



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.**

SPAIN

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?

A non-established taxable person could find internal law, guidelines and a lot of information more about VAT refund procedure in our web site. Specifically in the link below:

<https://www.agenciatributaria.gob.es/AEAT.sede/procedimientoini/GZ09.shtml>

In addition they could contact with us and ask for some information about the procedure or about their VAT claims; they could call to the contacts numbers below:

-914.539.457

-914.539.451

If the taxable person want to contact with us by e-mail, they could ask or some information about the procedure or about their VAT claims in ivanes@correo.aeat.es

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 according to the articles 95 and 96 of 37/1992 Spanish VAT law (articles 168.bis, 176 and 177 of **Council Directive** 2006/112/CE). For instance, the law allow us to restrict the right to deduct when the goods or services bought are used for private goals.

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?

According to Council Directive 2008/9/EC the taxable person has to submit by electronic means the VAT request to the Member state of Establishment. We mainly check if the requester is a taxable person in our country and after that we send to the Member State of Refund the VAT request.

When Spain is the member state of Establishment, the requester need a specific electronic certificate issued by FNMT (Fábrica Nacional de Moneda y Timbre) to submit the VAT request.

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 – *[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

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?

Yes. The applicant have to submit a modification in the member State of establishment, then, the Member State of establishment send to us this modification.

Procedures in the Member State of Refund

13. Are copies of invoices required?

The invoices are required when the invoice amount (without VAT) is over than 1.000 euros. In the case of the invoice is about fuel, we require copy of this invoice if the invoice amount is over 250 euros.

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?

They could send us to our Office all the information they want. In fact, they could send this information to all Administration office.

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

Only if we decide to refund the money and the agent is the owner of bank account. When this happens we required a proof of power of attorney.

16. Can payments be made to agents?

Only if the agent could show us a power of attorney, which it allow the agent to receive the money.

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

We could communicate with the applicant via MSEST, via CIE, by electronic ways and via email.

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.

We usually force to provide the information in Spanish.

20. The refund period

We have to refund the money within 4 months after the submission.

21. Number of applications accepted per year.

In 2014 we have received 47.091 applications.

In 2013 we have received 46.409 applications.

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

The applicant could submit an appeal against our reject. They have to submit this appeal within one month after the reject was notified.

23. Incorrect applications

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