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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.**

# **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 on Estonian laws and guidelines is available at <http://www.emta.ee/eng>.

### **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 CAN NOT 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.

If the invoice or import document relates to an expense that is part business and part personal, the applicant must provide only the amount of the business part.

### **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?**

#### **Registration for the e-Tax Board | e-Customs portal access by Estonian residents**

Representative of the company established in Estonia who is a resident of Estonia may immediately proceed to the e-Tax Board | e-Customs internet portal and login by using ID-card, mobile-ID or by bank identification.

#### **Registration for the e-Tax Board | e-Customs portal access by non-residents**

Non-resident representative will need to sign an authentication contract that grants an access to online services provided by Estonian Tax and Customs Board (EMTA). An authentication contract is always signed by a physical person, which means that in case of a company every member of a company who is planning to use Estonian portal will need to sign this document. Along with a copy of agreement every non-resident will receive a username, a list of codes and a non-resident code.

Username and codes act as a personal signature which means that a person always bears full legal responsibility for any kind of information submitted through electronic portal under his username. Therefore sharing passwords are strongly discouraged.

In order to sign an authentication agreement a person will need to visit EMTA office. Information about centres is available at <http://www.emta.ee/eng/offices>. A headquarter is located in Tallinn (contacts are under the corresponding button).

A person should present a passport or an ID-card at the service desk.

EMTA recognizes that it may be very inconvenient for a non-resident VAT agent to physically visit service desk each time a new staff member needs to sign an authentication contract. Therefore there is an alternative way to register by post. The exact procedure is following:

- Every non-resident who needs a portal access will need to print out, fill in and sign two copies of authentication agreement. The explanation for the conclusion of a contract is located at <http://www.emta.ee/eng/e-tax-e-customs/creation-e-services-account-business-client> - to the left menu choice "In service bureau". The authentication agreement that needs to be filled is located at [http://www.emta.ee/sites/default/files/e-mta/avaldu\\_ema\\_lepingu\\_solmimiseks.pdf](http://www.emta.ee/sites/default/files/e-mta/avaldu_ema_lepingu_solmimiseks.pdf).
- A VAT agent company will need to make a notarized Power of Attorney that contains a list of persons who should be able to use online services. For every person a Power of Attorney should specify person's first name, last name and a passport number.
- These documents should be sent by post to Maksu- ja Tolliamet, Lõõtsa 8a, Tallinn 15176.
- EMTA will send back a copy of signed agreement, portal passwords and a non-resident code for every person mentioned in the Power of Attorney.

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

### Submitting applications on behalf of a company established in Estonia

A company established in Estonia will need to provide the Power of Attorney through e- Tax Board | e-Customs portal authorizing a representative to submit and receive refunds on company's behalf. This is done by writing a free form notification to EMTA, which is considered to have the same legal power as the Power of Attorney.

The Power of Attorney submitted by company established in Estonia should contain the following information: the first name, the last name, the non-resident code or ID-code (for residents) of every person that is allowed to submit applications and to receive refunds on their behalf as well as the date of expiration of the Power of Attorney. Additionally, it is recommended to mention that Power of Attorney provided should be limited to VAT refund applications only, because general Power of Attorney allows to see other sensitive information and that may be against the interest of a company.

### Submitting applications on behalf of a non-Estonian company

In order for a representative to be able to apply for a VAT refund on behalf of a company established elsewhere in EU through the internet portal provided by tax authority of another Member State that company will need to send a hard copy of the Power of Attorney to EMTA by post to Maksu- ja Tolliamet, Lõõtsa 8a, Tallinn 15176.

EMTA requires a hard copy of the document to be sure that representative has a right to request VAT refunds to his or her bank account. In this case a single Power of Attorney may authorize a whole company and there is no need to mention persons.

## **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 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

#### **10. MINIMUM REFUND LIMITS**

- Minimum VAT amount on application for calendar year or the remainder of a calendar year: 50 EUR.
- Minimum VAT amount on application for period of less than one calendar year: 400 EUR.

#### **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.

**Procedures in the Member State of Refund**

**13. ARE COPIES OF INVOICES REQUIRED?**

Scanned copies of invoices/import declarations required: Yes. 250 EUR for fuel and 1000 EUR for other supplies.

**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?**

Applicant will be required to select the invoices with the largest VAT amounts.

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

Power of attorney.

**16. CAN PAYMENTS BE MADE TO AGENTS?**

Yes.

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

E-mail, telephone, post.

**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.

E-mail, telephone, post.

#### **20. THE REFUND PERIOD**

A minimum of three months (unless at the end of the year), and the refund period may not consist of several calendar years.

#### **21. NUMBER OF APPLICATIONS ACCEPTED PER YEAR.**

There are no limits.

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

The proceedings may file a challenge against partial satisfaction of an application of a claim for refund. A challenge shall be filed with Estonian Tax and Customs Board within 30 days as of the day when the applicant became aware of the partial satisfaction. A participant in the proceedings may also recourse straight to the court to file the challenge.

A participant in the proceedings has, within 30 days of the date the Tax Officer notified the applicant of the administrative act the right of recourse to the court, filing an appeal in contestation of this decision. An appeal in writing may be filed with any administrative or county court of Estonia.

#### **23. INCORRECT APPLICATIONS**

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