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VAT IN THE EUROPEAN COMMUNITY

**VADEMECUM FOR THE ELECTRONIC
REFUND PROCEDURE TO TAXABLE
PERSONS NOT ESTABLISHED IN THE
MEMBER STATE OF REFUND BUT
ESTABLISHED IN ANOTHER MEMBER
STATE (COUNCIL DIRECTIVE 2008/9/EC)**

NOTE

**THIS DOCUMENT COLLATES A RANGE OF
BASIC INFORMATION ON THE
APPLICATION OF THE REFUND
ARRANGEMENTS IN THE MEMBER
STATES WHICH HAS BEEN OBTAINED
FROM THE TAX AUTHORITIES
CONCERNED.**

**THIS DOES NOT REFLECT THE VIEWS OF
THE COMMISSION OF THE EUROPEAN
UNION, NOR DOES IT SIGNIFY APPROVAL
OF THE LEGISLATION.**

SLOVAKIA

VADEMECUM FOR THE ELECTRONIC REFUND PROCEDURE TO TAXABLE PERSONS NOT ESTABLISHED IN THE MEMBER STATE OF REFUND BUT ESTABLISHED IN ANOTHER MEMBER STATE

General

1. Where could a non-established taxable person (NETP) find information on your laws and guidelines?

www.financnasprava.sk

2. Eligibility for a refund

To be eligible for a refund the applicant must be a taxable person established in the EU making taxable supplies in his own Member State (the Member State of Establishment). He must have incurred VAT on expenses in a Member State in which he has no establishment (the Member State of Refund), and he must have made no supplies within that Member State other than reverse charge supplies, or certain exempt transport services, during the refund period.

3. What can be refunded

VAT relating to business activities carried out outside the Member State of Refund if those activities would be subject to tax or exempt with a right to deduct in the Member State of Refund if they had been made there, and VAT relating to supplies on which the reverse charge is applicable in the Member State of Refund.

4. What cannot be refunded

VAT incurred which relates directly to activities which are exempt without the right to deduct.

VAT incurred on expenses on which there are restrictions on the right to deduct in the Member State of Refund.

According to VAT Act No. 222/2004 Coll. (Section 49 Paragraph 7) is not possible to deduct VAT and apply for VAT refund in relation with:

- VAT on purchase of goods and services related to refreshment and entertainment.

5. Proportional deduction

Where the taxable person is only able to deduct a proportion of his input tax because he makes taxable and exempt supplies, that person can only have the amount refunded according to the rules on proportional deduction in his Member State.

CORRECTION OF THE DEDUCTIBLE PROPORTION

If subsequent to the submission of the refund application the deductible proportion is adjusted, 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.

Procedures in the Member State of Establishment

6. What is the application procedure?

The application shall be submitted via the electronic portal www.financnasprava.sk. The applicant or his/her representative has to have access to authorized electronic services (OIZ – personal internet zone). The following steps are necessary to obtain the access to OIZ:

1. Registration of the users for access to an authorized zone of portal via a Registration e-form accessible on www.financnasprava.sk – Registrácia (at the top-right corner of the screen)
2. Authorization of the users at a local tax office (according to the official address of applicant)

The applicant or his/her authorized representative has to sign an application by an authorized electronic signature (ZEP).

The application has to be submitted in the language of a member state of refund.

It is possible to correct the application (also application which was already sent to the portal).

7. Are there any particular requirements for an agent to be able to submit a claim on behalf of the applicant?

An application can be submitted by a person other than a taxable person (i.g. an agent/representative).

Power of attorney is required. Power of attorney that specifies the representative's competence should be submitted by the local tax office of the client. In the power of attorney should be determined the powers of the agent/representative. The representative's competence must be at least to act on behalf of client in electronic submission and signing of applications for VAT refund (in other words: in delivery of application for VAT refund by electronic means).

The agent/representative may submit the application and receive the payment.

8. Content of the application:

The application should contain the following information:

- the applicant's name
- the applicant's VAT identification number or tax reference number
- the applicant's full address including country code (the address which is on record in Member State of Establishment)
- e-mail address
- a description of the applicant's business activity for which the goods and services are acquired via NACE v.2 codes
- the refund period covered by the application

- declaration by the applicant that he has supplied no goods and services deemed to have been supplied in Member State of Refund during the refund period, with the exception of the supply of specific transport services and services ancillary thereto or supplies to which the reverse charge mechanism is applicable in Member State of Refund
- bank account details including IBAN and BIC codes

In addition, the following details of each invoice or importation document

- name and full address of the supplier;
- the VAT identification number or tax reference number of the supplier except in the case of importation
- the prefix of the Member State of Refund (except in the case of importation)
- date and number of the invoice or importation document
- taxable amount and amount of VAT expressed in the currency of Member State of Refund
- the amount of deductible VAT calculated expressed in the currency of Member State of Refund
- where applicable, the deductible proportion expressed as a percentage
- nature of the goods and services acquired according to the codes 1 to 10
- Where requested, further information on the nature of the goods and services acquired according to the sub-codes of 1 to 10.

THE ADMINISTRATIVE PROCEDURE

1.1. Notifications and decisions

- MSEST will send an electronic confirmation of receipt of the application.
- MSEST checks that the applicant is a taxable person for VAT purposes and forwards the information to MSREF.
- In the following circumstances MSEST will not forward the application to MSREF:
The applicant
 - is not a taxable person for VAT purposes in MSEST
 - carries out only supplies of goods or of services which are exempt without right to deduct input tax
 MSEST will notify the applicant by electronic means of the decision not to forward the application
- MSREF will send a confirmation of receipt of the application (by electronic means) to the applicant.
- MSREF notifies of the decision it has taken by electronic means or by letter.

9. The circumstances under which a Member State of Establishment will not send an application to the Member State of refund.

- If the details in point 8 above are not filled in.
- The applicant is not a taxable person during the refund period.

- The applicant only carries out exempt supplies in the Member State of establishment during the refund period.
- The applicant is covered by the exemption for small businesses.
- The applicant is covered by the flat rate scheme for farmers.

10. Minimum refund limits

- 400 EUR or the equivalent in national currency if the refund period is between 3 months and less than a calendar year
- 50 EUR or the equivalent in national currency if the refund period is of a calendar year, or the remainder of a calendar year.

11. Time limit

The application must be submitted to the Member State of Establishment by 30 September of the calendar year following the refund period. The application is only considered as submitted if the applicant has filled in all the required information.

12. Is an applicant able to correct an error on an application which has been forwarded to a Member State of Refund?

An applicant may correct the application already sent to the portal. The applicant has access to all his applications already submitted. After opening the application, the applicant is able to correct all information in the application and send new version of the same application.

Procedures in the Member State of Refund

13. Are copies of invoices required?

14. The maximum size limit for an attachment has been agreed at 5 mb. What is the applicant to do if they exceed this limit?

In such a case, an applicant is warned that the attachments exceed 5 MB limit size and he have to optimize scanning or include scanned documents for only the highest financial amounts.

15. As a Member State of refund, do you require additional documentation for claims submitted by an agent?

An applicant has to send via mail an original of power of attorney in the Slovak language to Tax Office Bratislava, Ševčenkova 32, 850 00 Bratislava, Slovakia.

16. Can payments be made to agents?

Yes.

17. How will the Member State of Refund communicate with the applicant?

Tax Office Bratislava will communicate with NETP directly via e-mail.

18. Time limits for the processing of an application

The Member State of refund has four months from the date of receipt of an application to notify the applicant of its decision to approve or refuse the application, or to ask for further additional information. Where additional information is required, it has a further two months from receiving that information. Where it has asked for further information, it shall, in any case, notify the applicant of its decision within 8 months of the receipt of the application.

Where the refund application is approved, payment should be made within 10 working days.

19. Procedure for sending additional information to the Member State of Refund

Member States can ask for additional information from persons other than the applicant. In all cases, the information should be provided to the Member State of Refund within one month of the date on which the request is received by the addressee.

An applicant has to send the required information in the Slovak language or in the English language.

20. The refund period

An application must cover a period of at least 3 consecutive months within one calendar year and at most one calendar year. An application relating to the end of the year may cover a period of less than 3 months.

21. Number of applications accepted per year.

It is possible to send 4 quarterly applications and 1 at the end of the year.

22. What is the procedure for appealing against a decision? Are there any time limits for appeals?

If the Bratislava Tax Office decides on the application for tax refund by denying the application for refund of the whole tax or any part thereof, the decision must contain also the grounds for the decision. The decision on denial of the application for refund of the whole tax or any part thereof may be appealed by the applicant according to § 72 Act No. 563/2009 Coll. on tax administration (Tax Code), i.e. in writing or orally in the protocol made at the tax administrator (Daňový úrad Bratislava/Tax office Bratislava, Ševčenkova 32, 850 00 Bratislava, Slovakia.), within 15 days of the date of delivery of the appealed decision.

23. Incorrect applications

If an amount has been recovered in a fraudulent or incorrect way, Member States may recover those amounts.