



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

UPDATED MAY 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.**

ROMANIA

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 about Vat refunds can be found on NAFA's website www.anaf.ro , section "Info EU", subsection "VAT refunds from EU".

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, VAT relating to supplies on which the reverse charge is applicable in the Member State of Refund and VAT related to supplies of transport and ancillary to transport that are exempted with deduction right in Romania.

4. What cannot be refunded

VAT incorrectly invoiced

VAT invoiced for transactions which are or might be exempt

VAT invoiced to travel agents

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.

In case of acquiring, intra - Community Acquisition, import, loaning or leasing of road motor vehicles, which are intended exclusively for the transport of persons, with a maximum weight of not more than 3500 kilograms and not more than 9 passenger seats, including driver's seat, as well as in case of services related to these vehicles, VAT can only be deducted in proportion of 50% where the vehicles are not used exclusively for business purposes

5. Proportional deduction

Where the taxable person is only able to deduct a proportion of his input tax because he makes both activities with or without deduction right, 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?

In order to apply for a VAT Refund application, the applicant or representative must own a digital certification registered at National Agency for Fiscal Administration(NAFA).

The documentation for applying and sending the VAT Refund applications is available onto the National Agency for Fiscal Administration, at URL:

https://www.anaf.ro/anaf/internet/ANAF/info_ue/rambursare_tva_ue

For submitting an application the applicant must download the intelligent pdf form (no. 318) on local PC and fill in. After this step the applicant must validate the data already filled in and correct any possible errors. After a successful validation, the applicant should sign the form by electronic signature and then to submit the data by SEND button.

Once the application was successfully sent, onto the NAFA system this application is validated and results of the validation are provided to the applicant onto his private space (by presenting the digital signature), that' is why the applicant should verify the status of the application onto the NAFA portal.

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

There is the form 318 "Request for VAT refund for taxable persons with the residency in Romania, submitted in accordance with art 147², para (2) from the Fiscal Code" approved by order of the president of NAFA no3/2010, with its subsequent changes and completions. The form contains the section "Representation by an assignee", that has to be filled in the case when an agent submits the request.

The It application for completion of 318 form by taxable persons, directly or by an agent is posted on NAFA's website www.anaf.ro , section "Info EU", subsection "VAT refunds from EU", download D318/D 319.

For the signing of the refund request by the taxpayer or by the agent, is it necessary to own an digital certification registered at National Agency for Fiscal Administration(NAFA), acquired in accordance to the general rules applicable for the signing of any fiscal declarations electronically.

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
- 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 the amount of VAT expressed in the currency of the Member State of Refund
- the amount of deductible VAT 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.

All the items are included in the intelligent form no. 318.

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 should fill in information for item 8.

- The applicant is not a taxable person during the refund period.

The applicant should be registered for VAT during the refunding period.

- The applicant only carries out exempt supplies without deduction right in the Member State of establishment during the refund period.
- The applicant is covered by the exemption for small businesses.

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.

Taxable persons with residency in another member state, other than the member state of refund, insert into the refund request the taxable base and the quantum of Vat in the currency of the refund member state. In the case in which Romania is the member state of refund, the equivalent in lei is determined on the basis of the exchange rate communicated by the National Bank of Romania, valid at 1st of January 2010 (namely 1 Euro = 4,2282).

According to the MS Refund preferences.

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.

We confirm the sending of the application if the applicant has filled 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? *In accordance with Chapter II, clause 6.1 from the Procedure of receiving refund requests for VAT, paid by taxable persons with residency in Romania, for imports and acquisitions of goods/services, done in another member state of the EU, approved by Order of the president of NAFA no 3/2010 with its subsequent changes and completions, the initial submitted request is amended by the submission of a new request, in the same format, by ticking the appropriate box on the form. In the case the initial request is being amended, the reference no of the initial request is inserted in the appropriate box.*

Procedures in the Member State of Refund

13. Are copies of invoices required?

In accordance with article 49. para (1) from the methodological norms, in the case when the taxation base from an invoice or an import document is at least the equivalent in lei of 1000 Euros or, in the case of invoices for fuel, of at least 250 Euros, the requester must send, electronically, copies of the bills or, depending on the case, import documents, along with the refund request. The lei equivalent is determined on the basis

of the exchange rate communicated by the National Bank of Romania, valid at 1st of January 2010 (namely 1 Euro = 4,2282).

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?

[Member States to give details of procedure they will put in place]

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

In the case when the refund request is sent by an agent was filled in, including the box with the bank account of the assignee, additional documents are requested, documents that state the right of that person to receive the amount due to the taxpayer.

16. Can payments be made to agents?

Payments to agents, if they have the attribute of assignee persons, are done under that conditions mention above (at no 15)

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

Technical data regarding the communication with the requester of the refund can be given either by NAFA's General Directorate for IT, as directorate involved in setting up the IT system that deals with the management of the Vat refund claims and the exchange of information with other member states, or by Fiscal Administration for non-resident taxpayers, as fiscal body competent to resolve refund claims.

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.

20. The refund period

At least 3 months and at most 1 calendar year. The requests can be made for periods shorter than 3 months where this is the period remaining until the end of the year.

21. Number of applications accepted per year.

We have no specific limit.

The number of accepted request per year depends on the refund period, as detailed at question 20 and, moreover, a refund request cannot include invoices already covered by a former refund request.

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

The decision for VAT refund can be appealed at the competent fiscal body, in accordance to the provisions of art.209 from the GO no.92/2003, republished with its subsequent changes and completions, under the sanction of incapacity, in term of 30 days from the communication date, in accordance with article 207 para (1) from the same regulatory document..

23. Incorrect applications

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