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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.**

BULGARIA

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.nap.bg

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. From 1st January 2015 entitled to a refund is any taxable person not established in the Member State of Refund supplying telecommunications, broadcasting or electronic services to non-VAT taxable persons (private individuals) located in that Member State, for which the supplier is registered under the special scheme provided for in Article 369b of the VAT Directive (MOSS). If the taxable person making use of this special scheme also carries out in the Member State of Refund activities not covered by this scheme in respect of which he is obliged to register for VAT purposes he loses the right to deduct VAT under the rules mentioned in this document.

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, and VAT relating to telecommunications, broadcasting or electronic services to non-VAT taxable persons covered by special MOSS scheme.

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.

Restrictions on the right to deduct VAT in Bulgaria for received supplies of goods and services apply when:

- the goods or services are designated for carrying out exempt supplies under Chapter 4 “Exempt supplies and acquisitions” of the VAT Act;
- the goods or services are designate for supplies free of charge or for activities other than the economic activity of the person;

- the goods or services are designated for representative or entertaining purposes;
- a motorcycle or an automobile has been acquired or imported;
- the goods or the services are intended for maintenance, repair, improvement or operation of motorcycles and automobiles, including for spare parts, assembly, fuel and lubrication materials;
- the goods are seized in favour of the state or the building is destroyed as unlawfully constructed.

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 e-service “Submission of VAT refund requests by traders established in the country to EU Member States” can be accessed on the e-services web portal of the National Revenue Agency (NRA) – www.nap.bg

In order to use the service:

- the applicant need to hold a certificate for universal electronic signature (UES)
- and to apply for the use of the electronic services of the NRA.

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

The e-service “Submission of VAT refund requests by traders established in the country to EU Member States” can be accessed on the e-services web portal of the National Revenue Agency – www.nap.bg by agents also.

In order to use the service:

- the agent needs to hold a certificate for universal electronic signature (UES)
- and to apply for the use of the electronic services of the NRA with his/her UES by stating that he/she needs to use the e-service “VAT Refund”.

In this case, the taxable person who wants to authorize an agent must submit in the Territorial Directorate of NRA a paper notification for authorization in which he/she has selected the e-services to be used. This notification is automatically generated by the system upon submission of an application for the use of electronic services of the NRA by an agent and can be printed and signed by the taxable person who gives the authorization.

When the application for VAT refund is submitted by an agent it must contain the following information about this agent: name, identification, full address, including country code (Member State of Establishment), e-mail 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 or telecommunications, broadcasting or electronic services to non-VAT taxable persons covered by special MOSS scheme;
- 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. [*Reference here to the SCAC information document in annex*]

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 for the purposes of VAT 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. (The flat rate scheme for farmers is not implemented in Bulgaria)

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 30th 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?

Missing invoices for supplies or import documents for periods covered in previous applications are included in an application submitted for following periods by 30th September of the calendar year following the year when the right for VAT refund arose.

In case there is a change in the indicated by the applicant coefficient for the right of partial tax credit after the request for refund has been filed, the applicant has the right to correct the indicated in the previous request amount or the amount already refunded. The correction is applied during the calendar year following the respective refund period by filing a declaration on the e-portal not later than 30th September of the same year.

When a taxable person not established in the Republic of Bulgaria but established in another MS detects incorrectly indicated invoices or import documents in already filed request for refund, he/she can file a correction request for refund. This correction request can be filed to the end of the calendar year following the refund period.

Procedures in the Member State of Refund

13. Are copies of invoices required?

No copies of invoices or import documents are required when Bulgaria is a Member State of Refund.

In the process of verifying all the cumulative conditions are fulfilled a revenue authority may require copies or originals of invoices or import documents. After the processing is over, the originals are returned to the taxable person.

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?

As a Member State of Refund Bulgaria does not require copies of invoices or import documents.

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

As a Member State of Refund Bulgaria does not require additional documentation by agents. In these cases the Member State of Establishment of the applicant determines the way he/she needs to prove the authorization.

16. Can payments be made to agents?

Payments can be made to agents. The tax subject to refund is refunded to the applicant – taxable person not established in Bulgaria but established in another Member State – in BGN to a bank account indicated by this person.

When the tax is refunded to a bank account different from an account in a Bulgarian bank or a branch of a foreign bank in Bulgaria, all bank fees related to the refund of the tax are deducted from the tax to be refunded.

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

Electronically.

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 request 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.

The application for refund as well as all additional information should be provided by the applicant – a taxable person not established in Bulgaria but established in another Member State, in Bulgarian or in English.

20. The refund period

The refund period is three months and/or a calendar year.

The refund period can be shorter than three months only in the case when this period is a remainder of a calendar year.

21. Number of applications accepted per year.

No restrictions apply.

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

Implicit refusal

In case of non-pronouncement on an application for VAT refund within the time limits stipulated in the Ordinance, the provision of art. 131 of the Tax and Social Security Procedure Code apply. In these cases the non-pronouncement is considered an implicit refusal.

The implicit refusal can be appealed within 14 days after the expiration of the term for pronouncement following the procedure of appealing an audit act.

Administrative appeal of a decision of the revenue authority by which the application is fully or partially refused

In case of full or partial refusal on the application for refund, the taxable person can appeal the decision pursuant to art. 152 and the following of the Tax and Social Security Procedure Code (Chapter eighteen “Administrative appeal of an audit act”).

The taxable person – applicant can appeal the decision in whole or in part within 14 days of the receipt of the decision.

The decision-making body is the Director of the Appeals and Tax and Social Security Practice Directorate Sofia, HQ of the National Revenue Agency.

The appeal is filed through the revenue authority who has issued the decision (Territorial Directorate of the National Revenue Agency Sofia, “Aksakov” str. № 21, Sofia 1000, Bulgaria).

The decision-making body examines the appeal in essence and issues a motivated decision within 60 days of the receipt of the appeal (according to art. 152, par. 3 of the Tax and Social Security Procedure Code) or of the correction of the irregularities (according to art. 145 of the Tax and Social Security Procedure Code) or of the approval of the agreement (according to art. 154 of the Tax and Social Security Procedure Code). In case the appeal is filed through a certified postal operator a document verifying the date of submission is issued upon written request by the applicant according to art. 152 par. 3 of the Tax and Social Security Procedure Code.

The decision-making body may confirm, amend or repeal partially or in whole the issued decision in the appealed part.

Appeal of the decision of the administrative body before the administrative court

The decision by which the request for refund is partially or in whole rejected in its part that is not repealed by the decision of the decision-making body may be appealed through him before

the administrative court within whose geographical jurisdiction the seat of the decision-making body is located, within 14 days of the receipt of the decision.

The decision by which the request for refund is fully or partially rejected in its part which is not administratively appealed cannot be appealed before the court.

The court decides the case on its merits by repealing partially or in whole the decision by which the request for refund is partially or in whole rejected, by amending it in its appealed part or by rejecting it.

Language

The taxable persons must provide all the necessary documents and appeals in Bulgarian language during the appeal procedures.

23. Incorrect applications

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

If an amount has been refunded in incorrect way the applicant must restore it together with the legal interest.

The applicant upon receipt of a notification from the revenue authority must restore the incorrectly refunded tax within three days of the receipt of the notification.

In case the applicant does not restore the incorrectly refunded tax together with the legal interest the revenue authority deducts the amount from the amounts subject to refund from any following requests of the respective taxable persons.