



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.**

AUSTRIA

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?

VAT legislation is published in the “*Bundesgesetzblatt*” (Austrian Official Gazette).

Further detailed information can be obtained from legal databases which are accessible to the public.

The legislation is available in German at: <http://www.ris.bka.gv.at/Bundesrecht/>

Administrative regulations are available in German at:

https://www.bmf.gv.at/Steuern/Fachinformation/Umsatzsteuer/_start.htm

The current VAT guidelines (administrative order) 2000 are accessible in German at:

<https://findok.bmf.gv.at>

Additional information is available in German and English via the links below:

German: <https://www.bmf.gv.at/Steuern/Fachinformation/Umsatzsteuer/AuslaendischeUnternehmer>

English: <http://english.bmf.gv.at/Tax/ForeignEntrepreneur>

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

Deduction of input VAT is not allowed as far as living expenses (e.g. entertainment expenses) are concerned.

Expenses in connection with the purchase (manufacturing), leasing or the operation of cars, mixed vehicles or motorcycles (including mopeds and motorcycles with side-cars) do not entitle to deduct input VAT. The only exceptions are motor vehicles of driving schools, motor vehicles for demonstration purposes, motor vehicles which are intended exclusively for commercial resale, and motor vehicles which are used to the extent of at least 80% for commercial passenger transport or for commercial lease.

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?

Taxable person established in Austria could use the Austrian web portal “FinanzOnline” to do EU-wide refund of input VAT. FinanzOnline is only available in the German language.

Sole proprietors can register electronically for FinanzOnline or in writing (using a form) or in person at any tax office. They only need an official identity card or passport.

Within a few days, the taxpayer will receive a registered “RSa” letter which contains an initial PIN and subscriber ID for registering with FinanzOnline.

Partnerships and legal entities can only be registered in person at a tax office provided that the registration form is completed in full and they have a documentary evidence of authority to represent the company (e.g. extract from the commercial register, articles of association, statutes) and an official identity card or passport.

In addition, a duly authorized representative may also register the company online. Access codes for FinanzOnline will either be communicated in person at the tax office or in a registered “RSa” letter.

Both sole proprietors and legal representatives may arrange to be represented by a holder of a notarized special power of attorney.

7. ARE THERE ANY PARTICULAR REQUIREMENTS FOR AN AGENT TO BE ABLE TO SUBMIT A CLAIM ON BEHALF OF THE APPLICANT?

No

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.

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?

It is possible to send electronically via the Austrian Web Portal a corrected application, after the Member State of Refund accepted the original one. With the correction all data of the first application shall be forwarded.

Procedures in the Member State of Refund

13. ARE COPIES OF INVOICES REQUIRED?

In general copies aren't 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 AT there is no attachment necessary – if the application is filtered out by checking of the system, AT requires the applicant to submit the original

15. AS A MEMBER STATE OF REFUND, DO YOU REQUIRE ADDITIONAL DOCUMENTATION FOR CLAIMS SUBMITTED BY AN AGENT?

Tax payers may arrange to be represented by a holder of a notarized special power of attorney.

16. CAN PAYMENTS BE MADE TO AGENTS?

The refund amount will be paid by transfer to the bank account specified in the application form.

17. HOW WILL THE MEMBER STATE OF REFUND COMMUNICATE WITH THE APPLICANT?

In general communication is done by electronic means, if the applicant or his agent provides an E-mail-address on his application form. This also applies to the additional information procedure (see Art. 20 of the Council Directive (2008/9/EC)).

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

The refund period is optional either at least three months, but no longer than a calendar year. The refund period may be shorter than three months, if the application concerns the last months of a calendar year e.g. November and December

21. NUMBER OF APPLICATIONS ACCEPTED PER YEAR.

The minimum period for an application is 3 months. The applications (period) may not overlap. Only one application is possible for one period . A total of 4 applications are introduced . In addition, an annual (1-12/XX , 11-12/XX) application can additionally be submitted

22. WHAT IS THE PROCEDURE FOR APPEALING AGAINST A DECISION? ARE THERE ANY TIME LIMITS FOR APPEALS?

Appeals against decisions to refuse a refund application may be made by the applicant to the competent tax authorities within the time limits laid down for appeals in the national tax procedure, (Para 243 et seq. BAO - Austrian Federal Fiscal Code) The time limit is in general one calendar month.

23. INCORRECT APPLICATIONS

If an amount has been recovered in a fraudulent or incorrect way, Member States of refund may recover those amounts. If an application has only technical defects, the applicant may amend the application in the electronic method. The minimum period for an application is 3 months. A total of 4 applications are introduced. In addition, an annual application can additionally be submitted