



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

UPDATED MARCH 2015

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.**

ITALY

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?

Information is available on the Revenue Agency website in the section dedicated to VAT refunds to non-resident subjects.

http://www1.agenziaentrate.gov.it/english/international_taxation/vat_refunds.htm

(English version – general overview)

http://www.agenziaentrate.gov.it/wps/portal/entrate/cosa_devi_fare (Italian version of the web site which includes complete information on Italian fiscal law and guidelines)

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

It cannot be refunded the VAT non deductible according to the National current rules and that paid by subjects carrying out exempt or partially exempt transactions in the Country of establishment.

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.

Procedures in the member State of establishment

6. What is the application procedure?

The submission of the application is made only by electronic means through the portal set up by the Revenue Agency. Application is sent by applicant's Fiscal Administration.

The filing can be made by the applicant or by other subjects formally authorized by the taxpayer -

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

Both Italian agents and non resident agents can be authorized to the electronic submission of the application.

The first ones can be enabled to the submission if they meet the requirements provided for by the national regulations and if they have a proper proxy released by the applicant to be deposited at the Revenue Agency Offices.

Non resident agents can also be authorized to the electronic submission on behalf of national businesses.

8. Content of the application:

The application should contain the following information:

- the applicant's name
- the applicant's VAT identification number
- the applicant's full address including country code (the address which is on record in Member State of Establishment)
- e-mail address
- the representative's data (if specifically provided for)
- a description of the applicant's business activity for which the goods and services are acquired according to NACE 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.

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?

Yes, except for the error concerning the exact name of the State of refund, the VAT identification number or the tax period. In that case he must submit a new application.

Procedures in the Member State of Refund

13. Are copies of invoices required?

Italy has indicated as a preference not to attach copies of invoices when the application is forwarded. However, the office competent for processing the applications may require this documentation if necessary.

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?

Italy at the moment doesn't ask the forwarding of the invoices: consequently it has no concern about this matter.

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

Since the electronic forwarding can be made only by a subject entitled to do that as duly authorized by the applicant, as a rule no additional information is required to the agent.

16. Can payments be made to agents?

As a Member State of Refund the internal rules allow the payments only to the applicant. However, it could be possible if the applicant has appointed a representative duly authorized (power of attorney for collection – procura all'incasso). In this case the fiscal administration will make the payment to the agent.

As a Member State of Establishment the payments can be made to agents.

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

All communications will be made by electronic mail including the refusal decisions (both total and partial rejection): these last ones will be notified by registered post as well.

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

The additional information can be sent by electronic means or by post.

20. The refund period

Italy has indicated as preference in its guidelines a quarterly submission of the applications and, in addition, an yearly one.

21. Number of applications accepted per year.

The maximum number of refund applications to be submitted is 5 in total, per year for each applicant.

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

The procedure to be followed to appeal against a decision is that concerning the national rules (of the State of refund), that's to say to lodge an appeal to "Commissione Tributaria Provinciale di Pescara" within 60 days starting from the receiving of the notification of the rejection.

23. Incorrect applications

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