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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.**

## BELGIUM

### 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.belgium.be](http://www.belgium.be) > Taxes > TVA (VAT) > in the right column: under “Sites web” (Websites) > base de données fiscales (SPF Finances) - Tax database (FPS Finance) > <http://www.fisconet.fgov.be> > fiscalité (tax legislation) > taxe sur la valeur ajoutée (Value Added Tax) > directives et commentaires administratifs (Directives and administrative comments) > VAT refund.

[www.minfin.fgov.be](http://www.minfin.fgov.be) > on the right : Quick links > E-services > You must select : Intervat > To the application.

<http://fiscus.fgov.be/fr/index.htm> > on the right : Quick links > E-services > Une sélection : Intervat > Vers l’application.

Application by Belgian taxpayers for a VAT refund in foreign countries : <http://www.minfin.fgov.be/portail2/fr/e-services/intervat/index.htm>

#### 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.

Pursuant to Article 3, § 2, first paragraph of the Royal Decree No. 56 (Article 5, second paragraph of the Directive 2008/9/EC), you are entitled to a refund in Belgium since the right to deduct is conferred by Articles 45, 48 and 49 of the VAT Code.

Therefore, pursuant to Article 45, §2 of the VAT Code, as regards the delivery, the import and the Intra-Community purchase of motor vehicles intended for the transport by road of persons and/or goods and as regards the goods and services relating to such vehicles, the deduction cannot exceed in any case 50 per cent of the taxes paid.

Pursuant to Article 45, §3, taxes levied on the following shall not be deductible:

- deliveries and Intra-Community purchases of manufactured tobacco;
- deliveries and Intra-Community purchases of alcoholic beverages other than these intended to be resold or delivered according to a provision of services;
- the costs of lodging, meals, and beverages except for those...;
- entertainment expenses.

Travel agencies as well as the taxable dealer within the framework of the specific tax system for the profit margin as regards the deliveries of second-hand goods, works of art, collector's items or antiques, cannot also deduct the tax owed or paid in some circumstances.

## **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 applicant established in Belgium must necessarily submit his/her application for refund as regards the VAT paid in other Member States via the Webportal INTERVAT - application VatRefund ([www.minfin.fgov.be](http://www.minfin.fgov.be) > E-services). This application must fulfil the basic requirements as well as the requirements as regards the form defined in the aforementioned Directive and the Member States concerned. After a brief control by the Belgian administration, it will be sent to be processed by each Member State involved in the refund procedure.

The INTERVAT application is available for everyone without prior registration and requires to have either a Class 3 certificate or the eID software with a card reader for authentication when accessing the application. This allows either to encode the data as regards the applications for VAT refund through an input screen or to forward to the administration the data contained in a pack of applications for VAT refund directly from the accountancy software (in XML file). In this last case, the applicant must conform to the XSD plan defined by the administration and which is also available on the aforementioned website. In order to carry out the secure sending of these data to the administration, the applicant must afterwards

display his/her electronic signature with either his/her digital class 3 certificate or the identification data of his/her electronic identity card. This procedure allows the applicant not only to easily send the applications for VAT refund to the administration 24/7 with a lower cost, but also to receive and to check the acknowledgement of receipt that the administration will send automatically as soon as it receives the application. More information can be found in the FAQs available through the application. Finally, for every technical question as regards the INTERVAT application, you must send an e-mail at the following address [info.intervat@minfin.fed.be](mailto:info.intervat@minfin.fed.be).

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

A mandate (power of attorney) is compulsory and clearly stipulates the powers granted to the agent/representative (proxy). When an agent intervenes, he/she must give the following information :

- his/her name, his/her identification or tax number and his/her complete address, including the country code;
- his/her email address.

**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 – [*All Member States have indicated that they would use 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 the name of the bank account holder and if he/she is an applicant or a proxy;

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. [Reference here to the SCAC information document].

**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?**

If, after having established the final pro rata basis, the deductible proportion must be corrected after the application for refund has been submitted, the applicant must correct the amount claimed or already refunded. The final pro rata basis must be sent to the other Member States so that they can update the amount which is or must be refunded to the Belgian taxpayer. A Belgian taxpayer or his/her proxy can submit these changes as regards the pro rata basis in the application INTERVAT.

It must be submitted on one hand via the tabs "Renseignements généraux" (General information) and on the other hand "Validation et signature" (Authentication and signature) in the INTERVAT web application. These two tabs as well as the menu to access the changes as regards the pro rata basis are explained in detail in the technical document "Modification du prorata - Analyse fonctionnelle" (Change as regards the pro rata basis - Functional Analysis" available via the INTERVAT website.

The number of submitted invoices as well as the amount claimed for refund cannot be changed. Only the general information (for instance the account number) can be changed.

**Procedures in the Member State of Refund**

**13. Are copies of invoices required?**

The Central VAT Office for Foreign Taxpayers - Refund Office generally requires that copies of invoices or import documents are enclosed in the electronically submitted application for refund (pursuant either to Article 7 or Article 20.1 of the Directive 2008/9/EC of February 12th 2008). If these documents are not enclosed, a request for complementary information will be sent to the taxpayer within the time period mentioned in the aforementioned Article 20.1.

**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 this case the applicant is asked to enclose first the invoices with the highest amounts. If he/she has a huge amount of invoices from various suppliers, he/she must if need be select and send the invoice with the highest amount per supplier. The documents must be sent enclosed in a JPEG, TIFF or PDF format or via a ZIP file containing one of the aforementioned formats.

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

A mandate is compulsory. It must be enclosed in the application by the agent or must be sent in answer to a request for complementary information.

#### **16. Can payments be made to agents?**

Yes, when the payment to the agent is required in the request and when the mandate allows the agent to receive the money.

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

By sending an email to the address mentioned in the application (see point 2 of the Circular of the Tax Affairs No.19 of December 22nd 2009 as regards the VAT refunds in favour of the taxpayers established in another Member State other than the Member State of Refund - First Comments).

#### **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.

Complementary information can only be sent by email if the addressee of the application can receive it. If necessary, the administration can also ask for more information. This information can include, if the administration has a motive to have doubts as regards the presence of a specific claim, the original or a copy of the invoice or the import document in question.

#### **20. The refund period**

The application must concern a minimum period of three months. It can also refer to the whole calendar year or the rest of it.

#### **21. Number of applications accepted per year.**

At most five per year (1 for every quarter and 1 for the whole year).

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

Appeals as regards a decision to reject an application for refund can be submitted by the applicant, pursuant to Article 14 of the Royal Decree No.14 concerning the VAT refunds.

According to this provision the legal action as regards the refund of the tax, interest and tax fines must be submitted before the expiration of the third calendar year after the year during which the decision rejecting the application for refund submitted to the administration has been notified or the taxes, interest and tax fines, paid at the administration's request, have been paid.

### **23. Incorrect applications**

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