

## Estonia

### 13th Directive (86/560/EEC) VAT refunds

#### **I. RECIPROCITY AGREEMENTS – Article 2(2)**

##### **1. Does your country have any reciprocity agreements?**

In principle yes but written agreements are not needed when using the reciprocity clause. If an Estonian taxable person has a right for refund in the third country, then the taxable person of that third country has a right for refund in Estonia, i.e. non-EU businesses are refunded value added tax, provided that the relevant foreign country grants the same rights to Estonian taxable persons.

##### **2. If yes, what countries are included in the reciprocity agreements?**

Norway, Switzerland, Israel, Iceland and the UK.

##### **3. What is the equivalent third country tax to which the reciprocity agreements relate?**

Value added tax.

##### **4. What goods and services are allowable under the reciprocity agreements?**

Value added tax paid upon the import or acquisition of goods, except immovable property, or receipt of services for business purposes shall be refunded, provided that taxable persons of Estonia have the right to deduct input value added tax under the same conditions.

##### **5. Are there any specific or additional rules applicable in relation to the reciprocity agreements?**

The amount of value added tax to be refunded per calendar year must be at least 320 euros. The taxable person is required to pay value added tax in the home country. Taxable persons of Estonia must have the right to deduct, pursuant to the Estonian Value Added Tax Act, input value added tax paid upon the import or acquisition of goods or receipt of services under the same conditions from their calculated value added tax.

##### **6. If your country has no reciprocity agreements, do you still allow refunds?**

Generally we refund value added tax only on the basis of the reciprocity principle (non-EU businesses are refunded value added tax, provided that the relevant foreign country grants the same rights to Estonian taxable persons). To apply reciprocity agreements with new countries Estonia must first enter into negotiations.

## **II. TAX REPRESENTATIVES – Article 2(3)**

### **7. Does your country require the appointment of a tax representative?**

A person of a third country engaged in business with no permanent establishment in Estonia with whose country of residence the Union has not concluded a mutual assistance contract concerning administrative cooperation, the fight against fraud and the recovery of claims relating to the value added tax, shall appoint, upon registration as a taxable person, a tax representative who has been approved by the tax authority.

### **8. What conditions are imposed when appointing a tax representative?**

Paragraph 8<sup>1</sup> of the Taxation Act lay down conditions for the tax representative of non-resident:

(1) The tax representative of a non-resident (hereinafter tax representative) is a person to whom a corresponding activity licence has been issued by the tax authority for state taxes and whom a non-resident may authorise to represent him for the performance of the obligations arising in Estonia from an Act concerning a tax or from this Act. A legal person established in Estonia or a branch of a foreign legal person entered in the Estonian commercial register may act as a tax representative.

(2) All the rights and obligations of a registered taxable person who is a non-resident extend to the tax representative. The tax representative is required to ensure that the principal's monetary and non-monetary obligations arising from this Act or an Act concerning a tax are performed within the set term and in full.

(3) A tax representative shall submit an application to the tax authority for state taxes to be issued with an activity licence of a tax representative wherein the following details are indicated concerning the tax representative:

- 1) name and address;
- 2) registration number;
- 3) area of activity and place of business.

(4) A tax representative must be solvent and have an impeccable reputation. A tax representative must not have tax arrears. A tax representative shall submit security at the request of the tax authority.

(5) The tax authority shall decide on the granting of an activity licence of a tax representative within twenty calendar days of the receipt of an application. When deciding on the granting of an activity licence, the person's compliance with the requirements specified in subsection (4) of this section shall be verified. The tax authority may take the person's performance of earlier obligations

arising from Acts concerning taxes into consideration. The tax authority may request that the applicant furnish proof concerning the applicant's financial situation in order to verify the applicant's solvency.

(6) The tax authority may suspend or revoke an activity licence if bankruptcy or liquidation proceedings have been initiated against the tax representative, if the tax representative violates the obligations specified in subsection (2) of this section or if the tax representative does not meet the requirements specified in subsection (4) of this section.

(7) The tax authority shall publish a list of tax representatives on its website

### **III. REFUND ARRANGEMENTS – Article 3(1)**

#### **9. What are the time limits that are applied for making a claim?**

The application shall be submitted during the first nine months of the calendar year (deadline 30 September) following the year the goods were imported or the purchases were made.

#### **10. What periods are eligible for a refund?**

The period of refund is a calendar year.

#### **11. Where shall the applications be made?**

The application shall be submitted to the Estonian Tax and Customs Board. The applicants from non-EU countries should submit application (form KMT) and list of relevant invoices by post or may also send by e-mail if all documents are electronically signed.

#### **12. What is the minimum amount of VAT that can be refunded?**

The minimum amount of VAT to be refunded must not be less than 320 euros per calendar year.

#### **13. How can the applicant receive an application form?**

The application form for refund of VAT to foreign taxpayer is available on the web page of Estonian Tax and Customs Board (<https://emta.ee/en/business-client/taxes-and-payment/value-added-tax/calculation-and-refund-vat>).

#### **14. What languages may be used for completion of the form?**

The form can be completed in Estonian or in English.

#### **15. What information is requested on the application form? Please could you provide a copy of the form or a website link?**

<https://emta.ee/en/business-client/taxes-and-payment/value-added-tax/calculation-and-refund-vat>

**16. Is any information optional? If yes, what information?**

There is no optional information.

**17. Who is authorised to sign the application form?**

The application shall be signed by a non-resident natural person liable to value added tax, or the head of the non-resident legal person liable to value added tax, or by an authorized representative.

**18. What evidence is required to support an application?**

The application shall be accompanied by:

- 1) readable invoices conforming to the requirements provided by § 37 of the Value Added Tax Act, and documents showing proof of payment of value added tax for imported goods;
- 2) a certificate by a foreign tax authority which proves that the foreign taxable person, as an undertaking, is required to pay value added tax in its own country.

**19. What time-limits does your country apply to making a refund?**

Tax and Customs Board shall refund the amount within six months after the date of receipt of the application for refund and relevant supporting documents.

**IV. ELIGIBILITY– ARTICLE 4(2)**

**20. Are there any other conditions applicable?**

No.

**21. Are certain types of expenditure excluded and if so which?**

Not applicable.

**V. MAJOR DIFFERENCES BETWEEN REFUNDS UNDER THE 13TH AND THE 8TH**

**(79/1072/EEC) DIRECTIVE**

**22. What are the main procedural differences between applying for a VAT refund based on the 8th Directive and a refund based on the 13th Directive?**

The main difference is that the VAT refund to non-EC businesses (according to the 13th Directive) is based on a principle of reciprocity, i.e. non-EC businesses are refunded VAT provided that the relevant foreign country grants the same rights to Estonian taxable persons.

There is also a difference in the amount of VAT refunded. According to the 8th directive the amount of value added tax to be refunded must be at least 50 euros per calendar year or 400 euros in the case where the application is submitted concerning a period longer than

three months but shorter than a calendar year. In the case of the 13th Directive the amount is 320 euros per calendar year.

**23. Do certain types of expenditure give rise to refund under the 8th Directive but not under the 13th Directive? If yes, please specify the types of expenditure.**

In Estonia, the acquisition of immovables gives rise to refund of VAT only for the applicants from other EU Member States but not for the applicants from non-EU countries.