds EUR 1,000 (EUR 250 for fuel invoices).

Refunds and appeals

The tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant or the tax authorities of the EU member state of establishment via electronic means. The claimant must provide all requested information within one month of receipt of the request, using the communication means set by the authorities, either in electronic form via email, or in physical form sent by mail. The date of receipt of electronic notification is the 15th day after the day the notification was sent.

Queries/decisions will be sent only to the claimant or the authorized person (if so authorized).

The tax authorities must process the VAT refund claim in four months from receipt of the claim. The period in which the authorities must make a decision will be extended by two months from receipt of the additional information if so requested. The maximum period in which the authorities must make a decision is eight months.

If a refund is granted, it will be processed in Euro within 10 business days upon expiration of the relevant deadline, i.e. four months, six months or eight months, and paid to the bank account number provided to the authorities.

The bank account can be held by the claimant, a proxy holder or any other person. The refund will be paid to the claimant's account in Slovenia or, at the claimant's request, to an account in a foreign country at his/her own costs.

The Slovene tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If only one of the submitted invoices is incorrect or not in compliance with the format requirements, only that part of the refund claim will be rejected.

If the refund is not granted, the grounds for rejection must be stated. An appeal against the denied claim can be made to the tax authorities within 30 days from the date the claimant receives the decision.

The appeal must be submitted in writing. A written appeal is an appeal that is written or printed and personally signed (role in physical form), or an appeal in electronic form, which is signed with a secure electronic signature with a qualified certificate. A written appeal normally is handed over directly to the tax authorities, sent by mail/courier or sent by electronic means.

Penalties generally are not imposed on rejected refund.

In practice, refund claims usually take from six to eight months to be processed.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Slovenia.

Eligibility for refund

Reciprocity is required. The status of reciprocity can be checked at:

http://www.fu.gov.si/fileadmin/Internet/Davki_in_druge_dajatve/Podrocja/Davek_na_dodano_vrednost/Opis/Podrobnejši_opis_1_izdaja_Splosno_o_DDV.pdf

Non-refundable VAT

VAT cannot be recovered for:

- Yachts and boats for sport and amusement, fuel, lubricants, spare parts and closely related services, other than vessels used for the transport of passengers and goods, leasing, renting and resale;
- Aircraft and fuel, lubricants, spare parts and connected services, other than aircraft used for the transport of passengers and goods, leasing, renting and resale;
- Passenger cars and motorcycles, fuels, lubricants, spare parts and services which are closely linked thereto, other than vehicles used for the transport of passengers and goods, leasing, renting and resale, vehicles used in driving schools for the provision of the driver's training and combined vehicles for carrying out an activity of a public line and special line transport, as well as special vehicles exclusively adapted for the transport of deceased people;
- Accommodation, meals and beverages, unless these costs are incurred by a taxable person in the course of supplies made as part of their economic activity; and
- Entertainment expenses (where entertainment expenses must include only the costs of entertainment and amusement during business or social contacts).

Further to the above restrictions, VAT cannot be recovered if:

- VAT was charged incorrectly; or
- Was calculated on supplies of goods which are exempt or may be exempt (e.g. intracommunity supplies, export); or
- VAT was charged by a taxable person who, according to the VAT Act, is not allowed to charge VAT on its invoices.

Partially refundable VAT

There are no expenses for which non-established companies would be allowed only a partial refund of Slovenian VAT.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than six months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than EUR 50.

Time limits

The application must cover a period of not less than six consecutive calendar months (e.g. from 1 January to 30 June) in one calendar year or not more than one calendar year. However, applications may relate to a period of less than six months where the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Slovene tax authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year.

Proxy

A proxy granting authorization to submit a VAT refund claim must be submitted to the tax authorities in a prescribed electronic form via the electronic portal.

If the principal authorizes the authorized representative to receive the VAT refund, this also must be stated in the proxy. The proxy must be in Slovene or English.

If the Slovene tax authorities question the authenticity of the proxy, it may request a certified/notarized proxy. In practice, the tax authorities only request proxies to be notarized where the VAT refund claim exceeds EUR 4,000 and is requested to be paid to an authorized representative.

Application forms

Non-EU VAT refund claims must be submitted in electronic form. For such submission, a Slovene tax number is required. The claimant must submit Form DR-04 (application for the reference of a legal person into the tax register).

The application must be submitted through the web portal (eDavki) of the Slovenian tax authorities: (<http://edavki.durs.si/OpenPortal/Pages/StartPage/StartPage.aspx>) for which a digital certificate is required. The submission is possible directly through the electronic portal or by an authorized person. This third party may be a non-established company. A person acting on behalf of a claimant must obtain a tax identification number (applicable to persons established or residing outside Slovenia) and a digital certificate that allows access to eDavki.

Additionally, special authorization form (i.e. proxy) must be completed where a third party is to submit a claim.

The application must be submitted through the web portal eDavki and must be in Euro. An example of the form in the Slovene language may be found at: http://www.uradni-list.si/files/RS_-2011-082-03493-OB~P003-0000.PDF.

Supporting documentation

The following documents must be submitted with the application and/or indicated in the form:

- Copies of invoices, import documents or credit notes;
- A confirmation that the claimant has not carried out any taxable activities in Slovenia during the period for which the refund application applies;
- A certificate of VAT status confirming that the claimant is registered for VAT purposes in its country of residence. The certificate must have been issued within the past year; and
- A proxy if a third party submits an application on behalf of the claimant.

The claimant must repay any unduly obtained (refunded) VAT amount.

E-invoicing

E-invoices are regarded as equal to hard copy invoices. As such, e-invoices are accepted and are sufficient to claim input VAT via the 13th Directive procedure. The requirements that apply to hardcopy invoices also apply to e-invoices, so no special requirements exist for e-invoices.

Refunds and appeals

The tax authorities must decide on the request within eight months of receipt of the refund claim.

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information and notify the claimant via electronic means. Although not explicitly stated in the legislation, the claimant must, in practice, provide all information within of one month of receipt of the request using the means of communication defined by the authorities (usually via electronic communication).

If the communication is carried out via electronic means, notifications can be received via email or notification on the portal.

Decisions will be sent to the claimant or to the authorized person only (if so authorized).

Even if additional information is requested, the period in which the authorities must make a decision cannot be extended since the final deadline is eight months.

A decision on the acceptance or rejection of the refund will be issued. A decision that is not issued in a timely manner will not result in a presumption that the claim has been rejected or accepted.

If the tax authorities grant the refund request, the refund must be paid within 10 business days following the expiration of the deadline to process the request (i.e. eight months).

The refund will be paid to the claimant's bank account in Slovenia or at the request of the claimant, to his/her account in another country. The claimant will be responsible for paying any bank transfer costs.

The Slovenian tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If only one of the submitted invoices is incorrect or not in compliance with the format requirements, only that part of the refund claim will be rejected.

If the refund is not granted, the grounds for rejection must be stated.

An appeal against the denied claim can be made to the Slovene tax authorities within 30 days from the date of receipt of the decision. A written appeal normally is handed over directly to the tax authorities, or sent by mail/courier or by electronic means.

Penalties generally are not imposed on rejected refund claims.

In practice, refund claims usually take about eight months to be processed.

Spain

Spanish VAT is known as “*Impuesto sobre el Valor Añadido*” (IVA).

The standard VAT rate is 21%, and there are reduced rates of 10% and 4%.

The Canary Islands, Ceuta and Melilla are not considered part of the EU for VAT purposes.

An extensive overview of the VAT rates applied in Spain can be found at:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

Spain is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Spanish-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the website of the tax authorities of the country in which the claimant is established

(<https://www.agenciatributaria.gob.es/AEAT.sede/tramitacion/GZ09.shtml> for companies established in Spain).

The Spanish form 360 must be submitted electronically by the claimant or an authorized person. Electronic submission is possible only through a user certificate issued by the Spanish tax authorities, and only persons with a Spanish ID number (DNI) or an NIE (tax identification number) can obtain such a certificate.

When Spain is the member state of establishment, the Spanish tax authorities must issue a confirmation of receipt of a VAT refund claim.

IT requirements

Taxpayers registered and established for VAT purposes in Spain must file their refund claims electronically on Form 360.

The form can be obtained as follows:

- 1) If the entity is established within the Spanish VAT territory:

https://www.agenciatributaria.gob.es/AEAT.sede/Inicio/Procedimientos_y_Servicios/Impuestos_y_Tasas/IVA/Modelo_360_Modelo_360_otros_en_el_territorio_en_el_que_soportan_el_impuesto/Tramites/MODELO_360_Solicitudes_de_devolucion_del_IVA_soportado_en_otros_Estados/MODELO_360_Solicitudes_de_devolucion_del_IVA_soportado_en_otros_Estados.shtml

- 2) If the entity is established in the Canary Islands, Ceuta or Melilla:

https://www.agenciatributaria.gob.es/AEAT.sede/Inicio/Procedimientos_y_Servicios/Impuestos_y_Tasas/IVA/Modelo_360_Modelo_360_otros_en_el_territorio_en_el_que_soportan_el_impuesto/Tramites/MODELO_360_Solicitudes_devolucion_IVA_Canarias_Ceuta_o_Melilla/MODELO_360_Solicitudes_devolucion_IVA_Canarias_Ceuta_o_Melilla.shtml

The claimant also must satisfy the following conditions:

- Have a Spanish identification number;
- Have an electronic certificate issued by the Spanish tax authorities or by the *Fabrica Nacional de Moneda y Timbre* (Spanish mint); and
- Be registered in the Safe Electronic Notifications Service to receive electronic notifications from the tax authorities.

The electronic form is divided into two main sections:

- General information relating to the claimant, the period for which the refund is requested and bank details for the payment of the refund;
- Annexes: scanned invoices/annexes can be uploaded taking the following into account:
 - File types accepted: PDF or TIFF;
 - Maximum file size: 5MB;
 - Standard scanning preference: Black and white / max 200 dpi.

The form can be filed by uploading a file, so it is not necessary to manually input the data on a line-by-line basis. In such a case, TXT format is the only format allowed.

If the application does not meet all the requirements, the authorities must inform the claimant that it will not be forwarded to the member state where the VAT was incurred. A claim may be rejected for any of the following reasons:

- The claimant does not have the status of a business or a professional acting as such;
- The claimant only carried out transactions that are not eligible for a full tax deduction; or
- The claimant carries out taxable activities under the special agriculture, livestock breeding and fishing schemes or an equivalent scheme.

In principle, there is no no limit on the number of invoices that can be uploaded in a refund claim or per year. The company will be able to upload all invoices until the 5 MB limit is exceeded. If the file size exceeds this limit, the invoices must be detailed in page 2 of the form.

Electronic copies of the invoices must be attached applying a specific and separate process.

Non-EU countries (13th Directive equivalent)

This refers to a Spanish-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Spanish-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Spanish portal may not be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called *certificado de condición de sujeto pasivo* in Spain.

Spain is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Spain.

Eligibility for refund

A foreign taxable person is entitled to recover Spanish VAT if the following conditions are satisfied:

- The claimant does not have residence, a seat or a fixed establishment in Spain from which it carries out taxable transactions; or it has a fixed establishment in Spain but it is not involved in the transactions carried out within the VAT territory and;
- It has not carried out any taxable transactions in Spain, except for:
- Certain tax-exempt cross-border transport from/to non-EU countries; or
- Supplies for which the reverse charge mechanism applies.

Non-refundable VAT

VAT cannot be recovered on:

- Entertainment expenses;
- Food and drinks, tobacco;
- Goods and services considered as gifts to employees, clients or third parties;
- Jewels and precious stones.

VAT on accommodation, restaurant and travel expenses will be refundable only to the extent the expenses are deductible for personal and corporate income tax purposes.

VAT incurred on car rentals and fuel, in principle, will be refundable if the car is exclusively used for business activities. If not, a refund of VAT on car purchases, car imports and car leases will be possible, but only if the car can be considered an investment good for Spanish VAT purposes (i.e. it is used for at least one year within the company), and only for the proportion that the vehicle is used for business purposes (in principle, a business use of at least 50% is required).

Partially refundable VAT

For certain specific transactions, such as the acquisition of vehicles and related costs (e.g. fuel), only a partial refund of VAT is possible.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, it may not be less than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

If the claimant has submitted a refund claim and subsequently receives additional invoices, the claimant must cancel the previously submitted claim through the website of the country or residence and complete a new claim including all invoices. If the foreign website does not allow cancellation of the initial claim, the Spanish tax authorities recommend that the claimant file a writ explaining that, due to extraordinary circumstances, it was unable to cancel the claim.

Follow up on submitted claims

When Spain is the member state of refund, the Spanish tax authorities may request a third-party service provider to prove its authorization to follow up on the status of a refund claim.

Proxy

A proxy will be required if a third party is to follow up on the procedure.

In principle, it is possible to provide the Spanish tax authorities with the relevant authorization at the time the refund claim is submitted or when the third party asks for additional information on the refund claim by electronic means. The authorization must be drafted in Spanish.

Supporting documentation

The general threshold for the submission of an electronic copy of an invoice is where the taxable basis on the invoice or import document is at least EUR 1,000 (EUR 250 where the invoice relates to fuel costs). The serial number used in the application form must be mentioned on the documents.

The Spanish tax authorities may request additional documents/information from the claimant, third parties or the tax authorities where the claimant is established (e.g. authorization document from the foreign taxpayer stating that payment may be granted to a third party).

The Spanish tax authorities also should notify the claimant (by email) about any other communications that the member state of refund may send through the Spanish authorities.

E-invoicing

E-invoices generally are accepted if they are submitted in an admissible format, i.e. PDF or TIFF. The person submitting the application must ensure that the image is accurate and complete.

Refunds and appeals

The Spanish tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via registered mail; or
- The authorities can request additional information and notify the claimant via electronic means. The claimant must be able to provide all additional information requested by the authorities (e.g. copy of invoices, contracts, etc.) electronically, although in practice and to obtain a receipt of the relevant submission, the Spanish tax authorities recommend the submission of a hard copy or that the claimant use a valid electronic certificate.

The claimant will be notified via electronic means if it is required by law to set up an electronic address; otherwise, the resolution will be notified by mail.

- If the claimant has not appointed a representative, the notification will be sent directly to the claimant;
- If the claimant operates through an agent, the notification will be sent to the agent;
- The notification will not be sent to both the claimant and the agent.

The period in which the authorities must make a decision will be extended to six months where additional information is requested, or eight months where the authorities request additional information after a first request.

If a refund is granted, it will be processed in within 10 business days after the relevant period and paid to the bank account number provided to the authorities (in Euro). The bank account holder must be the claimant or a filing party with a power of attorney specifically authorizing them to receive the refund. If the claimant has not provided a Spanish bank account number, costs arising from the bank transfer will reduce the amount of the refund. The Spanish tax authorities only process VAT refunds to bank accounts registered under the SEPA (Single Euro Payments Area) agreement.

The Spanish tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If only one invoice does not comply with all requirements, only that part of the refund request will be rejected.

The most common reason for rejecting a VAT refund claim is failure to comply with formalities.

If the refund is not granted, the grounds for rejection must be stated. An appeal against a denied claim can be made to the Spanish tax authorities within 15 days of receipt of the notification (tax assessment). However, this time limit may be extended upon request. If the appeal is not successful, the claimant can initiate proceedings before the national court.

In principle, the Spanish tax authorities will not impose a penalty if a claim is rejected, but this possibility cannot be totally excluded.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Spain.

Eligibility for refund

A non-EU business must appoint a representative established within the Spanish VAT territory to submit the refund claim and who will be jointly and severally liable if an undue refund is paid. The representative must have a notarized and sealed (with The Hague apostille) power of attorney.

A reciprocity agreement between the countries is required. Spain has concluded reciprocity agreements with Canada (limited), Israel, Japan, Monaco, Norway and Switzerland.

As a general rule, reciprocity is required, but there may be some exceptions.

Non-refundable VAT

VAT cannot be recovered on:

- Entertainment expenses;
- Food and drinks, tobacco;
- Goods and services considered as gifts to employees, clients or third parties; and
- Jewels and precious stones.

VAT on accommodation, restaurant and travel expenses will be refundable only to the extent the expenses are deductible for personal and corporate income tax purposes.

The VAT refund procedure under the 13th Directive is extended to countries where no reciprocity agreement exists for the following imports and acquisitions of goods and services:

- Hotel, restaurant and transport services, related to fairs and conferences, carried out in the Spanish VAT territory.
- The supply of molds and equipment acquired or imported into the Spanish VAT territory by a non-established entrepreneur, to be made available to an established entrepreneur for use in the manufacturing of goods that are to be dispatched or transported outside the EU for the non-established entrepreneur if, at the end of the manufacturing of the goods, the molds and equipment are exported to the non-established entrepreneur or destroyed.

VAT incurred on car rentals and fuel, in principle, will be refundable only if the car is exclusively used for business activities. If not, a refund of VAT on car purchases, car importations and car leases will be possible, but only if the car can be considered an investment good for Spanish VAT purposes (i.e. it is used for at least one year within the company), and only to the extent the vehicle is used for business purposes (in principle, at least 50% business use is required).

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount must be higher than EUR 50.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Spanish tax authorities within nine months of the end of the calendar year in which the tax became chargeable, i.e. by 30 September of the following year. The deadline cannot be extended.

Proxy

A non-EU business must appoint a representative established within the Spanish VAT territory to submit the refund claim and who will be jointly and severally liable if an undue refund is paid. The representative must have a notarized and sealed (with The Hague apostille) power of attorney.

Application form

The application is made on Form 361 available on the website of the Spanish authorities and it must be filed electronically:

https://www.agenciatributaria.gob.es/AEAT.sede/Inicio/Procedimientos_y_Servicios/Impuestos_y_Tasas/IVA/Modelo_360_Modelos_en_el_territorio_en_el_que_soportan_el_Impuesto/Tramites/MODELO_361_Solicitudes_devolucion_IVA_terceros_paises_con_reciprocidad/MODELO_361_Solicitudes_devolucion_IVA_terceros_paises_con_reciprocidad.shtml

Electronic access can be requested by a representative established in the Spanish VAT territory.

Supporting documentation

The following documents must be submitted with each application:

- A statement by the claimant or its tax representative confirming that the claimant does not carry out taxable supplies within the Spanish VAT territory, except for:
- Certain tax-exempt cross-border transport from/to non-EU countries;
- Supplies for which the reverse charge mechanism applies.
- If the claimant has a fixed establishment in Spain, it must inform the authorities that it is not engaging in any VAT-T taxable activities in Spain;
- A commitment by the claimant or its representative to repay any undue VAT amounts received; and
- An original certificate issued by the tax authorities of the country in which the claimant is established showing that the claimant carries out taxable transactions in that country.

E-invoicing

There is no specific procedure to reclaim VAT under Directive 2008/09/EC or the 13th Directive on the basis of e-invoices. However e-invoices provided in electronic format generally are accepted to reclaim input VAT.

Refunds and appeals

The Spanish tax authorities must issue a decision on the VAT refund claim within four months from receipt of the claim. The period in which the authorities must issue a decision will be extended to six or eight months depending on whether additional information is requested. The decision will be issued directly to the Spanish notification address of the agent. The claimant must be able to electronically provide all additional information requested by the Spanish tax authorities (e.g. copy of invoices, contracts, etc.). However, the authorities recommend that a hard copy be submitted or a valid electronic certificate be used.

If a refund is granted, it will be processed within 10 business days after the relevant period and paid to the bank account number provided to the authorities. The Spanish tax authorities will issue a VAT refund only to a bank account registered under the SEPA (Single Euro Payments Area) agreement.

The Spanish tax authorities will be liable for late payment interest if the refund is not processed in a timely manner.

If only one invoice does not comply with all of the requirements, in principle, only that portion of the refund of VAT claim will be rejected, and if a query on a specific invoice is not answered, only the amount of the related VAT will not be refunded. However, if no answer is provided to a notification issued by the tax authorities, the entire VAT refund will be rejected.

The most common reason for a VAT refund claim to be rejected is failure to comply with formalities.

If the refund claim is rejected, the claimant may file an appeal within one month after the notification of the decision. In principle, the Spanish tax authorities will not impose any penalty if a claim is rejected.

A refund claim typically will be processed within six to 12 months.

Sweden

Swedish VAT is known as “*mervärdesskatt*” (moms).

The standard VAT rate is 25%, and there are reduced rates of 12%, 6% and 0%.

An extensive overview of the VAT rates applied in Sweden can be found at:
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

It is not necessary to appoint a Swedish fiscal representative to claim a VAT refund under Directive 2008/9/EC or the 13th Directive.

Sweden is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a Swedish-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

The application must be submitted electronically through the portal of the tax authorities of the country in which the claimant is established (<http://www.skatteverket.se/4.76a43be412206334b8980001256.html> for Swedish taxpayers). The request must be submitted by an authorized person, who must have a Swedish e-identification or a dedicated electronic certificate issued by the Swedish tax authorities.

When Sweden is the member state of establishment, the Swedish authorities will issue a confirmation that the refund claim has been received and forwarded to the member state of refund.

IT requirements

Swedish taxpayers that are registered for VAT purposes must file their refund claims electronically using the web service of the Swedish tax authorities.

Access is granted by using a Swedish e-identification. The claimant must have a Swedish personal identification number to obtain an e-identification. Agents established outside Sweden that cannot use a Swedish e-identification will be granted a dedicated electronic certificate issued by the Swedish tax authorities. For EU refund claims, the Swedish claimant must submit Form SKV 4852UTL, under which it appoints a foreign representative to act on its behalf.

The preparation and filing of the refund claim must be done through the website of the tax authorities, either on a line-by-line basis, or through uploading an electronic file. Supplementary documents can be uploaded if so required by the member state of refund.

A claimant must notify the tax authorities who is authorized to submit the application by submitting Form SKV 4852.

The electronic form is divided into seven sections:

- General information relating to the claimant, the country and period for which the claim is made;
- Information on the representative, if applicable;
- Information on the business of the claimant, including the NACE code and bank information for the repayment;
- Specification of invoices, including invoice numbers and VAT amount;
- Upload of invoices if required by the recipient country:
- File types accepted: JPG/JPEG, PDF, TIFF or zip;
- Maximum file size: 5Mb;
- Standard scanning preference: Black and white/maximum 200 dpi.
- A description to the content of every uploaded file;
- Completed application; and
- Receipt.

Automatic upload to the portal is possible. No specific software is required but the upload file must fulfill certain requirements.

There is no no limit on the number of invoices that can be included in a refund claim or per year if registered manually. If uploaded by file, each file can contain only up to 8,000 items.

Non-EU countries (13th Directive equivalent)

This refers to a Swedish-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a Swedish-established company claiming input VAT in a non-EU country must be submitted according to the requirements of the country of refund. The Swedish portal is not to be used.

Another difference with the former 8th Directive EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund. This form is called “*Registreringsbevis*” in Sweden.

Sweden is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim in Sweden.

Eligibility for refund

A taxable person established in another EU member state is entitled to submit an electronic VAT refund claim if the following conditions are satisfied:

- During the refund period, the taxable person did not have the seat of his/her economic activities in Sweden or a fixed establishment in Sweden from which business transactions were performed, or, if no such seat or fixed establishment existed, his/her domicile or normal place of residence in Sweden; and
- During the refund period, it has not supplied any goods or services deemed to have been supplied in Sweden, except for:
- Certain tax-exempt cross-border transport services and services ancillary thereto, from/to non-EU countries;
- Supplies for which the reverse charge mechanism applies except for gold, emission allowances and scrap metals;
- Electronically provided services where the taxable person has opted for application of the special regime under article 369a-369k of the VAT directive for non-established taxable persons supplying electronic services to non-taxable persons.

Recovery of input VAT should always be made through a local Swedish VAT return if the taxable person is registered for VAT purposes in Sweden.

Non-refundable VAT

VAT cannot be recovered on:

- Permanent accommodation;
- Travel services (only applicable to persons supplying travel services);
- Unreasonable entertainment services; and
- Purchase of motor vehicles.

Partially refundable VAT

- Car rentals (which are 50% refundable), with certain exceptions for:
 - Vehicles intended to be sold or leased by a taxable person whose economic activity involves the sale or leasing of motor vehicles;
 - Vehicles intended to be solely used for passenger transport for hire or reward; and
 - Vehicles intended to be used for driving license education and transport of the deceased.
- Entertainment costs, including food.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than SEK 4,000 (approximately EUR 400); if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than SEK 500 (approximately EUR 50).

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December). The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

Once a claimant submits a refund claim for a certain period, it is not possible to submit another claim for that period. However, additional invoices received may be included in a future claim. When using the web service of the Swedish tax authorities, invoices can be registered without submitting a claim. The data remains available for 90 days and the claimant may add other invoices to the claim during this time.

Follow up on submitted claims

When Sweden is the member state of refund, the Swedish authorities will not request a third-party service provider to prove its authorization.

Proxy

The Swedish tax authorities will not require a proxy when Sweden is the member state of refund. This must be handled by the member state of establishment.

Supporting documentation

From a Swedish perspective, no invoice copies are required for the application, but the Swedish authorities can request invoices or additional documents/information if there are questions about the application.

E-invoicing

E-invoices generally are accepted. There are no specific requirements besides the general Swedish invoice requirements.

Refunds and appeals

The Swedish tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- The authorities can accept the claim and notify the claimant via electronic means;
- The authorities can reject the claim (in whole or in part) and notify the claimant via electronic means; or
- The authorities can request additional information from the claimant, from the authorities in the member state of establishment or from someone else, via electronic means. The information must be provided within one month from receipt of the request. Email responses generally are accepted, although the tax authorities may request the original invoices and, in that case, the information must be sent by regular mail.

The decision or request for additional information will be sent to the email address stated on the application (claimant or agent).

Where additional information is requested, the period in which the authorities must make a decision will be extended to two months from the date the additional information is received (the authorities have six months to make a decision starting from the day the application is received), or eight months (if the authorities request additional information after the first request).

If the authorities do not issue a decision in a timely manner, the refund claim will be deemed to be rejected.

If a refund is granted, it will be made in SEK within 10 business days after the relevant period and paid to the bank account number provided to the authorities. This bank account can be held by the claimant, a proxy holder or any other person. Payments can be made to bank accounts in other EU member states. If a payment is made to an account in another EU member state, bank fees will be deducted from the payable amount. The Swedish tax authorities may pay a refund to a bank account in a third country (outside the EU) but they are not (legally) obliged to do so.

The Swedish tax authorities will be liable for late payment interest if the refund payment is not processed in a timely manner.

In practice, the Swedish tax authorities will reject the refund claim where they consider that the claimant has a fixed establishment in Sweden from which business transactions were performed. If the refund is not granted, the grounds for rejection must be stated. A partial refund claim also can be granted, i.e. one or more invoices/costs included in the claim may be rejected.

The Swedish tax authorities will not impose tax penalties if a refund claim is rejected. An appeal against the denied claim may be made to the authorities before the end of the sixth year from the calendar year to which the application relates. If the appeal is not successful, the claimant can initiate proceedings before the County Administrative Court within two months of receipt of the notification. A written appeal must be sent to the tax authorities; an emailed copy of the appeal may be accepted but it is recommended that the appeal be in hard copy and sent by regular mail.

The VAT refund process usually takes one to three months.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim in Sweden.

Eligibility for refund

Sweden does not apply the principle of reciprocity. Businesses from any country of establishment are allowed to submit a VAT refund claim in Sweden.

Non-refundable VAT

VAT cannot be recovered on:

- Permanent accommodation;
- Travel services (only applicable to persons supplying travel services);
- Unreasonable entertainment services; and
- Purchase of motor vehicles.

Partially refundable VAT

- Car rentals (these are 50% refundable), with certain exceptions for:
 - Vehicles intended to be sold or leased by a taxable person whose economic activity involves the sale or leasing of motor vehicles;
 - Vehicles intended to be solely used for passenger transport for hire or reward; and
 - Vehicles intended to be used for driving license education and transport of the deceased.
- Entertainment costs, including food.

Making claims

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than SEK 4,000; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than SEK 500.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year and not more than one calendar year, unless the period represents the remainder of a calendar year (e.g. from 1 November to 31 December).

The application can relate to invoices or import documents not covered by previous applications in respect of transactions carried out during that calendar year.

The application must be submitted to the Swedish tax authorities within six months from the end of the calendar year in which the tax became chargeable, i.e. by 30 June of the following year.

Proxy

If the claim is filed by an agent, a proxy must be provided with the refund application. An original of the proxy must be provided.

Application forms

The application must be made on Form SKV 5801 issued by the Swedish tax authorities. The application must be completed in Swedish or English and all amounts must be shown in SEK. If the amount must be recalculated in SEK, the exchange rate applicable on the date of delivery must be used. However, if invoicing was made in close proximity to the time of delivery, the exchange rate on the invoicing date may be used.

It is preferable to have the form printed in the same language as used in the application.

All invoices must be mentioned in attachment to the application. An excel spreadsheet may be used to provide an overview of the claimed amounts, and if an invoice refers to underlying invoices, those documents also must be attached.

The application must be signed by a person who is legally entitled to represent the company; if the claimant uses a representative, a proxy must be provided with the application.

Claimants from Albania, Austria, Bosnia-Herzegovina, Croatia, Czech Republic, Denmark, France, Faeroe Islands, Germany, Greece, Greenland, Hungary, Iceland, Kosovo, Macedonia, Montenegro, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia and Turkey must send the form and supporting documents to:

Skatteverket
Utlandsskattekontoret
SE-205 31 MALMÖ
Sweden
T: +46 77 15 67 567
Fax: +46 10 574 62 03
Email: uk.malmo@skatteverket.se

Entrepreneurs from all other countries must send the form and supporting documents to:

Skatteverket
Utlandsskattekontoret
SE-171 94 SOLNA
Sweden
T: +46 77 15 67 567
Fax: +46 10 574 18 11
Email: stockholm@skatteverket.se

The form is available at:

<http://www.skatteverket.se/foretagorganisationer/sjalvservice/blanketterbroschyre/r/blanketter/info/5801.4.39f16f103821c58f680007004.html>

Supporting documentation

The following documents must be submitted with each application:

- Original invoices, import documents or credit notes (copies are not accepted). The serial number as used in the application form must be included on the documents;
- A certificate issued by the tax authorities of the claimant's home country stating that the claimant is a taxable person. The certificate must have been issued within the past year;
- Other documents that are necessary to assess whether the claimant is entitled to a refund; and
- A power of attorney if a third party submits the claim on behalf of the claimant.

E-invoicing

E-invoices are accepted to claim a refund. However, for practical reasons, a hard copy of the e-invoice should be submitted.

Refunds and appeals

The tax authorities must issue a decision within six months of receipt of the complete refund claim. The decision will be sent to the claimant. If the refund is granted, payment will be made to the bank account stated on the application (this may be a foreign bank account). If the refund is rejected, the grounds for rejection must be stated.

An appeal against a denied claim must be filed within two months from the date the claimant received the decision. A written appeal must be sent to the tax authorities; an emailed copy may be accepted but a hard copy is recommended.

Queries and/or the decision by the tax authorities will be sent to the address of the person mentioned on the application. Answers per email generally are accepted, but the authorities may request original documents and in such cases, the information must be sent by regular mail.

Even if additional information is requested, the time limit to decide on the refund will not be extended.

There is no implicit rejection or acceptance of the refund claim if the decision or the request for additional information are not issued in due time.

The Swedish tax authorities will not be liable for late payment interest if the refund is not processed in a timely manner.

A refund claim can be partially granted, i.e. one or more invoices/costs included in the claim are rejected.

The Swedish authorities cannot impose tax penalties for refund claims, e.g. if a refund claim is rejected.

On average, it takes one to three months for a refund to be granted in Sweden.

Switzerland

Swiss VAT is known as “*Mehrwertsteuer (MWST)*,” “*Taxe sur la Valeur Ajoutée (TVA)*” and “*Imposta sul Valore Aggiunto (IVA)*.”

The standard VAT rate is 8%, and there are reduced rates of 3.8% on hotel accommodation services and 2.5% mainly on food (except food sold in restaurants), medical products and books.

A Swiss-established fiscal representative must be appointed for a business to apply for a VAT refund.

Switzerland is the Member State of Establishment

13th Directive

This refers to a Swiss-established company, submitting a 13th Directive claim in an EU country.

The refund application for a Swiss-established company claiming input VAT in an EU member state must be submitted according to the requirements of the country of refund. VAT refund reciprocity rules (allowing or not Swiss-established companies to submit a VAT refund claim) must be verified with the member state of refund.

An original “certificate of taxable status” issued by the Swiss Federal Tax Administration (FTA) (“*Eidgenössische Steuerverwaltung ESTV*” in German, “*Administration fédérale des contributions AFC*” in French and “*Amministrazione federale delle contribuzioni AFC*” in Italian) must be provided to the EU country of refund. This certificate is called “*Eintragungsbestätigung*” / “*Unternehmerbescheinigung*” in German, “*Commande de l’attestation de l’immatriculation comme assujetti TVA*” in French and “*Ordinazione dell’attestazione quale impresa iscritta nel registro IVA*” in Italian.

Switzerland is the Member State of VAT Refund

13th Directive equivalent legislation in Switzerland

Since Switzerland is not part of the EU, the EU Directive 2008/09/EC and the 13th Directive are not applicable to foreign domiciled companies requesting a VAT refund in Switzerland.

However, it is possible to reclaim VAT in Switzerland for foreign-domiciled companies via a “13th Directive equivalent legislation.”

Eligibility for VAT refund

Foreign-domiciled companies (whether or not located within the EU) that pay VAT on the supply of goods and/or services made to them within Switzerland by Swiss-registered persons and that have been invoiced according to the regulations for these supplies or services and use the supplies or services for business purposes generally may be entitled to benefit from the VAT refund procedure.

The claimant must be resident or domiciled abroad and may not supply goods or services in Switzerland, unless the services (not supplies) are subject to the reverse charge, cover the zero-rated cross-border transport of goods or related services/supplies under warranty. Any onsite work supplied within Switzerland (e.g. supply and installation work) will result in a forfeiture of the claimant's entitlement to input VAT recovery via the VAT refund procedure and could trigger the need for VAT registration (depending on the turnover).

The claimant also must provide evidence of VAT registration (i.e. its status of taxable person) in the country in which it is resident or has its business, as well as evidence (upon the request of the FTA) that the invoices on which its claim is based effectively have been paid.

A VAT refund requires that full reciprocity is granted by the country in which the claimant is established or domiciled. Reciprocity exists with countries, including: Australia, Austria, Bahrain, Belgium, Bermuda Islands, Bulgaria, Canada (VAT refunds will be granted only for input VAT on accommodation services up to 30 days, exhibition costs and attendance at unofficial international conferences, seminars, etc.), Croatia, Cyprus, Czech Republic (no refund is granted on travel expenses, accommodation and lodging, telephone costs, taxi and fuel as from refund year 2014), Denmark as from refund year 2016 (for 2015 invoices): full VAT refund of input VAT related to accommodation and food and beverages up to 25%, Estonia, Finland and France.

Reciprocity also exists with Germany (no refund for input VAT on fuel and travel costs on a per diem basis), Greece, Hong Kong, Hungary, Ireland, Israel (various supplies are zero rated), Italy, Japan, Latvia, Lithuania, Luxembourg, Macedonia, Malta as from refund year 2016 (for 2015 invoices), Monaco, Netherlands, Norway, Poland, Portugal, Saudi Arabia, Serbia as from refund year 2016 (for 2015 invoices), Slovakia, Slovenia, Spain, Sweden, the UK (no reciprocity exists with Jersey, Guernsey and the other Anglo-Norman Islands, i.e. Alderney, Herm and Sark), Romania, Taiwan, Turkey (a VAT refund will be granted only for input VAT on transport services, fuel and services related to the attendance to exhibitions and fairs), the United Arab Emirates as from refund year 2017 (for 2015 invoices) and the US.

Non-refundable VAT

A refund will not be granted for VAT incurred on, amongst other things:

- Supplies of goods and services not used for business purposes;
- Foreign travel agencies on deliveries and services refunded if such costs are re-invoiced to their customers;
- Incorrectly completed invoices or cash receipts;
- Proof of payment is missing; and
- Exempt or zero-rated transactions and transactions that are outside the scope of a supply.

VAT will not be refunded to residents of countries that do not have a VAT refund reciprocity agreement with Switzerland. Wrongly invoiced Swiss VAT will not be refunded.

Partially refundable VAT

There are some expenses for which non-established companies will be allowed only a partial refund of Swiss VAT. This depends on the relevant VAT refund reciprocity rules and the applicable Swiss VAT rules, and must be analyzed on a country-by-country basis.

Making claims

Minimum amounts

The minimum VAT amount per year for a refund is CHF 500; a refund will not be issued for a total amount less than CHF 500.

Time limits

A VAT refund application must be made for the calendar year within six months after the year in which the supply was invoiced, i.e. by 30 June of the following year.

A claimant may submit only one refund claim per year. Late claims will not be accepted and the deadline will not be extended. The postmark date is used as the date of submission.

Proxy

The fiscal representative, which must be established in Switzerland (and can be an individual or a company), must file the VAT refund application form (Form 1222) together with an invoice summary (Form 1223) and demonstrate its status with a power of attorney included in Form 1222. Form 1222 must be signed by both the claimant and its Swiss representative. As the proxy is part of the application for refund, it cannot be submitted separately.

Electronic filing is not possible in Switzerland. No special notarization of the forms is required. The application forms are available in German, French or Italian. A Swiss-established fiscal representative must be appointed by an EU/non-EU-established company submitting a VAT refund claim in Switzerland.

Only a Swiss-established fiscal representative can be appointed as an agent for the submission and for the follow-up of Swiss VAT refunds.

A new proxy is needed for each refund claim for each calendar year (Form 1222).

Application forms

If services have been purchased both in Switzerland and in the Principality of Liechtenstein, separate VAT refund claims must be made for each country. The forms for a Liechtenstein VAT refund can be found at (www.stv.llv.li) and must be mailed to the following address:

Liechtensteinische Steuerverwaltung
Postfach 684, 9490 Vaduz.

A Liechtenstein-domiciled fiscal representative must be appointed to obtain a refund of Liechtenstein VAT.

The Swiss VAT refund application is made on Forms 1222 and 1223 issued by the FTA (EU forms will not be accepted). The forms must be completed in German, French or Italian and in capital letters. Forms can be obtained at: <https://www.estv.admin.ch/estv/de/home/mehrwertsteuer/dienstleistungen/formulare-pdf.html#-719672166>

An original of the application form (Form 1222) must be submitted, and it must be stamped, dated and signed by the claimant and its Swiss fiscal representative.

A person entitled to sign on behalf of the claimant must sign the Swiss VAT refund application form.

Since the refund application must be filed in Swiss francs (CHF), invoices issued in a foreign currency must be converted into CHF using the monthly average exchange rate or the corresponding current day's rate, both of which are published on the FTA website. An internal group exchange rate also may be used, provided process consistency can be demonstrated.

VAT on imports may be refunded only if the businesses, after importing the goods, can use the goods in its own name and is in possession of the original documents.

It is likely that a foreign claimant will perform Swiss domestic supplies after the import and thus will not be entitled to use the VAT refund procedure, but may be required to request a local VAT registration.

Applications cannot be filed electronically.

The FTA does not issue confirmation of receipt of the claim.

The claimant must provide the FTA with an overview of the claimed amounts in Form 1223. Since Form 1223 is mandatory, an additional excel spreadsheet is not required.

Follow up on submitted claims

The claimant and the Swiss fiscal representative can follow up on a VAT refund claim. An electronic portal is not available for this purpose.

Supporting documentation

The following documents must be submitted with each claim:

- Original supplier invoices and customs clearance forms (copies are not accepted) issued in the name of the claimant and that meet the formal legal requirements of article 26 § 2 of the Swiss VAT Law; and
- A statement of taxable status, e.g. a certificate of VAT registration in an EU member state or Form IRS 6166 for the US (this form is based on the information included in Form 8802).

An identification number is granted by the authorities and may be used for the next refund claim.

E-invoicing

Print-outs of e-invoices generally are accepted provided that, upon the request of the FTA, the e-invoices on DVD, CD, or in a password-protected compressed and packed data file (e.g. WinZip, WinRAR) are provided by email.

Refunds and appeals

The FTA handles VAT refund applications in chronological order, i.e. from the date of receipt (if all necessary documents are available), so it is in the claimant's interest to submit the forms as early as possible.

Repayments are in Swiss Francs and are paid to a Swiss or the foreign bank account of a non-resident business or its fiscal representative.

Payments usually are processed within six months following the date the refund claim is submitted.

Late payment interest is paid as from the 181st day after the complete VAT refund claim is filed if full reciprocity is granted by the country in which the claimant is resident or domiciled (currently, only Belgium, Germany, Italy and Spain grant full reciprocity for late payment interest).

A Swiss VAT refund filed with the FTA must be complete; otherwise, the FTA can decline to further process the claim. The VAT guidelines do not provide for an extension of the processing period, i.e. the 180-day period applies.

The FTA will inform the claimant that the refund is granted or rejected by sending an official letter addressed to the Swiss fiscal representative.

VAT refunds usually are processed within the 180-day period.

If the FTA rejects the refund claim, the claimant can request a formal decision that can be appealed. An appeal must be filed with the FTA within 30 days of receipt of the decision. Decisions on the appeal can be further appealed to the Federal Tax Appeals Commission. Decisions on complaints to the Commission can be appealed within 30 days to the Supreme Court.

If only one invoice submitted with the refund claim is incorrect or a query on a specific invoice is not answered, only the VAT relating to the relevant invoice may be rejected; the entire VAT refund claim cannot be rejected on this basis.

Common causes for rejecting a VAT refund claim are:

- Late filing;
- Providing copies of invoices, rather than the originals;
- A determination by the FTA that the claimant is generating domestic turnover (subject to exemptions);
- When no reciprocity for VAT purposes exists between Switzerland and the country in which the claimant is domiciled;
- The relevant supplies are used for a non-business purpose or for VAT-exempt turnover without an input VAT credit;
- VAT was mistakenly charged for services; and
- The claim is filed by foreign-domiciled agencies and similar businesses (that are not entitled to a Swiss VAT refund).

In principle, no penalties will be imposed by the FTA if a refund claim is rejected.

The United Kingdom

UK VAT is known as “Value Added Tax” (VAT).

The standard VAT rate is 20%, and there are reduced rates of 5% and 0%.

Goods and services supplied to or from the Isle of Man are regarded as having been supplied within the UK. The Channel Islands are not part of the UK or the EU for VAT purposes.

An extensive overview of the VAT rates applied in the UK can be found at: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf.

It is not necessary to appoint a UK fiscal representative to claim a VAT refund based on Directive 2008/09/EC or the 13th Directive.

The UK is the Member State of Establishment

EU countries (Directive 2008/09/EC)

This refers to a UK-established company submitting an EU (former 8th Directive) claim in another EU member state.

Procedure

Filing

Applications must be submitted via the electronic online system. To make an electronic application for a refund, it is necessary to be registered for VAT online services (<https://www.gov.uk/send-vat-return>).

IT requirements

If a claimant is UK VAT-registered, it usually will be registered for VAT online services.

To register for online services, the claimant business must have its VAT 4 Certificate of UK VAT registration and a copy of its most recent submitted VAT return, and it must follow the on-screen instructions. An activation PIN number will be mailed to the business address registered with the UK tax authorities (HMRC) within set time limits (currently seven to 10 days). Once this is received, the claimant will have 28 days from the date of the letter to activate the service.

A claimant can appoint an agent to make a VAT refund claim on its behalf. Instructions are available on <https://www.gov.uk/appoint-tax-agent>.

The electronic form is comprised of standard information and specific invoice information.

Standard information fields:

- Name;
- Electronic contact address (email address);
- Description of the business activity to which the goods and services to be claimed relates (up to three business activities may be entered);
- Period of application;
- Declaration of the eligibility to claim;
- VAT registration number; and
- Specified bank account details, including IBAN and BIC codes.

Specific invoice information:

- Name and address of the supplier;
- The VAT identification number or tax reference number of the supplier, including the prefix of the member state of refund (except in cases of importation);
- Date and number of the invoice or import document;
- Taxable amount and amount of VAT expressed in the currency of the member state of refund;
- Amount of deductible VAT expressed in the currency of the member state of refund. This is the amount of VAT recoverable taking into account any partial exemption restriction, and any restriction on the recovery of input tax applying in the member state of refund;
- Where applicable, the deductible proportion calculated under the rules of the member state of establishment;
- Nature of the goods and services acquired, described according to the following expenditure codes.
 - Fuel;
 - Hiring of means of transport;
 - Expenditure relating to means of transport (other than in the first two bullets);
 - Road tolls and road user charges;
 - Travel expenses, such as taxi fares, public transport fares;
 - Accommodation;
 - Food, drink and restaurant services;
 - Admissions to fairs and exhibitions;
 - Expenditure on luxuries, amusement and entertainment; and
 - Other.

Sub-codes in addition to the main codes set out above, also may be required. Where applicable, these sub-codes will appear as completion options on the electronic portal. Where code 10 is used, without an accompanying sub-code, a narrative description of the goods or services must be entered in a free text box.

If an invoice includes items covering more than one expenditure code, the code relating to the highest proportion of expenditure is the one that must be used.

Where required, scanned invoices/annexes can be uploaded via the HMRC website/portal taking the following into account:

- File types accepted: JPEG, PDF or TIFF;
- Maximum file size: 5MB.

The claimant will be informed electronically at the following stages:

- If the application fails basic validation checks;
- When HMRC forwards the application to the member state of refund;
- When the member state of refund receives the application;
- If the member state requires additional information; and
- When the member state of refund makes its decision.

Non-EU countries (13th Directive equivalent)

This refers to a UK-established company submitting a non-EU (13th Directive equivalent) claim in a non-EU country.

The refund application for a UK-established company claiming input VAT in a non-EU country must be submitted according to the requirements of that country. The HMRC portal cannot be used.

Another difference from the EU VAT refund procedure is that a “certificate of taxable status” issued by the member state of establishment usually will be required by the non-EU country of refund.

The United Kingdom is the Member State of Refund

EU businesses (Directive 2008/09/EC)

This refers to an EU-established company submitting an EU (former 8th Directive) claim to the U.K.

Eligibility for refund

A taxable person established in a member state other than the UK is entitled to recover UK VAT if the following conditions are satisfied:

- The claimant is not registered or liable or eligible to be registered for VAT in the UK;
- It does not have a place of business in the UK or the Isle of Man;
- The claimant has not carried out any taxable supplies in the UK, except for:
 - Certain transport and ancillary services carried out in connection with the international carriage of goods; or
 - Goods and services where the VAT on the supply is payable solely by the person to whom the supply is made.

Non-refundable VAT

VAT cannot be recovered on:

- Goods and services used for non-business activities;
- Business entertainment (VAT on basic entertainment for overseas customers can be recovered);
- Incorrectly invoiced VAT or where the VAT has been charged on the dispatch of goods to another member state, or the export of goods outside the EU (this must be taken up with the supplier); and
- For the purchase of a car, only 50% of VAT can be recovered on the lease of a motor car (unless the car is not available for private use).

The goods or services on which VAT is being claimed must be for the purpose of carrying out economic activities in a country other than the UK and that would create the right to a VAT deduction in that country.

Where the supply of goods or services are used by the claimant for making exempt supplies without full recovery of VAT on related costs, it is necessary to identify the proportion of VAT that would have been recoverable by the person in its country of establishment on such supplies.

Making claims

The period covered by the application is known as the “refund period.” This must not be more than one calendar year or less than three calendar months (unless it covers the remainder of a calendar year, e.g. where claims already have been submitted covering more than nine months).

Minimum amounts

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than GBP 295; if the application relates to a period of a calendar year or the remainder of a calendar year, the amount may not be less than GBP 35.

Time limits

Properly completed applications must be submitted by 30 September of the calendar year following the refund year. If a company deregisters for VAT during the refund year, it must submit an application as soon as possible following deregistration.

The UK will accept corrected applications, but advice should be sought from the tax authorities on how these should be submitted through the electronic facility in the member state of the claimant.

The UK may impose penalties for incorrect applications, so if an error has been made on an application, a correction should be submitted as soon as possible. The correction procedure can be used to amend existing claim lines; a claim line cannot be deleted but the VAT value can be reduced to zero and no additional lines may be inserted. If an invoice has been omitted from an application, it should be included in a subsequent application. The claims procedure also should be used to amend an email address or bank details if these change after the application is submitted. Corrected applications must be submitted by the same deadline as apply to original applications, i.e. by 30 September of the year following the year in which the VAT was incurred.

Agents

A claimant can appoint an agent to make a VAT refund claim on its behalf. The agent will need either a power of attorney or a letter of authority before acting for, and receiving money on behalf of, the claimant.

The following is an example of a letter of authority, which is acceptable to HMRC:

I [name and address of claimant] hereby appoint [name and address of agent] to act on my behalf in connection with any application I make to the Commissioners of HMRC under the Value Added Tax Regulations 1995 as from time to time amended or replaced. Any repayment of VAT to which I am entitled pursuant to any such application made on my behalf by my above named agent must be paid to [name and address of payee].

Date Signed [by the claimant]

Supporting documentation

Scanned copies of invoices and import documents must be attached where the taxable amount exceeds GBP 750 (GBP 200 for invoices relating to fuel costs).

E-invoicing

Invoices must be in PDF, TIFF or JPEG format and must not exceed 5MB in size.

Refunds and appeals

HMRC must issue a decision within four months of receiving a refund claim:

- The authorities can accept or partly or wholly reject the claim and notify the claimant; or
- The authorities can request additional information, which may take the form of original invoices or documents. The claimant must provide all information within one month of receipt of the request.

HMRC has eight months from the date it receives the application to notify the claimant of the decision.

If a refund is granted, it will be processed in pounds sterling within 10 business days after the relevant period and paid to the bank account referenced in the application; payment can be made in the UK or, at the claimant's request, in any other member state. In such case, the bank charges for the transfer will be deducted by the UK from the amount to be paid to the claimant.

HMRC will be liable for late payment interest if the payment is not processed in a timely manner.

If the refund is rejected, the reasons must be provided. The claimant can ask for the decision to be reviewed by an HMRC officer not previously involved in the matter or appeal to an independent tribunal. If the claimant opts for a review, it still may appeal to the tribunal after the review is completed.

A review must be requested within 30 days of receipt of the decision. To appeal to the tribunal, the appeal must be sent within 30 days of the decision, by way of email or regular mail.

Reason for rejecting a VAT refund claim include incorrect VAT charges, claims for business entertainment expenses, situations where the claimant should have been VAT registered in the UK and lack of evidence of VAT payment.

HMRC processes claims and makes refunds within the time limits for doing so in the majority of cases.

Non-EU businesses (13th Directive)

This refers to a non-EU-established company submitting a 13th Directive claim to the U.K.

Eligibility for refund

If the claimant is registered for business purposes in a non-EU country, it can use the 13th Directive procedure to reclaim VAT paid in the UK, provided the claimant:

- Is not registered and is not liable or eligible to be registered for VAT in the UK;
- Does not have a place of business or other residence in the EU; and
- Does not make any supplies in the UK (other than transportation services related to the international carriage of goods, or services where VAT is payable by the person in the UK to whom the supply is made).

It also is a condition of the scheme that the claimant's own country allows similar concessions to UK traders in respect of its own turnover taxes. In practice, the application will be rejected on these grounds only if the claimant's own country has a scheme for refunding these taxes, but refuses to allow UK traders to use it.

Non-refundable VAT

The scheme to reclaim VAT cannot be applied on:

- Non-business supplies (although if a supply covers both business and non-business use, VAT can be reclaimed on the business element of the supply);
- A supply used or to be used to make a supply in the UK;
- The supply or importation of most ordinary business cars; only 50% of the VAT incurred on the hire or lease of a car for mixed business and private purposes is allowed;
- Certain second-hand goods, such as cars and antiques, for which a tax invoice is not issued;
- Business entertainment/hospitality expenses (except for VAT on basic entertainment for overseas customers);
- Exports of goods (although these will be zero-rated provided the supplier has the necessary evidence); or
- Goods and services, such as hotel accommodation, purchased for resale and which are for the direct benefit of travellers;
- Any supply used or to be used to make an exempt supply outside the UK (for this purpose, an exempt supply is a supply described as exempt in Schedule 9 to the VAT Act 1994, whether or not the place of the supply is in the UK).

If the claimant has to arrange for goods to be imported into the UK, it can reclaim any VAT due, provided there is no other VAT relief available at import, but the scheme cannot be applied if, as a result of importing the goods, the claimant becomes liable to register for VAT purposes in the UK.

Making claims

Minimum amounts

If the application is for a period covering less than 12 months, the total amount of VAT claimed must not be less than GBP 130. However, when the application is for the full 12 months of the prescribed year, or there are less than three months remaining in the prescribed year, the amount of VAT claimed must not be less than GBP 16.

Time limits

The application must cover a period of not less than three consecutive calendar months (e.g. from 1 July to 30 September) of the prescribed year and not more than a prescribed year. The prescribed year is the 12-month period from 1 July to 30 June. However, applications may relate to a period of less than three months where the period represents the remainder of a prescribed year (e.g. from 1 May to 30 June). Applications also may relate to invoices or import documents not covered by previous applications that concern transactions completed during that year.

The application must be submitted to the UK tax authorities within six months of the end of the calendar year in which the tax became chargeable, i.e. by 31 December. An extension of this deadline is not possible. If accepted, the payment will be made within six months of the application. The payment can either be made to the claimant's non-UK bank account via SWIFT, a UK bank account or by payable order. Payments will be made in GBP.

Agents

A claimant can appoint an agent to make a VAT refund claim on its behalf. The agent will need either a power of attorney or a letter of authority before acting for, and receiving money on behalf of, the claimant.

The following is an example of a letter of authority, which is acceptable to HMRC:

I [name and address of claimant] hereby appoint [name and address of agent] to act on my behalf in connection with any application I make to the Commissioners of HMRC under the Value Added Tax Regulations 1995 as from time to time amended or replaced. Any repayment of VAT to which I am entitled pursuant to any such application made on my behalf by my above named agent must be paid to [name and address of payee].

Date Signed [by the claimant]

Application forms

The application can be made on [Form VAT 65A](#), issued by the UK tax authorities. It must be completed in English.

All invoices to which the claim relates must be listed in the application form.

The application must be signed by a person who is legally entitled to represent the company (e.g., a director, company secretary or some other authorized officer of the claimant).

The form and supporting documentation must be sent to:

*HM Revenue and Customs
Compliance Centres
VAT Overseas Repayment Unit
S1250
Benton Park View
Newcastle upon Tyne
NE98 1YX
UK*

Supporting documentation

The first application must include a valid certificate from the official authority of the claimant's country showing that it is registered for business purposes in that country. When the certificate is applied for, it is recommended that all information HMRC will need to process the application be included. For example, if the invoices are made out in the claimant company's trading style, the certificate must indicate this, as well as the name of the person registered. Form [VAT66A](#) can be used.

The certificate must contain:

- The name, the address and official stamp of the authorizing body;
- The claimant's name and address;
- The nature of the business; and
- The business registration number.

An original certificate must be provided (a photocopy is not acceptable). The certificate is valid for one year, so once the certificate has expired, a new one must be obtained to submit with any subsequent applications.

Original VAT invoices and import documents must be provided.

Examples of where claims may be rejected include incorrect VAT charges, claims for business entertainment expenses, situations where the claimant should have been VAT registered in the UK and lack of evidence of VAT payment.

HMRC processes claims and makes refunds within the relevant time limits in the majority of cases. Penalties can be imposed in the case of false declarations.

Refunds and appeals

HMRC must issue a decision within six months of receiving a satisfactory application.

If the refund claim is rejected, the reasons must be stated. The claimant can ask for the decision to be reviewed by an HMRC officer not previously involved in the matter or appeal to an independent tribunal. If the claimant opts for a review, an appeal may be filed to the tribunal after the review is completed.

A review must be requested within 30 days of receipt of the decision. To appeal to the tribunal, the appeal must be sent within 30 days of the decision, via email or regular mail.

Payment can be made directly to the claimant's bank through SWIFT or to a UK bank or by payable order.

Appendices

Appendix I - 2008/09/EC Directive

(Council Directive 2008/09/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the member state of refund but established in another member state)

Article 1

This Directive lays down the detailed rules for the refund of value added tax (VAT), provided for in Article 170 of Directive 2006/112/EC, to taxable persons not established in the member state of refund, who meet the conditions laid down in Article 3.

Article 2

For the purposes of this Directive, the following definitions apply:

1. 'taxable person not established in the member state of refund' means a taxable person within the meaning of Article 9(1) of Directive 2006/112/EC who is not established in the member state of refund but established in the territory of another member state;
2. 'member state of refund' means the member state in which the VAT was charged to the taxable person not established in the member state of refund in respect of goods or services supplied to him by other taxable persons in that member state or in respect of the importation of goods into that member state;
3. 'refund period' means the period mentioned in Article 16 covered by the refund application;
4. 'refund application' means the application for refund of VAT charged in the member state of refund to the taxable person not established in the member state of refund in respect of goods or services supplied to him by other taxable persons in that member state or in respect of the importation of goods into that member state;
5. 'applicant' means the taxable person not established in the member state of refund making the refund application.

Article 3

This Directive shall apply to any taxable person not established in the member state of refund who meets the following conditions:

(a) during the refund period, he has not had in the member state of refund, the seat of his/her economic activity, or a fixed establishment from which business transactions were effected, or, if no such seat or fixed establishment existed, his/her domicile or normal place of residence;

(b) during the refund period, he has not supplied any goods or services deemed to have been supplied in the member state of refund, with the exception of the following transactions;

(i) the supply of transport services and services ancillary thereto, exempted pursuant to Articles 144, 146, 148, 149, 151, 153, 159 or 160 of Directive 2006/112/EC; (ii) the supply of goods and services to a person who is liable for payment of VAT in accordance with Articles 194 to 197 and Article 199 of Directive 2006/112/EC.

Article 4

This Directive shall not apply to:

(a) amounts of VAT which, according to the legislation of the member state of refund, have been incorrectly invoiced;

(b) amounts of VAT which have been invoiced in respect of supplies of goods the supply of which is, or may be, exempt under Article 138 or Article 146(1)(b) of Directive 2006/112/EC.

Article 5

Each member state shall refund to any taxable person not established in the member state of refund any VAT charged in respect of goods or services supplied to him by other taxable persons in that member state or in respect of the importation of goods into that member state, insofar as such goods and services are used for the purposes of the following transactions:

(a) transactions referred to in Article 169(a) and (b) of Directive 2006/112/EC;

(b) transactions to a person who is liable for payment of VAT in accordance with Articles 194 to 197 and Article 199 of Directive 2006/112/EC as applied in the member state of refund.

Without prejudice to Article 6, for the purposes of this Directive, entitlement to an input tax refund shall be determined pursuant to Directive 2006/112/EC as applied in the member state of refund.

Article 6

To be eligible for a refund in the member state of refund, a taxable person not established in the member state of refund has to carry out transactions giving rise to a right of deduction in the member state of establishment.

When a taxable person not established in the member state of refund carries out in the member state in which he is established both transactions giving rise to a right of deduction and transactions not giving rise to a right of deduction in that member state, only such proportion of the VAT which is refundable in accordance with Article 5 may be refunded by the member state of refund as is attributable to the former transactions in accordance with Article 173 of Directive 2006/112/EC as applied by the member state of establishment.

Article 7

To obtain a refund of VAT in the member state of refund, the taxable person not established in the member state of refund shall address an electronic refund application to that member state and submit it to the member state in which he is established via the electronic portal set up by that member state.

Article 8

1. The refund application shall contain the following information:

- (a) the applicant's name and full address;
- (b) an address for contact by electronic means;
- (c) a description of the applicant's business activity for which the goods and services are acquired;
- (d) the refund period covered by the application;
- (e) a declaration by the applicant that he has supplied no goods and services deemed to have been supplied in the member state of refund during the refund period, with the exception of transactions referred to in points (i) and (ii) of Article 3(b);
- (f) the applicant's VAT identification number or tax reference number;
- (g) bank account details including IBAN and BIC codes.

2. In addition to the information specified in paragraph 1, the refund application shall set out, for each member state of refund and for each invoice or importation document, the following details:

- (a) name and full address of the supplier;
- (b) except in the case of importation, the VAT identification number or tax reference number of the supplier, as allocated by the member state of refund in accordance with the provisions of Articles 239 and 240 of Directive 2006/112/EC;
- (c) except in the case of importation, the prefix of the member state of refund in accordance with Article 215 of Directive 2006/112/EC;
- (d) date and number of the invoice or importation document;
- (e) taxable amount and amount of VAT expressed in the currency of the member state of refund;
- (f) the amount of deductible VAT calculated in accordance with Article 5 and the second paragraph of Article 6 expressed in the currency of the member state of refund;
- (g) where applicable, the deductible proportion calculated in accordance with Article 6, expressed as a percentage;
- (h) nature of the goods and services acquired, described according to the codes in Article 9.

Article 9

1. In the refund application, the nature of the goods and services acquired shall be described by the following codes:

1 = fuel;

2 = hiring of means of transport;

3 = expenditure relating to means of transport (other than the goods and services referred to under codes 1 and 2);

4 = road tolls and road user charge;

5 = travel expenses, such as taxi fares, public transport fares;

6 = accommodation;

7 = food, drink and restaurant services;

8 = admissions to fairs and exhibitions;

9 = expenditure on luxuries, amusements and entertainment;

10 = other.

If code 10 is used, the nature of the goods and services supplied shall be indicated.

2. The member state of refund may require the applicant to provide additional electronic coded information as regards each code set out in paragraph 1 to the extent that such information is necessary because of any restrictions on the right of deduction under Directive 2006/112/EC, as applicable in the member state of refund or for the implementation of a relevant derogation received by the member state of refund under Articles 395 or 396 of that Directive.

Article 10

Without prejudice to requests for information under Article 20, the member state of refund may require the applicant to submit by electronic means a copy of the invoice or importation document with the refund application where the taxable amount on an invoice or importation document is EUR 1.000 or more or the equivalent in national currency.

Where the invoice concerns fuel, the threshold is EUR 250 or the equivalent in national currency.

Article 11

The member state of refund may require the applicant to provide a description of his/her business activity by using the harmonised codes determined in accordance with the second subparagraph of Article 34a(3) of Council Regulation (EC) No 1798/2003.

Article 12

The member state of refund may specify which language or languages shall be used by the applicant for the provision of information in the refund application or of possible additional information.

Article 13

If subsequent to the submission of the refund application the deductible proportion is adjusted pursuant to Article 175 of Directive 2006/112/EC, the applicant shall make a correction to the amount applied for or already refunded.

The correction shall be made in a refund application during the calendar year following the refund period in question or, if the applicant makes no refund applications during that calendar year, by submitting a separate declaration via the electronic portal established by the member state of establishment.

Article 14

1. The refund application shall relate to the following:

(a) the purchase of goods or services which was invoiced during the refund period, provided that the VAT became chargeable before or at the time of the invoicing, or in respect of which the VAT became chargeable during the refund period, provided that the purchase was invoiced before the tax became chargeable;

(b) the importation of goods during the refund period.

2. In addition to the transactions referred to in paragraph 1, the refund application may relate to invoices or import documents not covered by previous refund applications and concerning transactions completed during that calendar year.

Article 15

1. The refund application shall be submitted to the member state of establishment by 30 September of the calendar year following the refund period. The application shall be considered submitted only if the applicant has filled in all the information required under Articles 8, 9 and 11.

2. The member state of establishment shall send the applicant an electronic confirmation of receipt without delay.

Article 16

The refund period shall not be more than one calendar year or less than three calendar months. Refund applications may, however, relate to a period of less than three months where the period represents the remainder of a calendar year.

Article 17

If the refund application relates to a refund period of less than one calendar year but not less than three months, the amount of VAT for which a refund is applied for may not be less than EUR 400 or the equivalent in national currency.

If the refund application relates to a refund period of a calendar year or the remainder of a calendar year, the amount of VAT may not be less than EUR 50 or the equivalent in national currency.

Article 18

1. The member state of establishment shall not forward the application to the member state of refund where, during the refund period, any of the following circumstances apply to the applicant in the member state of establishment:

(a) he is not a taxable person for VAT purposes;

(b) he carries out only supplies of goods or of services which are exempt without deductibility of the VAT paid at the preceding stage pursuant to Articles 132, 135, 136, 371, Articles 374 to 377, Article 378(2)(a), Article 379(2) or Articles 380 to 390 of Directive 2006/112/EC or provisions providing for identical exemptions contained in the 2005 Act of Accession;

(c) he is covered by the exemption for small enterprises provided for in Articles 284, 285, 286 and 287 of Directive 2006/112/EC; (d) he is covered by the common flat-rate scheme for farmers provided for in Articles 296 to 305 of Directive 2006/112/EC.

2. The member state of establishment shall notify the applicant by electronic means of the decision it has taken pursuant to paragraph 1.

Article 19

1. The member state of refund shall notify the applicant without delay, by electronic means, of the date on which it received the application.

2. The member state of refund shall notify the applicant of its decision to approve or refuse the refund application within four months of its receipt by that member state.

Article 20

1. Where the member state of refund considers that it does not have all the relevant information on which to make a decision in respect of the whole or part of the refund application, it may request, by electronic means, additional information, in particular from the applicant or from the competent authorities of the member state of establishment, within the four-month period referred to in Article 19(2).

Where the additional information is requested from someone other than the applicant or a competent authority of a member state, the request shall be made by electronic means only if such means are available to the recipient of the request.

If necessary, the member state of refund may request further additional information.

The information requested in accordance with this paragraph may include the submission of the original or a copy of the relevant invoice or import document where the member state of refund has reasonable doubts regarding the validity or accuracy of a particular claim. In that case, the thresholds mentioned in Article 10 shall not apply.

2. The member state of refund shall be provided with the information requested under paragraph 1 within one month of the date on which the request reaches the person to whom it is addressed.

Article 21

Where the member state of refund requests additional information, it shall notify the applicant of its decision to approve or refuse the refund application within two months of receiving the requested information or, if it has not received a reply to its request, within two months of expiry of the time limit laid down in Article 20(2).

However, the period available for the decision in respect of the whole or part of the refund application shall always be at least six months from the date of receipt of the application by the member state of refund.

Where the member state of refund requests further additional information, it shall notify the applicant of its decision in respect of the whole or part of the refund application within eight months of receipt of the application by that member state.

Article 22

1. Where the refund application is approved, refunds of the approved amount shall be paid by the member state of refund at the latest within 10 business days of the expiry of the deadline referred to in Article 19(2) or, where additional or further additional information has been requested, the deadlines referred to in Article 21.

2. The refund shall be paid in the member state of refund or, at the applicant's request, in any other member state. In the latter case, any bank charges for the transfer shall be deducted by the member state of refund from the amount to be paid to the applicant.

Article 23

1. Where the refund application is refused in whole or in part, the grounds for refusal shall be notified by the member state of refund to the applicant together with the decision.

2. Appeals against decisions to refuse a refund application may be made by the applicant to the competent authorities of the member state of refund in the forms and within the time limits laid down for appeals in the case of refund applications from persons who are established in that member state.

If, under the law of the member state of refund, failure to take a decision on a refund application within the time limits specified in this Directive is not regarded either as approval or as refusal, any administrative or judicial procedures which are available in that situation to taxable persons established in that member state shall be equally available to the applicant. If no such procedures are available, failure to take a decision on a refund application within these time limits shall mean that the application is deemed to be rejected.

Article 24

1. Where a refund has been obtained in a fraudulent way or otherwise incorrectly, the competent authority in the member state of refund shall proceed directly to recover the amounts wrongly paid and any penalties and interest imposed in accordance with the procedure applicable in the member state of refund, without prejudice to the provisions on mutual assistance for the recovery of VAT.

2. Where an administrative penalty or interest has been imposed but has not been paid, the member state of refund may suspend any further refund to the taxable person concerned up to the unpaid amount.

Article 25

The member state of refund shall take into account as a decrease or increase of the amount of the refund any correction made concerning a previous refund application in accordance with Article 13 or, where a separate declaration is submitted, in the form of separate payment or recovery.

Article 26

Interest shall be due to the applicant by the member state of refund on the amount of the refund to be paid if the refund is paid after the last date of payment pursuant to Article 22(1).

If the applicant does not submit the additional or further additional information requested to the member state of refund within the specified time limit, the first paragraph shall not apply. It shall also not apply until the documents to be submitted electronically pursuant to Article 10 have been received by the member state of refund.

Article 27

1. Interest shall be calculated from the day following the last day for payment of the refund pursuant to Article 22(1) until the day the refund is actually paid.
2. Interest rates shall be equal to the interest rate applicable with respect to refunds of VAT to taxable persons established in the member state of refund under the national law of that member state.

If no interest is payable under national law in respect of refunds to established taxable persons, the interest payable shall be equal to the interest or equivalent charge which is applied by the member state of refund in respect of late payments of VAT by taxable persons.

Article 28

1. This Directive shall apply to refund applications submitted after 31 December 2009.
2. Directive 79/1072/EEC shall be repealed with effect from 1 January 2010. However, its provisions shall continue to apply to refund applications submitted before 1 January 2010.

References to the repealed Directive shall be construed as references to this Directive except for refund applications submitted before 1 January 2010.

Article 29

1. Member states shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 2010. They shall forthwith inform the Commission thereof. When such provisions are adopted by member states, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by member states.

2. Member states shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 30

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 31

This Directive is addressed to the member states.

Appendix II - 13th EU VAT Directive

(Council Directive E.C. n° 86/560, 17 November 1986 on the harmonization of the laws of the member states relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory, OJ. L. 21 November 1986, n° 326, 40)

Article 1

For the purposes of this Directive:

1. 'A taxable person not established in the territory of the Community' shall mean a taxable person as referred to in Article 4 (1) of Directive 77/388/EEC who, during the period referred to in Article 3 (1) of this Directive, has had in that territory neither his/her business nor a fixed establishment from which business transactions are effected, nor, if no such business or fixed establishment exists, his/her permanent address or usual place of residence, and who, during the same period, has supplied no goods or services deemed to have been supplied in the member state referred to in Article 2, with the exception of:

(a) transport services and services ancillary thereto, exempted pursuant to Article 14 (1) (i), Article 15 or Article 16 (1), B, C and D of Directive 77/388/EEC;

(b) services provided in cases where tax is payable solely by the person to whom they are supplied, pursuant to Article 21 (1) (b) of Directive 77/388/EEC;

2. 'Territory of the Community' shall mean the territories of the member states in which Directive 77/388/EEC is applicable.

Article 2

1. Without prejudice to Articles 3 and 4, each member state shall refund to any taxable person not established in the territory of the Community, subject to the conditions set out below, any value added tax charged in respect of services rendered or moveable property supplied to him in the territory or the country by other taxable persons or charged in respect of the importation of goods into the country, in so far as such goods and services are used for the purposes of the transactions referred to in Article 17 (3) (a) and (b) of Directive 77/388/EEC or of the provision of services referred to in point 1 (b) of Article 1 of this Directive.
2. Member states may make the refunds referred to in paragraph 1 conditional upon the granting by third States of comparable advantages regarding turnover taxes.
3. Member states may require the appointment of a tax representative.

Article 3

1. The refunds referred to in Article 2 (1) shall be granted upon application by the taxable person. Member states shall determine the arrangements for submitting applications, including the time limits for doing so, the period which applications should cover, the authority competent to receive them and the minimum amounts in respect of which applications may be submitted. They shall also determine the arrangements for making refunds, including the time limits for doing so. They shall impose on the applicant such obligations as are necessary to determine whether the application is justified and to prevent fraud, in particular the obligation to provide proof that he is engaged in an economic activity in accordance with Article 4 (1) of Directive 77/388/EEC. The applicant must certify, in a written declaration, that, during the period prescribed, he has not carried out any transaction which does not fulfil the conditions laid down in point 1 of Article 1 of this Directive.
2. Refunds may not be granted under conditions more favourable than those applied to Community taxable persons.

Article 4

1. For the purposes of this Directive, eligibility for refunds shall be determined in accordance with Article 17 of Directive 77/388/EEC as applied in the member state where the refund is paid.
2. Member states may, however, provide for the exclusion of certain expenditure or make refunds subject to additional conditions.
3. This Directive shall not apply to supplies of goods which are or may be exempted under point 2 of Article 15 of Directive 77/388/EEC.

Article 5

1. Member states shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1988 at the latest. This Directive shall apply only to applications for refunds concerning value added tax charged on purchases of goods or services invoiced or on imports effected on or after that date.

2. Member states shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive and shall inform the Commission of the use they make of the option afforded by Article 2 (2). The Commission shall inform the other member states thereof.

Article 6

Within three years of the date referred to in Article 5, the Commission shall, after consulting the member states, submit a report to the Council and to the European Parliament on the application of this Directive, particularly as regards the application of Article 2 (2).

Article 7

As from the date on which this Directive is implemented, and at all events by the date mentioned in Article 5, the last sentence of Article 17 (4) of Directive 77/388/EEC and Article 8 of Directive 79/1072/EEC shall cease to have effect in each member state.

Article 8

This Directive is addressed to the member states.

Appendix III - Overview of VAT recovery rules

Country	Exhibitions/ fairs (entry fee / space rental)	Hotel / Accommodation	Restaurant meals	Car rentals	Car repairs	Taxis	Buses / trains	Entertainment expenses	Telephone	Diesel / petrol	Motorway tax	Trainings/Conferences/
Austria	100	100 (at1)	100 (at2)	0 (at3)	0 (at3)	100	100	0	100	0 (at3)	0 (at3)	100(at4)
Belgium	100	0	0	Max 50 (be1)	Max 50 (be1)	100	100	0	75	Max 50 (be1)	N/A	100% (be 2)
Bulgaria	100/RC	100	0/100 (bg1)	100	0/100 (bg2)	100	100	0	100	0/100 (bg2)	N/A	RC(bg3)/100(bg3)/100 (bg4)
Croatia	100/R.C.	0/100 (hr3)	0/100 (hr3)	0/100 (hr1)	0/100 (hr2)	100	100	0	100	0/100 (hr1)	N/A(hr5)	R.C./100 (hr4)/100
Cyprus	100/100	100 (cy1)	100 (cy1)	100 (cy1)	100 (cy1)	100	100	100 (cy1)	100	100	N/A	RC /100 (cy2)/ 100
Czech Republic	100/100	100 (cz1)	0	100 (cz2)	100 (cz1)	100 (cz1)	100 (cz1)	0	100 (cz2)	100 (cz2)	N/A	100/100/R.C.(cz3)
Denmark	100	100 (dk1)	25 (dk2)	0 (dk3)	0 (dk3)	-	- (dk4)	0	100 (dk5)	0 (dk3)	N/A	100
Estonia	100	100	0	50/100 (ee2)	50/100 (ee2)	100	100	0	100	50/100 (ee2)	N/A	100
Finland	100	100 (fi1)	100 (fi1)	0/100 (fi2)	0/100 (fi2)	100	100	0	100 (fi3)	0/100 (fi2)	N/A	100
France	100 (fr1)	0 for employees (fr2); 100 for 3 rd parties (fr1)	100(fr1)(fr4)	0(fr3)	0	0	0 (fr3)	100 (fr1)	100 (fr1)	Diesel 80 / Petrol 10 (fr5)/ LGP 100 (fr1)	100 (fr1) (fr6)	100 (fr1) (fr7)
Germany	100	100	100	100	100	100	100	100	100	0 or 100 (de)	N/A	100
Greece	Depends (gr1)	0 (gr2)	0	0	0	0	0	0	100	0	N/A	Depends (gr1)
Hungary	100	100	0	100	50 (hu1)	0	100 (hu3)	0	70	0 (hu2)	0	
Iceland	100/100	0/100	0	0	0	N/A	N/A	0	100 (ic1)	0	0	100 (ic1)/100/100
Ireland	100	0 (ie1)	0	0/20 (ie)	100	-	-	0	100	Diesel 100/petrol 0	100	100 (ie1)
Italy	100	100 (it1)	100 (it2)	40 or 100	40 or 100	0	0	0	100	40 or 100	40 or 100	100 (it3)
Latvia	100	100 (lv)	0 / 40 (lv)	0/50 (lv1)	0/50 (lv1)	100 (lv)	100	0	100	0/50 (lv1)	N/A	40/100 (lv2)
Lithuania	100	100	0/75	0	100	0	100	0/75	100	100	N/A	100
Luxembourg	100	100	100	100 (lu1)	0 (lu2)	100	100	100	100 (lu3)	100	N/A	
Malta	100/R.C.	100	0	0 (mt)	0 (mt)	0	0	0	100	0 (mt)	N/A	R.C./100/100
Netherlands	100	100	0	84/100 (nl2)	100	100	100	100 (nl3)	100	100	N/A	100
Norway	100	100	0	0	100/0 (no)	100	100	0	100	100/0 (no)	N/A	100

Country	Exhibitions/ fairs (entry fee / space rental)	Hotel / Accommodation	Restaurant meals	Car rentals	Car repairs	Taxis	Buses / trains	Entertainment expenses	Telephone	Diesel / petrol	Motorway tax	Trainings/Conferences/
Poland	100	0	0	50 or 100 (pl1)	50 or 100 (pl1)	100	100	100 (pl2)	100	50 or 100 (pl1)	50 or 100(pl1)	100(pl3)
Portugal	100 (pt2)	0 (pt1)	0 (pt1)	0 (pt1)	0	0 (pt1)	0 (pt1)	0	100	Diesel 50 / 100; petrol 0	0 (pt)	100 (pt3)
Romania	100/100	100	100	50/100 (ro1)	50/100 (ro1)	100	100	0/100 (ro2)	100	50/100 (ro1)	50/100 (ro1)	100/100/100
Slovak Republic	100/100	100	0	100 (sk)	100 (sk)	100	100	0	100	80 - 100	N/A	100(1)/100(1)/100
Slovenia	100 (si1)	0	0	0 (si2)	0 (si2)	0	100	0	100	0 (si2)	0 (si2)	100 (si3)
Spain	100	100 (es1)	100 (es1)	50/100 (es2)	50/100 (es2)	100 (es3)	100 (es3)	0	100	50/100 (es2)	50/100 (es2)	100
Sweden	100/R.C.	100	100 (se1)	50	100	100	100	0-100	100	100	N/A	R.C./100(se2)/100(se3)
Switzerland	100/100 (ch)	100 (ch)	100 (ch)	100 (ch)	100 (ch)	100 (ch)	100 (ch)	0-100 (ch)	100 (ch)	100 (ch)	N/A	100/100/100 (ch)
United Kingdom	100	100	100	50 (uk2)	100	100	-	0 (uk1)	100	100	N/A	100

*** This overview provides a general guideline for a first assessment of VAT recovery entitlement on the above listed items. Specific conditions and restrictions may apply. Please consult the separate country chapter in this refund guide or contact your regular Deloitte professional for the most up to date information.**

(at1) Only possible for business purposes.

(at2) Only possible for restaurant meals for business purposes.

(at3) VAT is recoverable if the vehicle is a car for which an input VAT deduction is allowed (defined by the Austrian Ministry of Finance).

(at4) In some cases, a VAT deduction is not possible due to VAT-exempt services.

(be1) VAT on car-related expenses is recoverable up to a maximum of 50%. Depending on which method is used, the VAT deduction can range from 35% to 50%. The VAT deduction is 85% for light commercial vehicles.

(be2) VAT on catering costs incurred during conferences or on the rental of meeting rooms is not deductible.

(bg1) VAT on restaurant meals is recoverable only if it is not for representation purposes.

(bg2) VAT on taxi transport, car rentals, repairs and fuel is recoverable only if it is not related to the use of passenger cars.

(bg3) Local VAT applies to entry fees for training and conferences.

(bg4) Local VAT applies to purchases related to immovable property in Bulgaria (e.g. room rentals).

(ch) If the vehicle also is used for private purposes, a reduction of the input VAT deduction must be computed (see also country specific refund conditions in the guide, section "Eligibility for VAT refund"). According to article 21/2(11) of the Swiss VAT Law *"the following supplies in the field of education and training, with the exception of restaurant and accommodation services supplied in this connection: courses, lectures, and other events of a scientific or educational nature; lecturing activity is exempt from the tax without credit, irrespective of whether the fee is paid to the instructing person or his employer..."*

(cy1) The deduction will be granted for such expenses if they are incurred wholly and exclusively for business purposes and the invoices were issued in the name of the company.

(cy2) Local VAT will be applied on the entry fee provided the entry is considered as admission to a conference.

(cz1) VAT may be recovered only if the supply is used solely for business purposes.

(cz2) VAT may be recovered if the supply is used solely for business purposes. A proportional deduction is allowed if the supply is for both business and private purposes.

(cz3) The reverse charge mechanism applies if consultancy services are provided.

(de) VAT on fuel is 100% deductible only for EU companies; non-EU companies do not have the right to deduct VAT on their fuel expenses.

(dk1) VAT may be recovered only if the amount of the hotel accommodation (excluding meals or other services) is separately specified on the invoice.

(dk2) Only for business purposes.

(dk3) VAT generally cannot be recovered on car rentals, car repairs and diesel/petrol in Denmark, although some exceptions apply (rental, repair and diesel for lorries and vans (vans must fulfill special conditions). Certain lines of businesses can recover 100% of the VAT regarding these expenses.

(dk4) In certain cases (not public transport), bus services are liable to VAT. In this case, the VAT is deductible if the services were used in relation to fully VAT-taxable activities.

(dk5) If there is any private use, the VAT deduction will be based on an estimate. Special rules apply if the phone is a landline, at the residence of the employee.

(ee1) Input VAT on all business-related expenses is deductible based on the relevant cost document. Input VAT on goods or services relating to the reception of guests or the provision of meals or accommodation for employees is not deductible in Estonia.

(ee2) Input VAT on passenger cars and expenses related to these cars is 100% deductible only if sufficient evidence is provided that the vehicle is used exclusively for business purposes; otherwise, only 50% of the input VAT can be deducted.

(es1) If deductible for corporate and personal income tax purposes. The invoices must be issued to the company, not to the employees.

(es2) 100% is deductible if the car is used directly and exclusively for business activities. If not, and if the car is used by the company for more than one year, 50% is presumed for the car and all related costs (petrol, maintenance, etc.).

(es3) Only based on invoices or simplified invoices, not on tickets.

(fi) Deductible only if acquired for taxable business purposes.

(fi1) Deductible only if not considered entertainment or private use of employees / owners.

(fi2) Deductible only if the car is used strictly for business purposes.

- (fi3) Fully deductible only if the mobile phone is purchased and used for business purposes. Any private use of the mobile phone will be excluded from the VAT recovery.
- (fr1) From a French VAT perspective, these expenses must be incurred for business purposes for input VAT to be recovered.
- (fr2) VAT on lodging / housing services rendered for the security, safety and caretaking of work sites or business premises is recoverable.
- (fr3) VAT on purchases / rentals of vehicles for the transport of freight or public transport is recoverable.
- (fr4) French case law has restricted the possibility for a company to recover input VAT on restaurant expenses when the corresponding invoice does not make a clear reference to the name of the company / and when the company grants a lump-sum to its employees for their restaurant expenses.
- (fr5) Applicable as from 1 January 2017, this 10% recovery rate will be amended annually to reach 80% by 1 January 2021. This measure only concerns petrol fuel used for vehicles and machines that are excluded from the right to deduct VAT, and leased vehicles when the lessee cannot deduct the VAT relating to this rental. The rules governing the vehicles also are planned to be revised.
- (fr6) Specific mentions must be reported on the motorway ticket to enable VAT recovery.
- (fr7) VAT can be recovered only if it has been correctly invoiced according to the VAT rules.
- (gr1) Entry fees will be subject to VAT in Greece if the event takes place in Greece, irrespective of the place of establishment (Greek, EU, non-EU) or the VAT status of the attendees. If expenses incurred for the rental of space relate to the right to use a specific space/immovable property located in Greece, VAT will apply. This VAT treatment applies, irrespective of the place of establishment (Greek, EU, non-EU) or the status (whether or not a VAT taxpayer) of the lessee. The VAT treatment of other services will be determined on a case-by-case basis (e.g. advertising or sponsorship services under the general B2B rule). The above services and any relevant input VAT incurred generally will be deductible for the organizer of the event, but for participants, it would need to be determined whether the deduction would be available. It is unclear whether all expenses related to exhibitions/fairs organized in Greece are fully deductible.
- (gr2) VAT on accommodation costs generally are not deductible. However in practice, if the costs are incurred in the context of a training seminar in Greece, the VAT incurred usually will be refunded.
- (hr1) Only possible for business purposes.
- (hr2) VAT may be recovered if it concerns a vehicle for which input VAT deduction is allowed.
- (hr3) VAT on hotel/accommodation and meals is not deductible when related to entertainment expenses.
- (hr4) The admission to conference held in Croatia is subject to VAT. VAT is deductible when a conference is attended for business purposes.
- (hr5) If a regular toll, it is deductible if it relates to business purposes.
- (hu1) VAT on car repairs is deductible only if there is a business purpose.
- (hu2) VAT on diesel is deductible for trucks if it is used for certain technological developments or included in the taxable amount of other goods supplied.
- (hu3) In case of a business trip. The right to deduct VAT for daily commuting to a workplace is limited.
- (ic1) VAT may be recovered only if the supply is used solely for business purposes.
- (ie) Where a vehicle is first registered on or after 1 January 2009 with a level of CO2 emissions of less than 156g/km and used for business purposes for at least 60% of its total use, a maximum of 20% of the VAT incurred on the purchase, hiring, Intra-Community acquisition or importation of the vehicle is deductible.
- (ie1) A conference/meeting may qualify as an event on which Irish VAT would be fully deductible. VAT on certain qualifying accommodation in connection with attendance at a qualifying conference also is fully deductible.
- (it1) VAT on hotel accommodation is not deductible if it is related to entertainment expenses.
- (it2) VAT on restaurant meals is not deductible if it relates to entertainment expenses.
- (it3) VAT on training/conferences is not deductible if it relates to entertainment expenses.
- (lu1) VAT is deductible only if it is correctly applied.
- (lu2) As from 1 January 2010, the place of supply of a car repair in a B2B transaction is the place where the recipient is established, so no Luxembourg VAT should be applied.
- (lu3) Only if Luxembourg VAT is correctly applied.
- (lv) Input VAT is deductible only if goods or services were acquired for (VAT-taxable) business purposes.
- (lv1) input VAT is not deductible with respect to expenses related to the rental, maintenance or repair of a passenger car, i.e. (if the value of the passenger car exceeds EUR 50,000). Expenses related to the rental, maintenance or repair of a passenger car valued at below EUR 50,000, if the car is used for VAT-taxable business purposes, 50% of the input VAT amount can be refunded.
- (lv2) Only 40% of input VAT is deductible for representation expenses; input VAT incurred on goods and services acquired for VAT-taxable business purposes is fully deductible.
- (mt) There is no VAT recovery on the rental of motor vehicles, vessels or aircraft or on the purchase of goods or services for repairing, maintaining and fuelling thereof. Exceptions apply to motor vehicles, vessels and aircraft that meet specified criteria / are used for a specific purpose.
- (nl1) Provided the invoice meets Dutch VAT invoice requirements and the goods/services are not used for private purposes.
- (nl2) The 84% is applied by the Dutch tax authorities as an internal practice (the private use of the car is presumed). If it can be established that the car is used only for business purposes, a full VAT deduction will be allowed.
- (nl3) VAT cannot be recovered on entertainment exceeding EUR 227 per year per person.

(no) Expenses relating to car repairs and fuel are recoverable only if incurred in relation to a car hiring business, the sale of cars and transport services.

(pl1) The recovery of input VAT is limited to 50% in the case of cars used for mixed use purposes (i.e. both business and private use). Where cars are used strictly for business purposes, a full deduction is allowed. A full recovery of input VAT is allowed for specific types of truck/cars used for the transport of goods/persons listed in the Polish VAT Act (e.g. buses, lorries, etc.).

(pl2) In principle, VAT recovery is allowed but it may depend on the nature of the expense.

(pl3) In general, 100% input VAT recovery would apply, subject to certain restrictions. In some cases (conferences), a detailed analysis is required to assess the scope of input VAT recovery.

(pt 1) If the taxpayer is the organizer of an event, 50% of the VAT incurred on certain expenses can be recovered; if the taxpayer is a participant, 25% of the VAT can be recovered.

(pt 2) The reverse charge mechanism will apply only if the service is supplied with other services; otherwise, the service will be considered land-related.

(pt 3) In the case of access to training and conferences in Portugal, the transaction will be located in Portugal for VAT purposes. Participation fees paid for conferences is 100% recoverable. Under certain circumstances, VAT incurred by the taxable person and its staff related to transport and business travel expenses such as lodging, meals and drinks, tobacco and reception expenses, including expenses related to the lease of immovable property or part of an immovable property - e.g. meeting rooms as well as related equipment can be 50% recoverable if the taxpayer is the event organizer or 25% if the taxpayer is a participant.

(ro1) VAT on the local acquisition, intra-community, import, rental or leasing of passenger vehicles and VAT on directly attributable costs (e.g. repair, maintenance, lubricants, spare parts, fuel) may be subject to a 50% limitation on the VAT deduction right.

(ro2) A deduction for entertainment services is allowed only if the cost is incurred for business purposes. A deduction on goods that are considered gifts is allowed up to RON 100/ gift. VAT is non-recoverable on tobacco and alcoholic drinks.

(si1) The reverse charge applies to space rentals.

(si2) Unless in relation to vehicles used for the transport of passengers and goods, leasing, renting and resale, vehicles used in driving schools for the provision of driver training and combined vehicles for carrying out an activity of a public nature and special line transport, as well as special vehicles exclusively adapted for the transport of deceased people.

(si3) The reverse charge should apply for training-related services when these are not strictly entry fees.

(se1) Only a limited amount can be deducted if the meals are for business entertainment.

(se2) Local VAT applies on entry fees to conferences. When tickets are sold in such a way that it is possible for the seller to determine the identity of the purchaser (i.e. if the purchaser is a private person or a taxable person), the supply is not considered an entry fee, meaning that the reverse charge applies.

(se3) Local VAT applies on expenses incurred on internal meetings. However, this may depend on the type of expense whether local VAT or reverse charge applies.

(sk) As from 1 January 2010.

(sk1) If VAT relates to entry fees for training/conferences, local VAT will apply and a deduction is allowed.

(uk1) If VAT relates to the entertainment of employees or overseas customers and has a business purpose (only for entertainment of basic nature), a full deduction is allowed.

(uk2) The 50% rule also applies to the short-term hire of a vehicle unless the hire period is for 10 days or less and the car is specifically hired for business purposes. In such a case, a full input tax can be reclaimed.

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