



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

UPDATED APRIL 2015

VAT IN THE EUROPEAN COMMUNITY

**VADMECUM 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.**

POLAND

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?

Ministry of Finance

Address: Świętokrzyska 12

00-916 Warszawa

Phone: (+48 22) 694 55 55

fax (+48 22) 694 41 77

WWW: www.mofnet.gov.pl

mail: kancelaria@mf.gov.pl

Second Tax Office Warszawa-Śródmieście

Address: Jagiellońska 15

03 - 719 Warszawa

Phone: +48 (22) 511 35 00

fax.: +48 (22) 511 35 02

WWW: www.is.waw.pl/USWSrodmiescie2

mail: us1436@mz.mofnet.gov.pl

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, or telecommunications, broadcasting or electronic services if they are accounted for by the taxpayer in MOSS, 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.

VAT is non-refundable on expenditure on accommodation and catering services and is limited for expenditures associated with certain motor vehicles.

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 refund application is submitted through electronic means, through the e-Deklaracje system, as an interactive form.

It contains various entry boxes as well as a “check” box in the upper right hand corner – that is designed to facilitate and accelerate filling in the form.

The form can be found on the Ministry of Finances website: <http://www.e-deklaracje.gov.pl/>, in the tab “FORMS”, in the “Interactive forms for electronic documents that require an electronic signature” section. (see:[http://www.e-deklaracje.gov.pl/files/pdf/VAT-REF\(2\)_v1_0.pdf](http://www.e-deklaracje.gov.pl/files/pdf/VAT-REF(2)_v1_0.pdf)).

The VAT refund application is to be submitted through the e-Deklaracje system and should be sent to the head of the appropriate tax office, which is due according to the place where the business activity, that is liable to tax, was conducted.

The application should be submitted before the 30th of September of the year that follows the fiscal year that the application concerns.

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

There are no specific technical requirements for representatives / agents of the applicant. According to Polish law, agent/representative must be a person who enjoys full legal rights.

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 Rev.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
- The equivalent in national currency of 50 EUR if the refund period relates to a calendar year or if it relates to the period shorter than last 3 months of this 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, Polish applicant has opportunity of correction the VAT-REFUND application with errors and send it to Polish Tax Administration.

Procedures in the Member State of Refund

13. Are copies of invoices required?

The applicant is enclosing the invoices if the tax base in the invoice or the customs document is equal or higher than the equivalent in PLN - 1000 Euro. If the tax base in the invoice concerning the purchase of fuel is equal or higher than the equivalent in PLN - 250 EURO.

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?

The applicant encloses other documents only if the Polish Tax Administration will demand them.

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

The duty of representative or agent is to enclose the power of attorney to entitling the applicant during VAT-REFUND procedure.

Representative or agent shall notify the Polish Tax Administration about changing his/her address, including e-mail address, if the requested documents are sent by e-mail.

16. Can payments be made to agents?

No, there is no such possibility.

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

Polish tax office will be communicating with the applicant 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.

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

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

Interests are paid for VAT not refunded in that term.

21. Number of applications accepted per year.

Polish Tax Administration accepts receiving VAT-REFUND applications not frequently than 3 months from one taxpayer.

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

When the tax authority issues a decision in the first instance, the appeal is entitled only to one instance. According to the Procedures, the decision contains instructions concerning procedure for appeal. Appeal against the decision of the tax authority, should include the allegations against the decision, determine the nature and scope of the claims. The appeal must be filed within 14 days starting from the next day when the decision was delivered.

23. Incorrect applications

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