



# **VAT refunds and reimbursements: A quantitative and qualitative study**

*Final report on VAT refunds*

*TAXUD/2017/DE/328*

*FWC No. TAXUD/2015/CC/131*



## **Preface**

This report has been prepared for the project “First assessment of the procedure for VAT refund to taxable persons not established in the Member State of refund but established in another Member State and to taxable persons established in the Member State of refund”, Specific Contract No. TAXUD/2017/DE/328 implementing the Framework Service Contract No. TAXUD/2015/CC/131 for the provision of economic analysis in the area of taxation.

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## Glossary of terms

**Administrative level disputes:** Disputes at an administrative level include appeals and disputes that are handled within tax administrations themselves (for example, appeals within the tax administration to a higher level than the tax official that made the original decision on the VAT refund or reimbursement claim).

**Administrative practice:** The practical application of the legislation and published guidance (where available) by a tax administration (based on commentary from in-country PwC VAT experts).

**Eighth Directive:** Council Directive 79/1072/EC of 6th December 1979 on the "Harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in the territory of the country"

**Guidance:** Publically available instructions on the application of tax legislation issued by a tax administration to taxpayers in a Member State.

**Judicial level disputes:** Disputes at a judicial level include appeals and disputes that are handled by a body outside the tax administration, such as a local or national court.

**Member State of Establishment:** EU Member State in which a business is established for VAT purposes.

**Member State of Refund:** EU Member State in which a business is not established for VAT purposes but has incurred VAT and, therefore, has the right to a refund under Directive 2008/9/EC.

**Mini One Stop Shop (MOSS):** The MOSS is a way of paying VAT if a business supplies certain digital services to other EU countries. From 1st January 2015, VAT is paid based on the country where the customer bought the product, not the country in which the seller is based.

**Ordinary Least Squares:** A type of linear regression modelling for estimating unknown parameters.

**Standing Committee on Administrative Cooperation (SCAC):** An expert group of the European Commission which has the task to coordinate with and exchange of views between EU Member States.

**VAT refund:** A repayment of VAT made under the auspices of Directive 2008/9/EC as implemented in a Member State to a taxpayer not established in that Member State.



## List of acronyms

<b>CJEU</b>	Court of Justice of the European Union
<b>EC</b>	European Commission
<b>EU</b>	European Union
<b>EU-28</b>	28 Member States of the European Union
<b>FTE</b>	Fulltime equivalent
<b>GDP</b>	Gross Domestic Product
<b>IVA</b>	International VAT Association
<b>MOSS</b>	Mini One Stop Shop
<b>MSME</b>	Micro-, Small- and Medium-sized Enterprises
<b>MSOE</b>	Member State of Establishment
<b>MSREF</b>	Member State of Refund
<b>OLS</b>	Ordinary Least Squares
<b>OSS</b>	One Stop Shop
<b>PoA</b>	Power of Attorney
<b>PwC</b>	PricewaterhouseCoopers LLP
<b>SCAC</b>	Standing Committee on Administrative Cooperation
<b>UK</b>	United Kingdom
<b>VAT</b>	Value Added Tax



## **Abstract**

Directive 2008/9/EC establishes the right of businesses established in one Member State who incur VAT in a another Member State in which they are not established to obtain a refund of that VAT.

This study's objective is to thoroughly evaluate the current VAT recovery regimes operated by Member States and highlight potential problems and areas of difficulty encountered by businesses and tax administrations.

Based on evidence collected through analysis of domestic legislation and administrative practice, and surveys of businesses, VAT refund agents and tax administrations this study highlights a number of areas in which the VAT recovery regimes operated by Member States are inconsistent with EU law or jurisprudence and identifies ways in which they could be improved. These include promoting greater understanding of the rules for claiming VAT refunds, reducing language barriers, ensuring that claim verification procedures are proportional, and promoting systematic data collection by tax administrations.



# 1. Executive Summary

## 1.1 About the study

The timely receipt of non-domestic VAT refunds is important to European businesses. This is particularly true of micro-, small- and medium-sized enterprises (MSMEs), for whom delays and refusals could have particularly adverse financial consequences. It is also important in the context of a number of ongoing structural changes, such as the move towards a more destination based system for cross-border trade, the increasing provision of services on a cross-border basis, and the growth in the use of specialist subcontractors within business models.

The key aim of this study is to evaluate the current VAT refunds regimes in EU Member States and highlight potential problems and areas of difficulty encountered by taxpayers and tax administrations.

More specifically, the main objectives are:

- To provide an overview of the refund procedure laid out in Directive 2008/9/EC and highlight potential problems which hinder its smooth functioning;
- To indicate the nature and magnitude of problems reported, based on information gathered from surveys of businesses and tax administrations; and,
- To provide suggestions from businesses and tax administrations on how the refund process could be improved.

This evaluation is based on a mix of desk research, discussions with local tax practitioners, surveys, and interviews. It draws on both qualitative and quantitative data and encompasses analysis of legal and administrative frameworks. It also incorporates the views and experiences of businesses (especially MSMEs), VAT refund agents, and tax administrations across the EU. The focus is on non-domestic VAT refunds, that is, repayments of VAT incurred in a Member State other than a Member State in which the taxpayer is established or registered for VAT.

## 1.2 Key findings

**Number and composition of claims:** The number of VAT refund claims increased by 12.3% between 2013 and 2016 to approximately 695,000. The majority of these claims were small (less than EUR 1,000).

**Preparation and submission of claims:** Time taken to prepare and submit claims was between two and five hours for most businesses surveyed. 12% of businesses surveyed stated that an increased risk of VAT audit or investigation was the main reason for them not submitting a claim. Only 8% of respondents noted that claiming a VAT refund was too expensive.

**Processing efficiency:** The processing rate (claims processed over claims received in a calendar year) declined from 91% in 2013 to 86% in 2016. This may be due to the increase in the number of claims over the period.

**Delays:** The share of claims paid outside deadline decreased to 1% in 2016, down from nearly 7% in 2013. Over half of tax administrations indicated that they are implementing procedures to prevent delays. Some delays are caused by Member States of Establishment, as Directive 2008/9/EC does not specify a time limit for these to forward claims to Member States of Refund. Businesses indicated that delays have adverse impacts on cash flows, resulting in deferral of investment and hiring. Finally,



one-third of the businesses surveyed reported that they never, very rarely or rarely received interest for delayed payment of claims.

**Additional information requests:** Tax administrations reported that they queried 9% of claims processed in 2016. The average value of a queried claim increased over this period from EUR 15,600 to EUR 23,400. The low query rate reported by tax administrations stands in contrast with the perceptions of businesses. Approximately 70% of the businesses surveyed reported to for additional information frequently, very frequently or almost always.

**Approvals and rejections of claims:** Tax administrations approved 94% of claims processed in 2016, up from 92% in 2013. Businesses reported invoice discrepancies, a lack of sufficient documentary evidence, VAT having been incorrectly charged by suppliers and the business requiring a local VAT registration as the most common reasons for claims being rejected by tax administrations. This aligns with responses received from tax administrations and VAT refund agents.

**Disputes and appeals:** Taxpayers disputed just 0.23% of claims in 2016. 81% of these occurred at an administrative level and 19% at a judicial level. The costs to dispute a claim varied between EUR 1000-2000 and EUR 20,000-40,000, depending on the Member State in which the business is established, the legal options available there, and the nature of the dispute.

**Technology, communication and support:** Where businesses were aware of tax administration contact points in a Member State, 86% of businesses deemed these contact points to be highly effective or effective. Businesses reported communication problems where tax administrations did not communicate in a widely used business language. VAT refund agents noted additional communication problems such as not being issued a notification when they submitted additional information or not receiving information on the claim status until its acceptance or rejection.

### 1.3 Key challenges and suggestions for improvement

While the VAT refund procedures operate relatively smoothly across the EU, there is some variation between Member States and a number of challenges were identified. This section provides recommendations to address some of the key challenges identified:

**Suggestion 1:** Tax administrations should provide clear guidance and support to claimants on registering as a VAT-registered foreign trader in the Member State of Refund, taking language barriers into account. It should also establish processes to routinely refer cases to the competent department for VAT-registered foreign traders to ensure that businesses correctly register according to domestic rules.

**Suggestion 2:** Conduct further investigation into the issue of providing interest on VAT refunds paid outside deadlines as the taxpayer's right to receive this under Article 26 of Directive 2008/9/EC is being infringed by some Member States.

**Suggestion 3:** Given that ineligible underlying expenditure was the most common reason for VAT refund claims being rejected, attempts to harmonise eligibility rules across Member States should be revisited. These rules are currently very diverse, particularly with regard to common expenses such as hotel, accommodation, entertainment, food and drinks, and travel expenses. Alternative solutions may include raising awareness of national rules and improved guidance, such as through links in the claim submission portal.



**Suggestion 4:** Clarify responsibilities of Member State of Refund and the Member State of Establishment with respect to verifying pro rata calculations. One of the main reasons for the rejection of VAT claim is the interpretation of pro rata calculations between the Member State of Refund and the Member State of Establishment. It is currently unclear which of these has ultimate responsibility for ensuring the pro rata has been calculated correctly.

**Suggestion 5:** Explore ways to address the issue of the rejection of VAT refunds as a result of VAT incorrectly charged by the supplier. Currently businesses are responsible for recovering the incorrectly charged VAT from the supplier and can find themselves 'stuck' between opposing views within the tax administration. Solutions may include raising awareness of VAT rules and mechanisms in this regard, including guidance aimed at suppliers. Alternatively, Member States could take greater responsibility in simplifying place of supply rules in line with the destination principle and applying a consistent approach. They could also take a greater role in overseeing the correction by, for example, issuing notifications to suppliers.

**Suggestion 6:** Review the use of additional information requests by tax administrations. Businesses reported these as frequent while tax administrations reported low query rates. Consideration should be given to the proportionality of the requests for certain documents, acceptability of alternative evidence, and the costs incurred to translate documents. Time limits to respond to requests set out in Directive 2008/9/EC could be reviewed to ensure businesses have sufficient time to comply. Additionally, best practice guidance for businesses may help to ensure that the correct information is provided at the outset. Finally, tax administrations could record business-related information to avoid repeat requests of similar or identical information from businesses.

**Suggestion 7:** Investigate reducing language barriers. Businesses in some Member States are currently asked to communicate with and provide documentation to tax administrations in national languages, rather than in widely accepted business languages. At a minimum, 'base' information for a VAT refund claim could be accepted in a widely used business language. Member States could also tailor language requirements to the businesses from which most claims originate. Finally, the Commission may consider expanding its programme of testing private ruling requests relating to cross-border situations where requests can be submitted in the official language(s) or English.



## 2. Synthèse

### 2.1 Contexte de l'étude

Le remboursement intracommunautaire de la TVA récupérable dans de brefs délais est important pour le fonctionnement des entreprises européennes. Cela est particulièrement le cas pour les micros, petites et moyennes entreprises (MPME), pour lesquelles le remboursement tardif et le refus des demandes de remboursement pourraient avoir des conséquences financières importantes.

L'objectif principal de cette étude est d'évaluer les régimes de récupération de la TVA et de mettre en évidence les difficultés rencontrées par les assujettis et les administrations fiscales des États membres. Les objectifs spécifiques sont les suivants:

- Faire un récapitulatif du fonctionnement de la procédure de remboursement intracommunautaire de la directive 2008/9/CE et souligner les problèmes éventuels qui pourraient entraver son fonctionnement;
- Cerner la nature et l'importance des problèmes actuels du système de remboursement sur la base d'informations collectées auprès des entreprises et des administrations fiscales de l'UE-28; et,
- Collecter des propositions d'amélioration des systèmes de remboursement de la TVA de la part des entreprises et des administrations fiscales de l'UE-28.

Cette évaluation comprend des recherches documentaires, des discussions avec des experts nationaux en fiscalité, ainsi que des enquêtes et des entretiens avec des entreprises et les administrations fiscales de l'UE-28 afin de collecter des données qualitatives et quantitatives. Cette évaluation a pour but d'effectuer une analyse approfondie des procédures de remboursement de la TVA. Elle comprend l'analyse des cadres juridiques et administratifs, les expériences des entreprises (en particulier les MPME) et les administrations fiscales des 28 États-Membres de l'UE. Le sujet est le remboursement de la TVA non-domestique, c'est-à-dire concernant les paiements de la TVA effectuée dans un État membre autre que l'État membre dans lequel le contribuable est assujetti.

### 2.2 Principales constatations

**Le nombre et la composition des demandes:** En 2016, les administrations fiscales ont reçu environ 695 000 demandes, soit une augmentation de 12,3% depuis 2013. Au total, la majorité des demandes avait une valeur inférieure à 1 000 euros.

**La préparation et la soumission des demandes:** La plupart des entreprises interrogées ont déclaré qu'il leur fallait entre deux et cinq heures pour préparer et transmettre leurs demandes. Par ailleurs, 12% des entreprises interrogées ont déclaré que le risque élevé d'audit fiscal figurait parmi les principales raisons pour lesquelles elles ne présentaient pas de demandes. Seulement 8% des répondants ont déclaré que le processus de soumettre une demande de remboursement de la TVA était trop coûteux.

**L'efficacité du traitement:** Entre 2013 et 2016, les taux de traitement sont passés de 91% à 86,3% en 2016. Cela peut s'expliquer par l'augmentation du nombre de demandes au cours de cette période.

**Les retards:** En 2016, le taux de demandes payées en retard a baissé pour être à seulement 1% des demandes en baisse de 7% en 2013. Plus de 50% des administrations fiscales ont mis en place des procédures spécifiques pour éviter les retards. Toutefois, les États membres où les assujettis sont établis peuvent être la cause des retards car la directive 2008/9/CE ne



fixe pas de délai aux États membres où les assujettis sont établis pour transmettre les demandes aux États membres de remboursement. Lorsque des retards se produisent, les entreprises interrogées ont indiqué qu'ils peuvent avoir des effets défavorables sur les flux de trésorerie ou entraîner le report de l'investissement ou des recrutements. Enfin, près d'un tiers des entreprises interrogées ont déclaré ne jamais recevoir d'intérêts pour les demandes de règlement payées tardivement, de les recevoir très rarement ou quelquefois.

**Les demandes d'informations complémentaires:** Les administrations fiscales de l'UE ont questionné 9% des demandes traitées en 2016. Au cours de la même période, la valeur moyenne d'une demande interrogée a considérablement augmenté, passant de 15 600 euros à 23 400 euros. Le taux de questionnement relativement faible signalé par les administrations fiscales contraste considérablement avec la perception des entreprises. Environ 70% des entreprises interrogées disent qu'ils reçoivent des demandes d'informations complémentaires fréquemment, très fréquemment ou presque toujours.

**Les approbations et les rejets de demandes:** En 2016, les administrations fiscales de l'UE ont approuvé 94% des demandes traitées, une augmentation de 1,8% par rapport à 92,2% en 2013. Les anomalies dans les factures, le manque de pièces justificatives, la TVA ayant été facturée à tort par les fournisseurs, et l'entreprise nécessitant un enregistrement à la TVA locale étant les raisons les plus citées par les entreprises interrogées pour le rejet des demandes par les administrations fiscales. Cela correspond aux réponses des administrations fiscales et des agents intermédiaires de la TVA.

**Les litiges et les appels:** Les contribuables ont contesté un nombre relativement faible de demandes en 2016 (0,23%). 81% de ceux-ci sont survenus au niveau administratif, contre 19% au niveau judiciaire. Dans l'ensemble, les coûts de contestation d'une réclamation varient entre 1 000-2 000 et 20 000-40 000 euros, en fonction de l'État membre dans lequel l'entreprise est établie, de la nature du litige et des options juridiques disponibles dans l'État membre de la demande.

**La technologie, la communication et le suivi:** Les réponses des entreprises interrogées montrent que, lorsqu'elles connaissent les points de contact dans l'administration fiscale d'un État membre, 86% d'entre elles estiment que ces points de contact sont très efficaces. Les entreprises, d'une part, ont abordé des problèmes linguistiques dans les cas où les administrations fiscales ne communiquaient pas dans les langues des affaires largement utilisées. En revanche, les agents de remboursement de la TVA ont signalé des problèmes de communication tels que l'absence de notification lorsqu'elles ont reçu des informations supplémentaires, et l'absence d'information sur l'état de la demande tant que celle-ci n'a pas été acceptée ou rejetée.

### 2.3 Principaux défis et suggestions d'amélioration

Bien que, dans l'ensemble, les procédures de remboursement intercommunautaire fonctionnent relativement bien dans l'Union européenne, il y a certaines variations entre les États membres et des défis qui ont été identifiés. Cette section présente les recommandations pour aborder les problèmes.

**Suggestion 1:** Les administrations fiscales devraient fournir des conseils clairs aux demandeurs quant à l'enregistrement en tant que commerçant étranger enregistré à la TVA dans l'État membre de remboursement, en prenant compte de la barrière de la langue. Elles devraient également établir des mécanismes réguliers pour déléguer les cas au département compétent pour les commerçants étrangers enregistrés à la TVA afin de s'assurer que les entreprises s'enregistrent correctement en fonction de leurs règles domestiques.



**Suggestion 2:** Conduire davantage de recherches sur le problème des intérêts sur les remboursements de TVA effectués en retard. Le droit du contribuable tel que décrit dans l'Article 26 de la Directive 2008/9/EC est enfreinte dans certains Etats membres.

**Suggestion 3:** Compte tenu du fait que l'inéligibilité des dépenses était la raison la plus courante justifiant le rejet d'une demande de remboursement de la TVA, des tentatives pour harmoniser les règles d'éligibilité entre les États membres devraient être prises en compte. Ces règles sont actuellement très diverses, en particulier concernant les dépenses telles que l'hôtel, le logement, le divertissement, les boissons et la nourriture, ainsi que les frais de voyages. Des solutions alternatives pourraient être une sensibilisation aux règles nationales ainsi qu'une meilleure orientation, par le biais de liens sur le portail de soumission de demande.

**Suggestion 4:** Clarifier les responsabilités de l'Etat membres de remboursement et de l'Etat membre d'établissement par rapport à la vérification des calculs au prorata. Une des raisons principales pour laquelle une demande est rejetée est la différence d'interprétation du calcul au prorata entre l'Etat membre de remboursement et celui d'établissement. Actuellement, il n'y a pas d'indication claire quant à la responsabilité de s'assurer que le prorata a été calculé correctement.

**Suggestion 5:** Explorer des moyens d'aborder le problème du rejet de la demande de remboursement lorsque l'erreur vient du fournisseur qui a taxé la TVA à un taux incorrect. Actuellement, ce sont les entreprises qui sont responsables de récupérer une TVA incorrectement taxée par le fournisseur et peuvent se retrouver "coincées" entre des vues contradictoires au sein de l'administration fiscale. Une solution possible est de sensibiliser les parties concernées sur les règles de la TVA et les mécanismes impliqués, avec des conseils destinés aux fournisseurs. Une alternative serait que les États membres prennent plus de responsabilité pour simplifier les règles du lieu du fournisseur pour s'aligner avec le principe de destination et d'appliquer une approche cohérente. Ils pourraient également s'impliquer davantage dans la supervision de la correction, par exemple en émettant des notifications aux fournisseurs.

**Suggestion 6:** Réviser l'utilisation de demandes d'informations complémentaires par les administrations fiscales. Les entreprises déclarent que celles-ci sont fréquentes tandis que les administrations fiscales indiquent des faibles taux de requête. Plus d'attention pourrait être consacrée à la proportionnalité des requêtes pour certains types de documents, l'acceptabilité de justificatifs alternatifs, et les coûts de traduction de documents. Les contraintes de temps pour répondre à ces requêtes telles qu'indiquées dans la Directive 2008/9/EC pourraient être revues afin de s'assurer que les entreprises aient suffisamment de temps pour y répondre. De plus, une orientation pour les meilleures pratiques des entreprises pourrait être utile pour assurer que les informations pertinentes soient soumises. Enfin, les administrations fiscales pourraient enregistrer les informations liées aux entreprises afin d'éviter les répétitions de requêtes similaires ou identiques.

**Suggestion 7:** Investiguer pour réduire les barrières linguistiques. Les entreprises dans certains Etats membres sont soumis à l'obligation de communiquer et fournir des justificatifs aux administrations fiscales dans la langue nationale plutôt que dans une des langues des affaires généralement acceptée. Au minimum, certaines informations dites "de base" d'une demande de remboursement de la TVA devraient être acceptées dans une des langues des affaires. Les Etats membres pourraient également adapter leurs exigences aux entreprises depuis lesquelles la plupart des demandes proviennent. Enfin, la Commission pourrait envisager d'étendre son programme de tester des requêtes de règles privées concernant les situations aux frontières, ou les requêtes peuvent être soumises dans la/les langue/s officielle/s ou en anglais.



## 3. Introduction

### 3.1 About this study

The timely receipt of VAT refunds is of importance to European businesses.<sup>1</sup> Delays and refusals can have adverse financial consequences, which are felt more keenly by micro-, small- and medium-sized enterprises (MSMEs). As such, the issue of VAT refunds is a topic of importance for the European Commission (“the Commission”) efforts to develop the internal market and reduce of unnecessary administrative burdens and costs for businesses.

Accordingly, this study thoroughly evaluates the current regime and highlights potential problems and areas of difficulty encountered by taxable persons in making VAT refund claims, as well as by the tax administrations of EU Member States in handling such claims. The outputs of the study will enable the Commission to focus its efforts on ensuring compliance with VAT legislation in cases where it can make a significant difference, thereby improving the efficiency of the internal market.

### 3.2 Background

Businesses often have to pay VAT on business related expenses in a foreign country while having no taxable activity or establishment in that country. Examples of such business related expenses include VAT paid on business travel, on events and conferences organised in a foreign country and on fuel purchased by transport companies. Given that the incidence of VAT should fall on final consumers in principle, businesses should be entitled to recover the tax they incur on such expenses.<sup>2</sup>

In order to facilitate this, countries across the world operate a variety of mechanisms. Some jurisdictions do not have a refund procedure, but instead allow recovery of the tax through a registration mechanism. For example, in Canada, businesses can register to recover VAT if they do not conduct taxable activity in the country but have incurred VAT.<sup>3</sup> Whereas other jurisdictions, such as New Zealand, operate exemptions for charging VAT when supplies are made to non-resident companies.<sup>4</sup> Meanwhile, the European Union has an established refund mechanism.

In the European Union, the rights of taxpayers to refunds are established in European VAT law. Article 170 of Council Directive 2006/112/EC provides that taxable persons established in one Member State, who are not established in the Member State in which they purchase goods and services or import goods subject to VAT, shall be entitled to obtain a refund of that VAT insofar as the goods and services are used for the purposes of certain transactions. These transactions include those defined in Article 169 and transactions for which the tax is solely payable by the customer in

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<sup>1</sup> For the purpose of this study, VAT refunds are defined as a repayment under the auspices of Directive 2008/9/EC, as implemented in domestic legislation, of VAT incurred in a Member State other than a Member State in which the taxpayer is established or registered for VAT (i.e. non-domestic repayments).

<sup>2</sup> Charlet, A. and Buyde, S. (2009) “VAT and GST Refunds” Available at: <https://www.taxjournal.com/articles/vat-and-gst-refunds-20488> [Accessed on: 18th September 2018].

<sup>3</sup> Charlet, A. and Buyde, S. (2009) “VAT and GST Refunds” Available at: <http://www.oecd.org/ctp/consumption/42945441.pdf> [Accessed on: 18th September 2018].

<sup>4</sup> Ibid.



accordance with Articles 194-197 or Article 199. To qualify for a refund, businesses need to meet the following conditions:

- Businesses cannot be established in the Member State of Refund.
- Businesses cannot supply goods or services in the Member State of Refund, except:
  - Exempted transport and ancillary services (Article 144, 146-149, Article 151-153 and Article 159 of Directive 2006/112/EC).
  - Supplies to customers liable for payment of the related VAT under the reverse-charge mechanism (Article 194-197 or Article 199 of Directive 2006/112/EC).
- Businesses cannot be covered by the special scheme for small businesses and flat-rate scheme for farmers.<sup>5</sup>

Detailed refund procedures were developed in Directive 79/1072/EC (known as the Eighth Directive), which was designed to promote harmonisation of refund arrangements across Member States. Prior to this, differences in refund procedures were deemed to give rise to impediments to trade and distortions of competition between traders. Therefore, the introduction of Community rules was designed to foster the effectiveness of the internal market, including the increased liberalisation of the movement of people, goods and services.

However, the Eighth Directive's paper-based scheme proved to be problematic in practice for both traders and national administrations. In fact, according to Commission data it was estimated that approximately 53% of large businesses had not requested refunds despite being eligible because the system was too burdensome.<sup>6</sup>

Therefore, in order to address the malfunctioning of the Eighth Directive refund regime, in June 1998 the Commission put forward a proposal for a Directive for a new and improved system.<sup>7</sup> Under this proposed system, taxable persons would recover VAT directly through declarations submitted in the Member State where they were established (effectively a one-stop shop for cross-border deductions). This system was designed to simplify matters for traders since they would be able to recover VAT charged in another Member State in the same way as their national (i.e. domestically incurred) VAT.

Despite considerable support for the proposal, the Council was initially unable to agree its adoption, primarily due to concerns that traders would recover VAT in accordance

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<sup>5</sup> COM(2004) 728 final on 29th October 2004, "Proposal for a Council Regulation amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation arrangements in the context of the one-stop scheme and the refund procedure for value added tax". Available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2004/EN/1-2004-728-EN-F1-1.Pdf>.

<sup>6</sup> COM(2004) 728 final on 29th October 2004, "Proposal for a Council Regulation amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation arrangements in the context of the one-stop scheme and the refund procedure for value added tax". Available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2004/EN/1-2004-728-EN-F1-1.Pdf>.

<sup>7</sup> COM(1998) 377 final on 17th June 1998, "Proposal for a Council Directive amending Directive 77/388/EEC as regards the rules governing the right to deduct Value Added Tax". Available at: <https://core.ac.uk/download/pdf/148871793.pdf>.



with the deduction rules of the Member State of Establishment rather than in line with the rules of the Member State of Refund in which the expenses were incurred. However, the Commission put forward a new proposal for a Directive in 2004 removing this provision.<sup>8</sup> As part of the EU VAT Package, the Council adopted Directive 2008/9/EC of 12 February 2008. It maintains the Eighth Directive's fundamental principles while modernising the practical procedures. Accordingly, taxpayers are now able to submit claims electronically for the refund of VAT incurred in another Member State via a portal website managed by the tax administration of the Member State in which they are established. The Directive also introduced an obligation for Member States to pay interest in the case of late refund payments.

In theory, the provisions of the Directive should speed up refunds and improve the overall functioning of the internal market. Nevertheless, the Commission receives a significant number of complaints via SOLVIT eight years after the entry into force of Directive 2008/9/EC.<sup>9</sup> In fact, complaints about delayed claims are among the commonly reported issues via the SOLVIT network.<sup>10</sup>

The difficulties with the cross-border processes were also highlighted at the 9<sup>th</sup> meeting of the EU VAT Forum which showed that businesses and tax administrations have different perceptions of how the refund process is working. Businesses expressed concern that the process is getting more complicated and increasingly burdensome, while in the view of tax administrations the process is managed smoothly (i.e. in a fair, practical and proportional way).

The 2004 proposal also recognised the growing importance of a well-functioning system to facilitate the structural changes taking place with respect to the rules governing the place of supply for VAT purposes, as effected by the EU VAT Package.<sup>11</sup> These new rules moved the EU VAT system towards a more destination-based model and away from an origin-based model, with VAT accounted for by the customer using the reverse charge mechanism<sup>12</sup> or via a local vendor registration in the customer's country of establishment with the option to use the One Stop Shop ('OSS') mechanism<sup>13</sup> to simplify compliance obligations. At the same time, to combat VAT fraud many Member States extended the use of optional reverse charges for certain supplies when provided by a non-established trader to a locally established trader, as well as introducing domestic reverse charge regimes.<sup>14</sup>

The use of the reverse charge or an OSS releases a non-established trader from certain VAT obligations such as the requirement to submit local VAT returns. As a

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<sup>8</sup> COM(2004) 728 final on 29th October 2004, "Proposal for a Council Regulation amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation arrangements in the context of the one-stop scheme and the refund procedure for value added tax". Available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2004/EN/1-2004-728-EN-F1-1.Pdf>.

<sup>9</sup> SOLVIT is an on-line problem solving network that handles complaints by both businesses and citizens on the misapplication of EU Law. In particular, the network handles complaints regarding VAT refund claims.

<sup>10</sup> European Commission. "EU VAT Forum, subgroup on Prevention and Solution of Double Taxation – Presentation Sheet of SOLVIT".

<sup>11</sup> Ibid.

<sup>12</sup> e.g. General rule implemented in 2010 for B2B services.

<sup>13</sup> e.g. Specific rules implemented in 2015 for B2C telecoms, broadcasting and electronic ('TBE') services.

<sup>14</sup> Assessment of the application and impact of the optional 'Reverse Charge Mechanism' within the EU VAT system. Available at:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/common/publications/studies/kp\\_07\\_14\\_060\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/common/publications/studies/kp_07_14_060_en.pdf).



consequence, when that trader has incurred VAT in another Member State in relation to a supply subject to a reverse charge or covered by the OSS, the trader is obliged to reclaim this VAT via the refund procedure, rather than via a local VAT return submission. For example, following changes to the place of supply rules, taxable persons could incur foreign VAT for the purpose of making supplies in another Member State without a corresponding requirement to fulfil a domestic VAT registration in that Member State in the following circumstances (non-exhaustive list):

- The local sourcing of goods (e.g. parts and other consumables) related to the work on or valuation of movable property situated in another Member State;
- The local sourcing of goods (e.g. parts and other consumables) related to the provision of services connected with immovable property where the business customer is located in the jurisdiction of refund and applies the reverse charge on receipt of the foreign trader's service;
- Services provided by sub-contractors connected with immovable property located in another Member State – incidences of the use of subcontractors for this type of work (installation, construction, repair) has increased hugely as part of a concerted attempt to realise globally competitive business models that achieve economies of scale, at the same time as the definition of immovable property under EU VAT law has significantly widened;
- The provision of intermediary services; and,
- A non-established taxable person buying and selling goods in another Member State would ordinarily be obliged to register for and charge VAT on their sales in that jurisdiction which would also enable them to access input VAT recovery through the local VAT return. However, in certain cases, the local customer is now obliged to apply a reverse charge leaving the non-established business to claim back VAT via the refund procedure. For supplies where the OSS is used, a similar result arises since the OSS mechanism does not include input VAT deduction functionality.

In summary, an effective VAT refund system is essential to fulfil the fundamental right of a taxable person to be relieved entirely from the burden of VAT. As an integral part of the VAT system that right should not, as a general rule, be limited. However, despite the efficient design of the VAT refund system, it appears that in practice it is currently working at a sub-optimal level. Moreover, the importance of the VAT refund system is growing. This is due to structural changes in the overall framework of the VAT system, particularly with regard to the direction of travel in favour of a more destination based system for cross-border trade.<sup>15</sup>

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<sup>15</sup> In this respect it should be noted that further developments are anticipated in the form of the proposals for an extended OSS to give effect to the 2021 E-commerce Package and the 2022 Definitive VAT Regime. Changing business practices have also played their part with more services being provided on a cross-border basis in line with the increasing ease of trade within the internal market and the globalisation of the economy, as well as a growth in the use of specialist subcontractors within business models.



### 3.3 Objectives

Given the importance of ensuring the smoothness of the VAT refund process, the main objectives of the study are to:

- Provide an overview of the functioning of the refund procedure from Directive 2008/9/EC at the level of individual Member States, highlighting potential problems which could hinder the smooth functioning of the refund process;
- Provide an overview of the administrative procedures governing the processing of VAT refund claims in each Member State, highlighting potential problems which could hinder the smooth functioning of the refund process;
- Indicate the nature and magnitude of problems reported, based on the information gathered from surveys of businesses and EU-28 tax administrations; and,
- Provide suggestions from businesses and EU-28 tax administrations on how the VAT refund process could be improved.

### 3.4 Structure of this report

The remainder of this report is structured as follows:

**Section 4** provides a brief overview of the approach taken and research questions answered by this part of the study.

**Section 5** presents a review of the findings with respect to VAT refunds.

**Section 6** presents the conclusions of the study including suggestions for improving the procedure for claiming VAT refunds.

**Appendix 1** provides a detailed review of the findings with respect to the refund procedure in Germany.<sup>16</sup>

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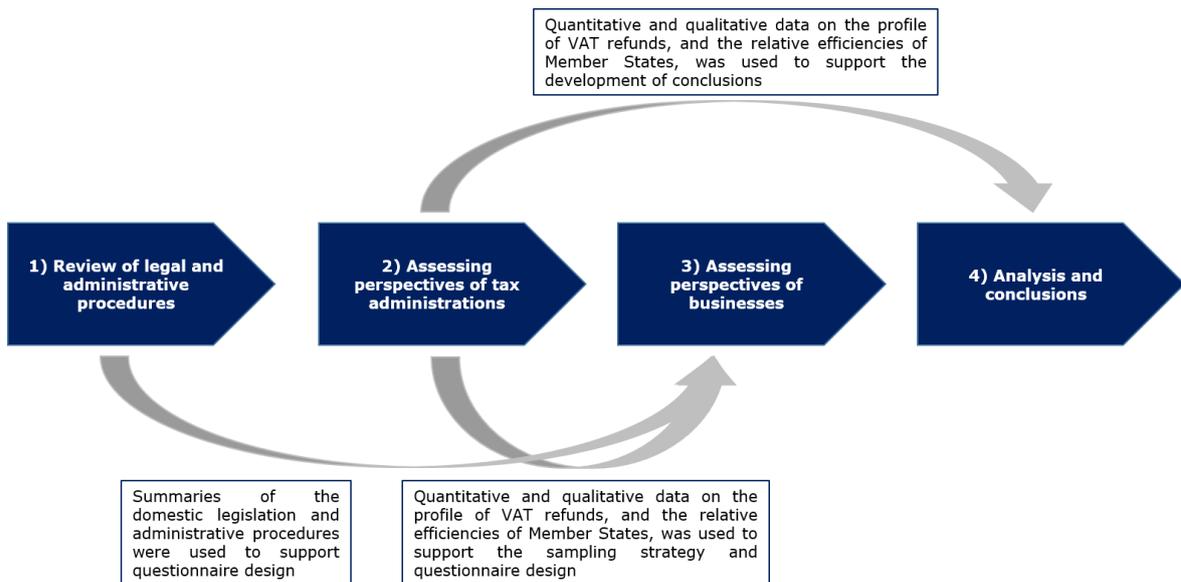
<sup>16</sup> The German tax administration does not provide data on VAT refunds to the Standing Committee on Administrative Cooperation. In addition, they declined to participate in the part of survey dealing with VAT refunds administered to tax administrations as part of this study. As such, the European Commission recommended the preparation of a detailed summary of the results relating to Germany as a Member State of Refund gathered from other components of the study.

## 4. Research strategy and data limitations

### 4.1 Research strategy

The research approach is illustrated in Figure 1, which breaks the study down into four main phases and highlights the use of data collected in earlier phases to shape research techniques in later phases. The technical annex to this report contains a more detailed overview of the research techniques employed throughout this study.

**Figure 1: Overview of research approach**



Source: PwC analysis

Please note that, at the request of the Commission, the findings of the review of domestic legislation and administrative procedures that implement Directive 2008/9/EC are not contained in this report. The findings of this component of the study are contained in a separate report designed to be read in conjunction with the contents of this report.

### 4.2 Data limitations

Before presenting the findings from analysis of the data generated by the research strategy it is important to recognise a number of issues that may limit the interpretation of the data.

The technical annex to this report documents the full extent of the data limitations. However, a number of the key data limitations are set out below:

- The German tax administration did not provide quantitative or qualitative data with respect to VAT refunds. Nor does the German tax administration provide data to the European Commission's Standing Committee on Administrative Cooperation (SCAC).



- The Maltese tax administration did not provide quantitative or qualitative data for either VAT refunds. Data relating to Malta that has been used in this report was provided by the European Commission.
- Only a few Member States, such as Latvia, Lithuania, Greece, Hungary and France provided data on claims disputed and appealed at an administrative and judicial level.
- Although businesses established in Cyprus were included in the country sample for the business survey, no respondents had handled VAT refunds in the last three years and, could therefore, not provide experiences on the VAT refund procedure
- Although the sample sizes used for the business and VAT refund agent surveys are too small to yield results that can be generalised to the rest of their respective populations, the data yielded by these surveys provides useful insights into the views and experience of businesses.

Given the data limitations, different combinations of Member States have been used throughout the analysis. This is to ensure that the most complete data set available is used for each category analysed. The combinations of Member States are described at the start of each section.



## 5. Analysis and key findings

### 5.1 Composition of VAT refund claims across the EU

This section of the report analyses the composition of VAT refund claims received by tax administrations across the EU-26.

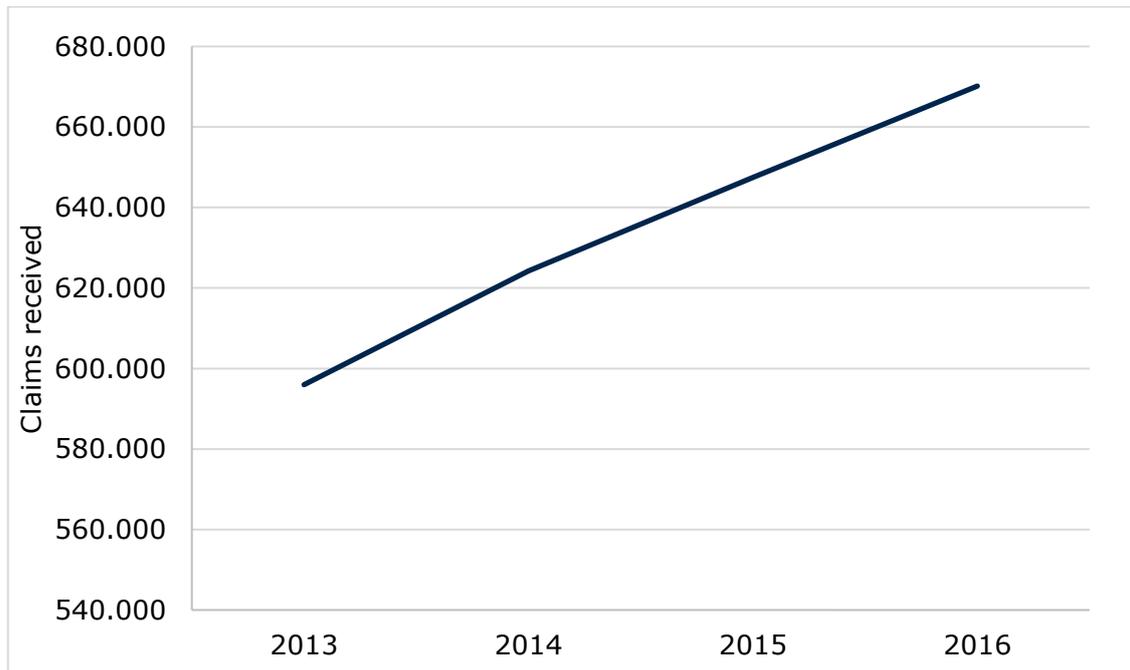
Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-26: All Member States except for Germany and the United Kingdom.
- EU-24: All Member States except for Finland, Germany, Malta and the United Kingdom.
- EU-20: All Member States except for Estonia, Finland, France, Germany, Hungary, Malta, Netherlands and the United Kingdom.
- EU-19 (for the purpose of distribution of value refund claims by value): Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, France, Greece, Hungary, Ireland, Italy, Lithuania, Romania, Portugal, Poland, Slovakia, Slovenia and Spain.
- EU-19 (for the purpose of total number of VAT refund claims originated in Member State of Establishments): Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Portugal, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-17: Belgium, Bulgaria, Denmark, Estonia, Greece, Hungary, Italy, Ireland, Latvia, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain.
- EU-16: Belgium, Bulgaria, Denmark, Estonia, Greece, Hungary, Italy, Ireland, Latvia, Luxembourg, Netherlands, Poland, Romania, Slovakia, Slovenia and Spain.
- EU-15 (for the purpose of average value of a claim originated in Member State of Establishments): Belgium, Bulgaria, Croatia, Denmark, Greece, Italy, Latvia, Lithuania, Luxembourg, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

#### 5.1.1 Number of VAT refund claims received

The total number of claims received by EU tax administrations increased continuously year-on-year from around 596,000 in 2013 to a four-year high of 670,157 in 2016. However, the average annual rate of growth slowed slightly, from a 5% increase between 2013 and 2014, to 3.5% between 2015 and 2016.

**Figure 2: Number of VAT refund claims received across the EU**



Source: European Commission data, PwC analysis

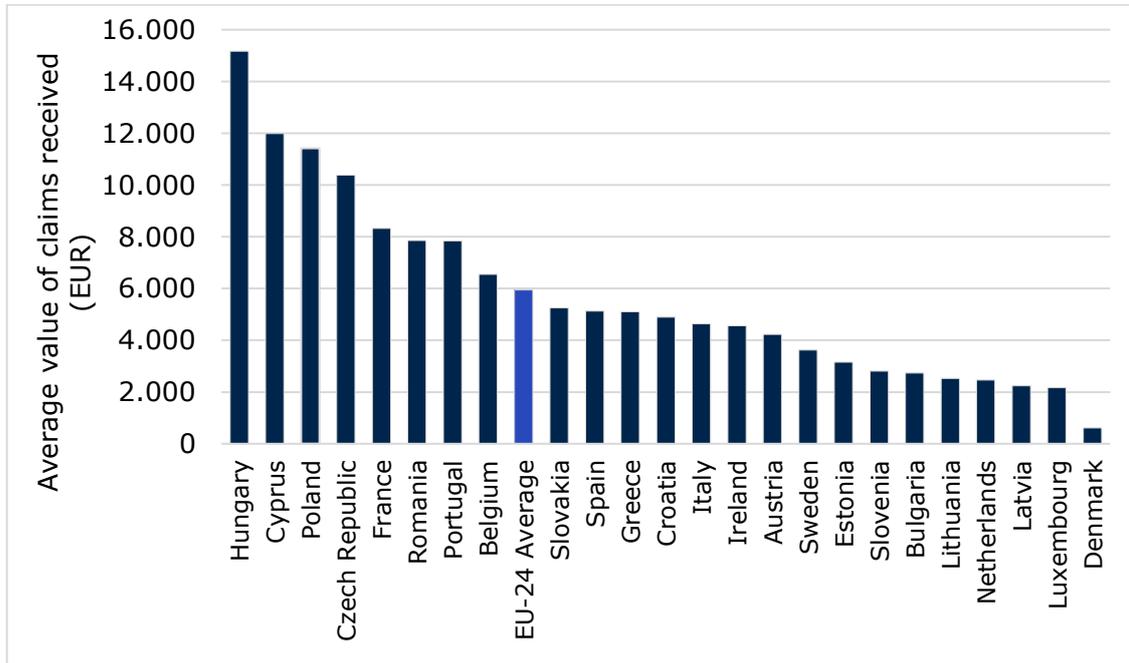
### 5.1.2 Average value of VAT refund claims

The average values per claim received in 2016 were found to vary significantly by country, ranging from as low as EUR 610 per claim in Denmark to EUR 15,200 in Hungary.

The average across the EU-25 was EUR 6,000 and more than half of all Member States reported an average value per claim of EUR 3,000-8,000. It is important to note that this could be driven by administrative practices as much as by cross-country differences in expenditure by non-established businesses. For instance, businesses may choose to make claims on a more regular basis or file upload restrictions on online submission portals may result in the artificial division of a claim across multiple submissions.

Regionally, there was a strong tendency towards higher-value claims in Southern and Eastern Europe. Excluding the median country (Italy), there were no Member States of Refund from Northern Europe and only two (France and Belgium) from Western Europe in the top 50% highest values per claim. Equally, only Slovenia and Bulgaria in Southern and Eastern Europe were located in the bottom 50%.

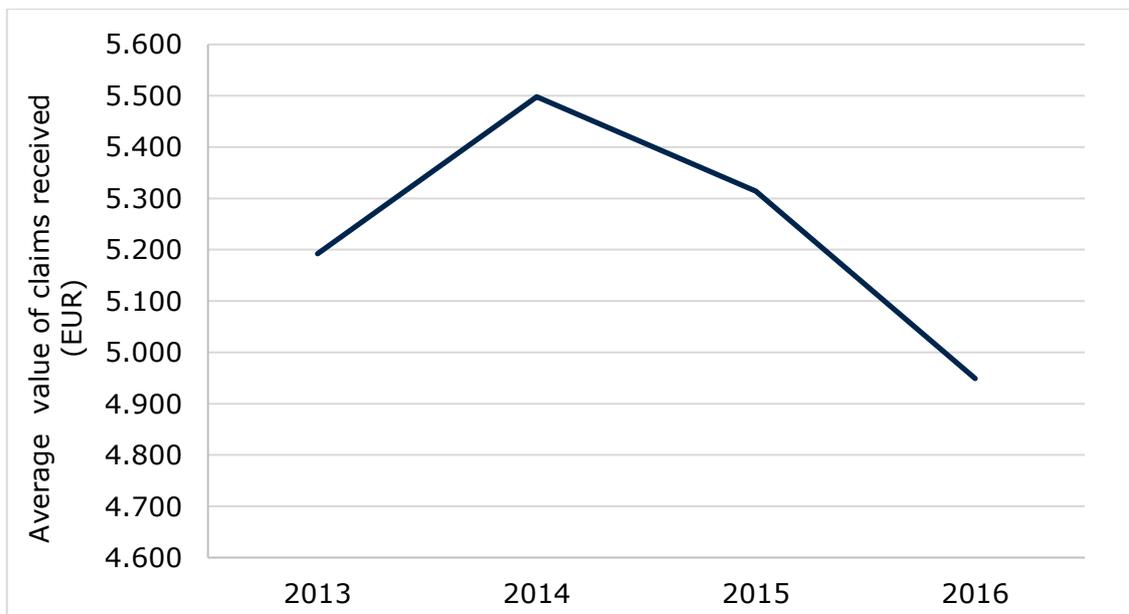
**Figure 3: Average value of claims received across the EU-24 in 2016**



Source: Tax administration data, PwC analysis

Data from the EU-20 allows for the examination of changes over time. After an initial increase in the average value of claims from 2013 to 2014, the value decreased in 2015 and again in 2016 to a four year low. From 2013 to 2016, the average value per claim decreased by 5%.

**Figure 4: Average value per claim received across the EU**



Source: Tax administration data, PwC analysis

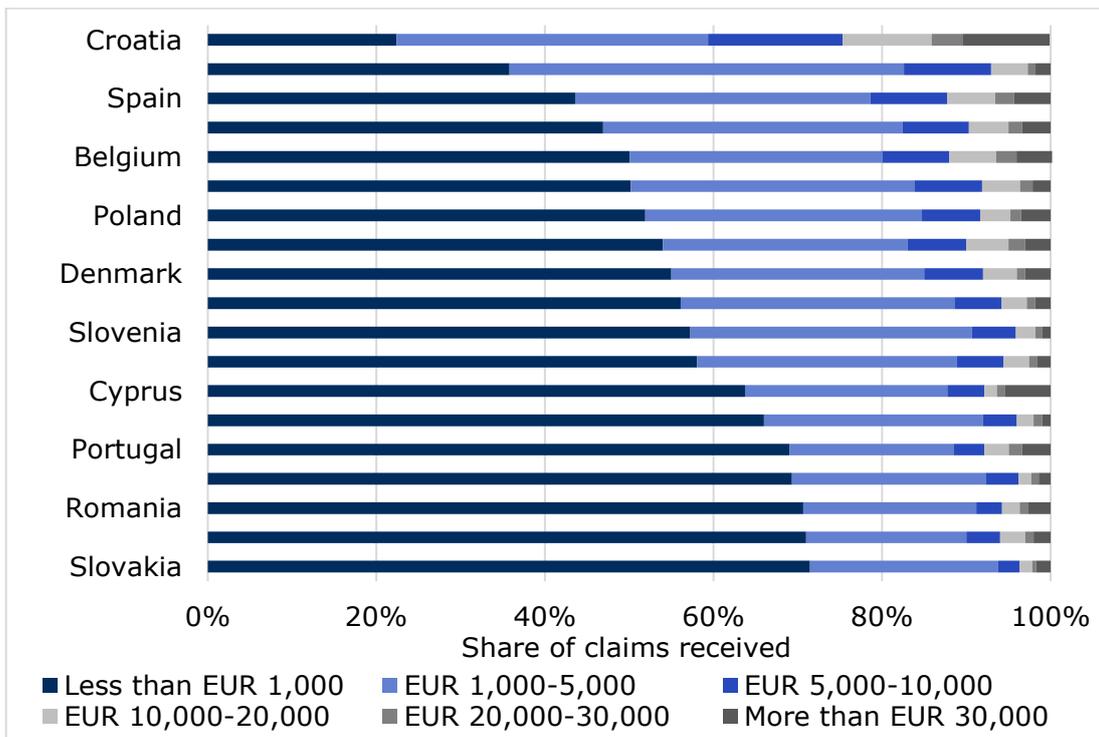
### 5.1.3 Distribution of VAT refund claims received

To determine whether these average values were reflective of the actual value of most claims, or whether they had been skewed by a smaller number of particularly high/low value claims, a breakdown of claims received across value categories was collected from tax administrations in 19 Member States.

For 15 of the 19 Member States, claims with a value of less than EUR 1,000 constituted more than half of all claims received, and more than two-thirds for 6 of the 19 respondents. A large proportion of claims in all 19 Member States of Refund were for less than EUR 5,000.

At the other end of the scale, claims with a value above EUR 20,000 constituted below 5% of all claims in 18 of the 19 Member States. The exception was Croatia, where only 22% of claims were worth less than EUR 1,000, and 10% were worth over EUR 30,000.

**Figure 5: Number of claims received in 2016 by value**



Source: Tax administration data, PwC analysis

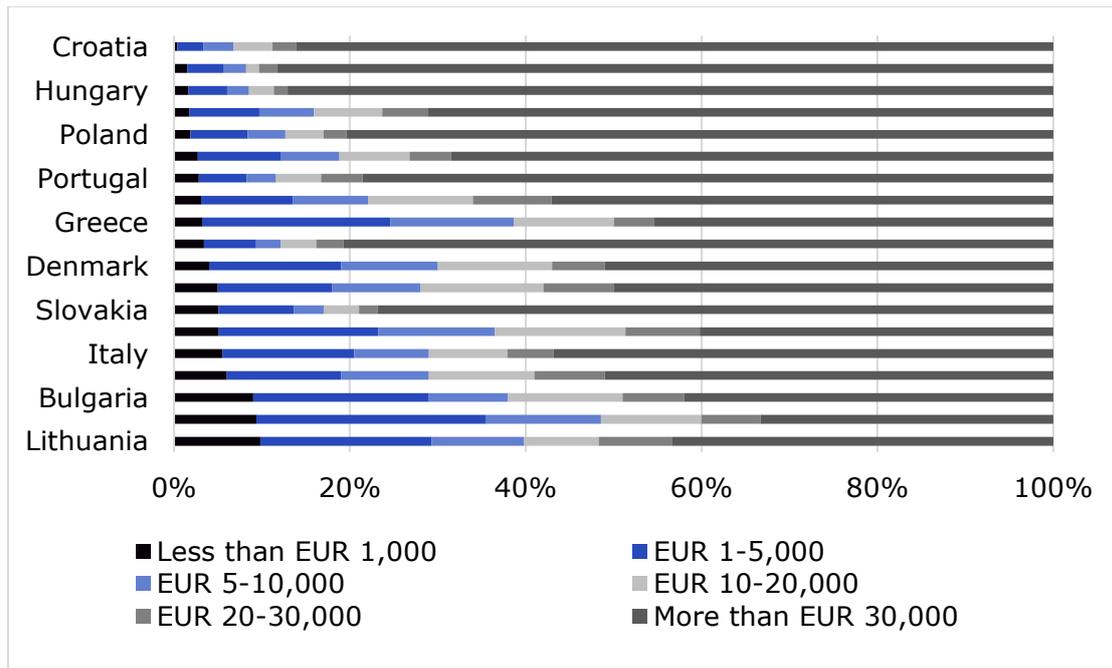
The number of claims across different value categories was also collected from EU tax administrations to show the relative contribution of claims in each value category to the total value of VAT refund claims received. For example, the previous metric showed that claims with a value of less than EUR 1,000 made up 57% of claims received by Slovenia. However, further analysis shows that these claims only made up 9% of the total value of claims received in 2016.

In general, the data showed a mirror image of the previous metric. While claims with a value of less than EUR 1,000 made up a large proportion of all claims received by number in most Member States of Refund, claims with a value of over EUR 30,000 made up a large proportion of the total value for most Member States also. For 15 of



the 19 Member States of Refund, claims worth more than EUR 30,000, though small in number, accounted for more than all the claims in every other category of value combined. In almost 74% of Member States, claims worth over EUR 30,000 amounted to less than 5% of the total number of claims received but over 50% of their combined value. This trend was less evident in Slovenia, where claims with a value of over EUR 30,000 only contributed to one-third (33.3%) of the total value of claims received in 2016.

**Figure 6: Total value of claims received in 2016 by value**



Source: Tax administration data, PwC analysis

#### 5.1.4 Distribution of VAT Refund claims by expense type

Article 9 of the 2008/09/EC Directive lists expense categories that are eligible for VAT refund. However, eligibility rules for some of these expense categories vary by Member State of Refund. An overview of these differences is set out below:

**Table 1: Eligibility of different categories of expenditure**

Expense category	Commentary
Code 1: Fuel	In most Member States, a VAT refund is allowed on fuel related expenses provided it is used for business purposes. However, in Portugal only 50% of the VAT on diesel, LPG, natural gas and biofuel is refundable. Similarly, in Romania VAT on fuel related costs is only 50% refundable.
Code 2: Hiring of means of transport	Most Member States allowed refund claims on VAT incurred when hiring vehicles for business purposes. No significant



Expense category	Commentary
	differences in eligibility rules were identified.
Code 3: Expenditure relating to means of transport (other than goods and services referred to under codes 1 and 2)	Most Member States allow VAT refund claims on expenditure relating to means of transport.
Code 4: Road tolls and road user charge	Most Member States do not provide VAT refunds with regard to road tolls or road user charges. Only VAT incurred on highway tolls on motor vehicles with "gross weight equal to or more than 3.5 tones" is eligible for VAT refund in some Member States.
Code 5: Travel expenses, such as taxi fares, public transport fares	VAT incurred on taxi fares is only partially refundable in Estonia and non-refundable in Hungary and Lithuania.
Code 6: Accommodation	VAT incurred on accommodation is refundable in most Member States provided it is incurred for business purposes. However, in Greece and France VAT incurred on accommodation for the benefit of company personnel, representatives and management is not refundable. Furthermore, in Portugal VAT incurred on accommodation related to the organisation of a business promotion event is only partially refundable. Similarly, VAT incurred on accommodation relating to entertainment is not refundable. In Finland, immovable property that the staff use for residence or recreational purposes is not entitled to VAT refund. Lastly, in Denmark VAT on accommodation needs to be specifically provided in the invoice in order to be refundable.
Code 7: Food, drink and restaurant services	Eligibility rules for VAT refund claims on food, drink and restaurant services vary across Member States. In Member States such as Austria and Denmark, VAT incurred on food related expenses is refundable provided these expenses have a business purpose. Similarly, in Latvia and Sweden VAT incurred on food related expenses is partially refundable. Poland allows VAT refund claims on food and beverages so long as certain conditions are met. In contrast, Member



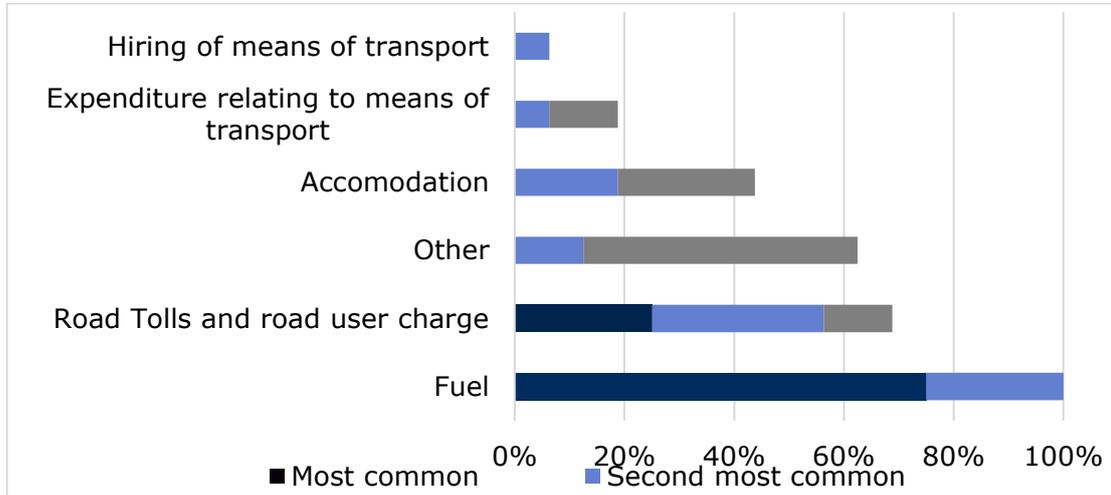
Expense category	Commentary
	States such as Hungary, Greece, Netherlands, Ireland and Spain do not allow VAT refund claims on food and drinks. Furthermore, in Belgium, Malta and Romania VAT refund claims on alcoholic beverages are permitted provided it is intended for resale.
Code 8: Admissions to fairs and exhibitions	No issues were identified with regards to claims falling under this expense category.
Code 9: Expenditure on amusement, luxuries and entertainment	Austria, Bulgaria, Croatia, Czech Republic, Greece, Ireland, Finland, Hungary, Latvia, Portugal and Spain do not allow VAT refund claims on expenses relating to entertainment. In contrast, some Member States allow such claims provided the expense meets certain conditions. For example, in Cyprus VAT incurred on entertainment services provided to employees is refundable. In Malta, if the entertainment service is provided in the normal course of an economic activity the VAT incurred on it will be refundable. In the Netherlands, business entertainment within a certain threshold is eligible for VAT refund claims and in Sweden any entertainment expense that is considered unreasonable will not be eligible for VAT refund. In Denmark, entertainment related expenses such as restaurant meals are eligible for a partial VAT refund claim. Similarly, in Lithuania, VAT refund claims on entertainment related expenses are only partially refundable.
Code 10: Other	Tobacco related expenses can potentially fall under this category. VAT refund claims on tobacco products is not allowed in Portugal and Spain. In contrast, in Belgium, Malta and Romania VAT refund claims on tobacco products are only refundable if it is "intended for resale". Expenses relating to construction and restoration are also likely to fall under this expense category and are not eligible for VAT refund in Latvia and Hungary.

Source: European Commission, PwC analysis

Tax administrations were also asked to list the most common expense types claimed. 17 Member States provided a breakdown of claims received by expense type. Figure 7 shows that, fuel was the most common expense type followed by road tolls and road user charges. Road tolls and road user charges and fuel were the second most common expense types. The expense type categorised as 'other' represented half of the third most common expense types claimed.

VAT refund agents also reported that fuel and road tolls and road user charges were the most common expense type.

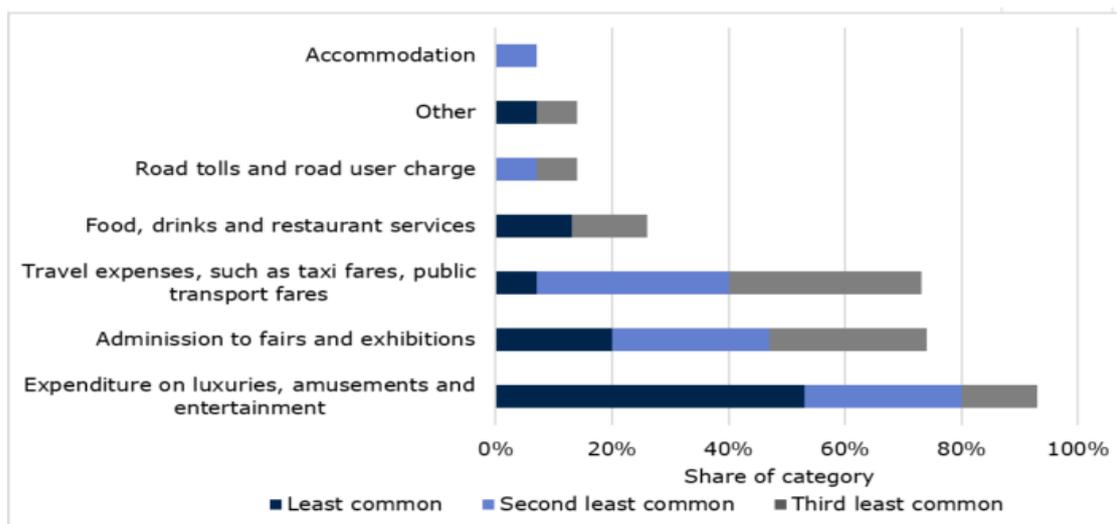
**Figure 7: Most common expense categories claimed across the EU-17 in 2016**



Source: Tax administration data, PwC analysis

Figure 8 shows that, expenditure on luxuries, amusements and entertainment and admission to fairs and exhibitions were the least common expense type being claimed. This is likely to be due to the fact that these expense types are ineligible for refund in several Member States. One Member State, Ireland, recorded accommodation as the second least common expense type being claimed and two Member States, Latvia and Estonia, recorded road tolls and road user charges as the least common expense types.

**Figure 8: Least common expense categories claimed across the EU-16 in 2016**



Source: Tax administration data, PwC analysis



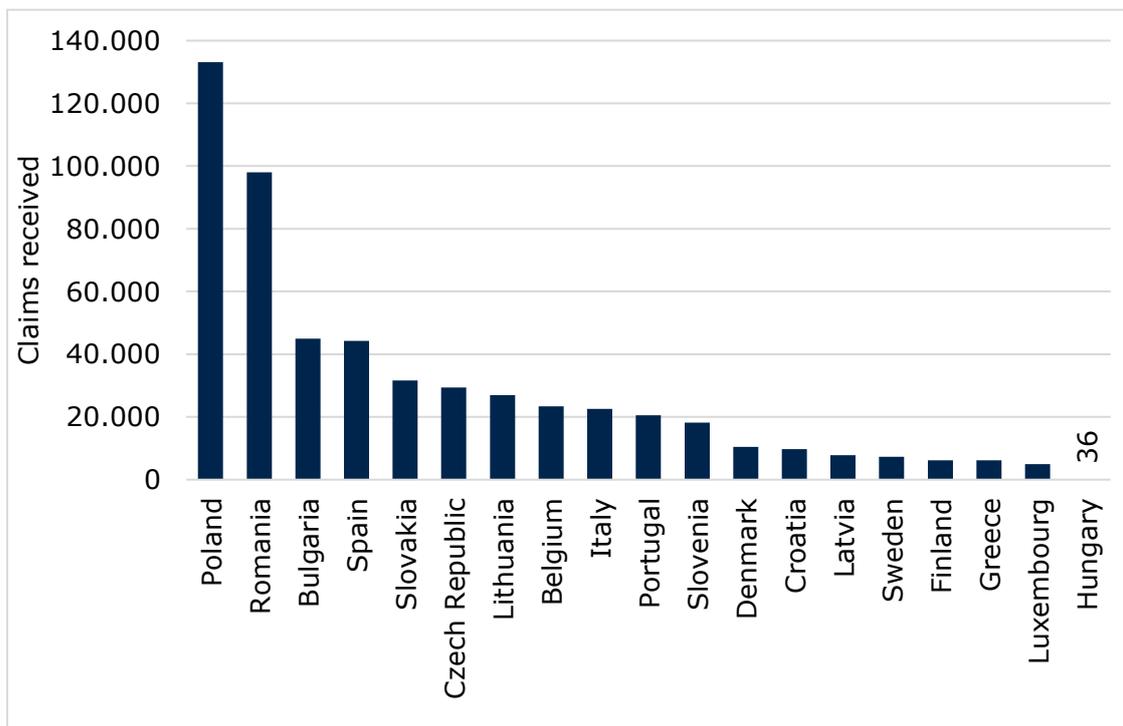
### 5.1.5 Claims received by Member States of Establishment

Data on the number and value of VAT refund claims received from businesses in their role as a Member State of Establishment was collected from 19 of the 28 Member States.

As illustrated in Figure 9, the largest number of VAT refund claims originated in Poland, Romania and Bulgaria with 133,000 claims, 100,000 claims and 45,000 claims respectively. All three Member States forwarded the largest proportion of these claims to Austria as a Member State of Refund with 10.7%, 13.8% and 12% respectively.

The lowest number of VAT refund claims originated in Hungary, with only 36 claims in 2016. This was followed by Luxembourg with 5,000 claims, and Greece and Finland with 6,200 claims each. Hungary and Greece forwarded more than 20% of their claims to Austria, which again was the Member State of Refund to which the biggest share of claims was forwarded. However, claims originating in Luxembourg were mostly forwarded to France (25.9%) and claims originating in Finland mostly forwarded to Sweden (28%). It should be noted that these Member States are neighbouring countries, which may be the reason for the higher share of claims forwarded.

**Figure 9: Number of VAT refund claims originating in EU-19 Member States of Establishment in 2016**



Source: Tax administration data, PwC analysis

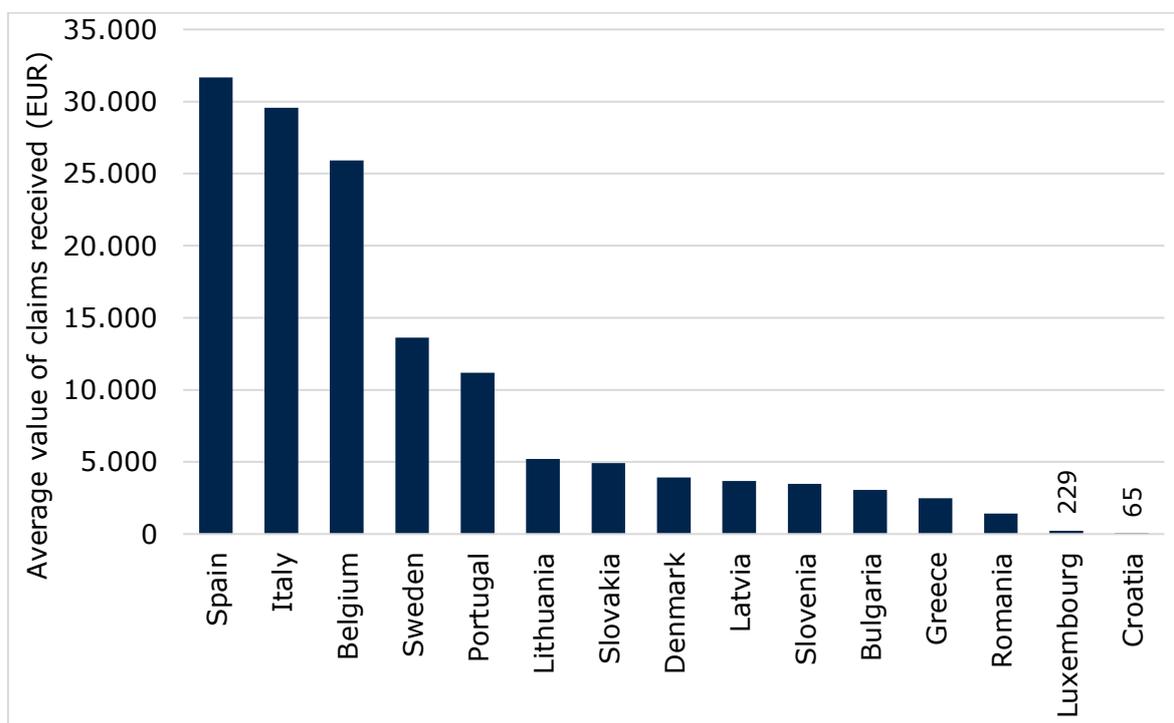
The business survey revealed that businesses surveyed in the respective Member States of Establishment submitted their claims to a wide variety of Member States of Refund. However, businesses appear to submit VAT refund claims frequently to tax administrations in Germany and the United Kingdom, with both or either of these countries being in the top three Member States of Refund from which businesses surveyed claimed a VAT refund.



Of the businesses surveyed in Sweden sent the largest proportion of VAT refund claims to Germany (23%) followed by VAT refund claim submissions to Austria (13%) and the United Kingdom (10%). In Greece, VAT refund claims submitted by businesses were predominantly forwarded to the tax administrations in the United Kingdom (26%), Cyprus (16%) and Bulgaria (11%). Spanish businesses claimed a VAT refund most frequently claimed a VAT refund from France (19%), Germany and Italy (12% respectively). Polish businesses sent most of their claims to Germany (15%), France (10%) and Belgium (7%). German businesses noted Austria (13%), France (11%) and Belgium (7%) as the most common Member States of Refund, and Romanian business forwarded most claims to the United Kingdom (12%), Bulgaria (12%) and Germany (10%).

Out of the 19 Member States of Establishment that provided data on the volume of VAT refund claims submitted to them by businesses established in their Member States, 15 also provided information on the value of these claims. As illustrated in Figure 10, the largest claims originated in Spain and Italy, with an average value per claim of approximately EUR 32,000 and EUR 30,000 respectively. The Member States of Establishment in which the claims with the lowest average value originated were Croatia and Luxembourg, with EUR 70 and EUR 229 respectively.

**Figure 10: Average value of a claims originating in EU-15 Member States of Establishment in 2016**



Source: Tax administration data, PwC analysis

### 5.1.6 Summary

In 2016, 670,000 claims were received by EU Member States (excluding Germany).<sup>17</sup> Between 2013 and 2016, the total number of claims received increased by 12.4%.

<sup>17</sup> For the purposes of this section of the report, claims received refers to those VAT refund claims received by a tax administration in a given calendar year.



This growth rate is higher than the nominal GDP growth for the same Member States (8%). This could indicate that the cost of making a VAT refund claim has reduced over time. The majority of such claims were for a value of less than EUR 1,000 and less than 5% of all VAT refund claims received were for a value of more than EUR 30,000.

## **5.2 VAT refund preparation and submission**

This section covers how businesses prepare and submit VAT refund claims and common issues experienced during the process. Understanding this will not only help to identify potential means to improve efficiency, but it will also highlight differences in the perceptions held by businesses and tax administrations on the smoothness of process.

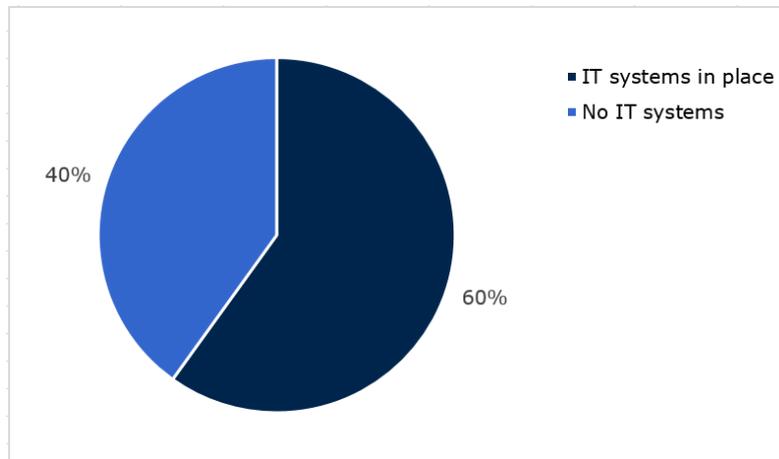
### **5.2.1 How do business prepare and submit VAT refund claims?**

Article 7 of Directive 2008/9/EC states that claimants are to submit electronic refund applications to the Member State of Refund through an online portal operated by the Member State of Establishment. As such, the claim submission process is entirely electronic, although claim preparation may be paper-based and subsequent communication with the tax administrations in the Member State of Refund may be conducted via post.

Businesses eligible for a VAT refund may choose to prepare and submit the claim in-house or with the help of a specialist VAT refund agent appointed to act on their behalf. There are a number of specialist VAT refund agents operating in the EU-28. Indeed, the VAT refund agents surveyed as part of this study, collectively, accounted for 2.3% by value and 4.4% by number of VAT refund claims received by EU-28 tax administrations in 2016. Although the agents surveyed only accounted for a relatively small share of VAT refund claims, the small sample size indicates that the agent population as a whole could account for a significant share (both by value and volume) of VAT refunds. Section 5.1.8 will analyse the effectiveness of VAT refund agents.

Of the 217 businesses surveyed that process claims in-house, 60% of respondents noted that they have IT systems in place to support the preparation of cross-border VAT refund claims. In comparison, large business respondents indicated they have not purchased IT systems dedicated to aiding the preparation of VAT refund claims. This seems surprising as they are likely to be in a position where they are more able to invest in software than small businesses. However, it may be that larger businesses have comprehensive IT solutions that help with the preparation of VAT refund claims among other functions.

**Figure 11: Number of businesses that purchased IT systems to support the preparation and submission of VAT refund claims**



Source: PwC analysis

**5.2.2. Accepted language by Member States of Refund for the purpose of submitting a VAT refund claim**

Article 12 of Directive 2008/9/EC states that Member State of Refund may specify the language or languages that can be used when making a VAT refund claim. Table 2 below shows the primary and secondary languages in which businesses can submit a VAT refund claim in each EU Member State of Refund. 60% of the Member States of Refund list English among the primary languages. Of the 11 Member States of Refund that do not list English as a primary language, five consider it to be the secondary language. Six Member States of Refund, namely Czech Republic, Malta, Poland, Romania, Slovenia and Spain do not have English listed as either the primary or secondary language for communication.

**Table 2: Accepted languages by Member State of Refund**

Member State	Primary language	Secondary language
<b>Austria</b>	German	English
<b>Belgium</b>	English, Dutch, French, German	No specified languages
<b>Bulgaria</b>	Bulgarian, English	No specified languages
<b>Croatia</b>	Croatian, English	No specified languages
<b>Cyprus</b>	Greek	English
<b>Czech Republic</b>	Czech	No specified languages
<b>Denmark</b>	Swedish, English, German	No specified languages
<b>Estonia</b>	Estonian, English	No specified languages
<b>Finland</b>	Finnish, Swedish, English	No specified languages
<b>France</b>	French	English



Member State	Primary language	Secondary language
Germany	German, English	No specified languages
Greece	Greek, English	No specified languages
Hungary	Hungarian, English	No specified languages
Ireland	English, Irish	Bulgarian, Croatian, Czech, Danish, German, Greek, Spanish, Estonian, Finnish, French, Hungarian, Italian, Lithuanian, Latvian, Maltese, Dutch, Polish, Portuguese, Romanian, Slovakian, Slovenian, Swedish and Turkish.
Italy	Italian	English
Latvia	Latvian, English	No specified languages
Lithuania	Lithuanian, English	No specified languages
Luxembourg	French, German	English
Malta	No specified languages	No specified languages
Poland	Polish	No specified languages
Portugal	Portuguese, English	No specified languages
Romania	Romanian	No specified languages
Slovakia	Slovak, English	No specified languages
Slovenia	Slovene	No specified languages
Spain	Spanish	No specified languages
Sweden	Swedish, English	No specified languages
The Netherlands	Dutch, English, German	No specified languages
United Kingdom	English	No specified languages

Source: PwC analysis

### 5.2.3 How do businesses appoint a VAT refund agent?

In understanding more about the process of appointing a VAT refund agent, qualitative data has been gathered from the Phase 2 agents questionnaire, where four of the six agents surveyed provided the data. Two of those four agents completed the questionnaire in respect of all Member States, while the other two chose to provide data in respect of individual Member States, namely Germany, Hungary, Portugal, Italy and the United Kingdom.

Every Member State allows third parties, such as agents, to act on a taxpayer's behalf, usually through a Power of Attorney (PoA). However, data suggests that Member States have different ways of managing the process of acquiring a PoA. Certain Member States accept digital copies of the PoA attached to each refund application, while others require original hard copies to be mailed to the tax administration.

The process of appointing a VAT refund agent appears to be particularly quick in Germany, where an electronic copy of a PoA is acceptable. This was highlighted by two



agents: one in a response covering the whole of the EU and the other in a Germany specific response.

Two other agents, responding in respect of Hungary and Portugal, suggested these Member States may have particularly straightforward processes as typically a simple PoA is all that is required to appoint an agent. In contrast, another agent responding in respect of Italy, observed that a signed hardcopy of the PoA has to be initially provided with the first claim, with electronic copies being used for subsequent applications.

#### **5.2.4 The process of appointing a VAT refund agent**

Data gathered from the Phase 2 agents' questionnaire suggests that the process of appointing a VAT refund agent is generally straightforward across the EU with most Member States having an electronic process. Generally, the portals operated by the Member States of Establishment through which the refund application is submitted have detailed instructions on how to register an agent to act on a taxpayer's behalf. Depending on whether the agent holds a local VAT registration (i.e. is established in the country where the refund application is being filed), different procedures may be followed.

#### **5.2.5 The process of registering the agent on the VAT refund portal**

Data from the VAT refund agents surveyed suggests that there are differences regarding the actual administrative procedures followed when registering a VAT agent on the refund portal. For example, two agents in responses which covered the whole of the EU noted that in the United Kingdom and the Netherlands the process of appointing an agent takes considerably longer than in other Member States as parts of the registration process are conducted by post. In the United Kingdom for example, the process is split into three stages; initially the agent inputs certain taxpayer information into the online portal, then a PIN is generated which is directly sent to the taxpayer by post. Finally, the taxpayer forwards the PIN to the agent and the registration procedure is completed.

In terms of costs associated with appointing an agent, the experience of all of the agents surveyed indicates that there are no substantial fees incurred by taxpayers in appointing an agent, other than the legal fees associated with the PoA. In cases where a taxpayer has a number of entities for which it appoints agents to deal with VAT refunds, the level of the legal fees would increase proportionately as the taxpayer would be required to provide a PoA to each entity.

The data gathered from the online business survey also suggests that the costs associated with appointing an agent are relatively low. More than 50% of the 87 businesses that appointed external agents suggested that such costs range between EUR 250 to EUR 5,000.

With regards to the time it takes to appoint an agent, qualitative data gathered from the Phase 2 agents' questionnaire suggests that it takes about two weeks to appoint a VAT refund agent to act on taxpayer's behalf. For the Member States where an electronic copy of the PoA is accepted, this can be done much more quickly.



Two agents, in responses which covered all Member States, observed that the process of appointing a VAT refund agent takes the longest in the United Kingdom, Netherlands and Malta.

Similarly to the UK, Netherlands and Malta also use a paper based system to send login codes to applicants. Although taxpayers apply online, the codes are received by post and have to be forwarded to the agent. This reduces the efficiency of the process and can cause delays.

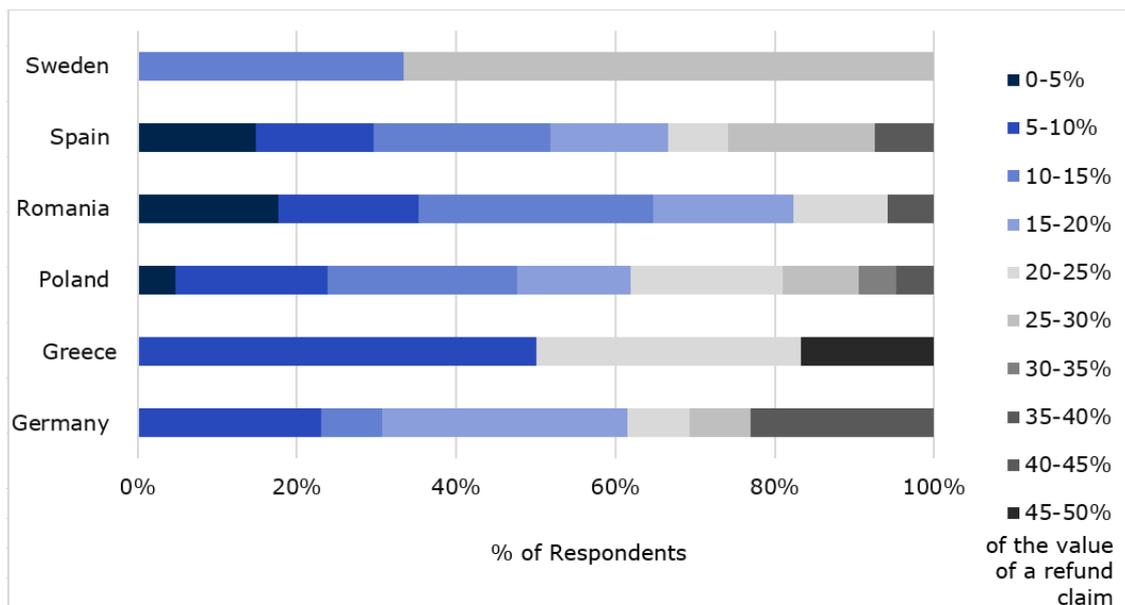
Agents suggested that the process of appointing a VAT agent was quickest in Belgium and Germany.

### 5.2.6 Costs for businesses to utilise the service of VAT refund agents

Of the 304 businesses surveyed that made a VAT refund claim in the last three years, only 29% claimed that they employed an external VAT refunds agent to prepare and submit VAT refund claims on their behalf.

Figure 12 provides an overview of the average cost charged by VAT refund agents to prepare and submit a VAT refund claim relative to the value of a claim. The proportion paid to VAT refund agents varies greatly by the country in which businesses are registered. For example, three of the six business respondents in Greece using a VAT refund agent recorded that that they pay 5% to 10% of the VAT claimed to this agent. In Poland, however, responses from the businesses surveyed varied more widely. 19% of the 21 businesses surveyed in Poland responded that they pay 5% to 10% of the VAT value claimed to their VAT refund agent. The same share of businesses stated that they pay approximately 20% to 25%, and 24% responded that they pay 10% to 15% of the claimed value to VAT refund agents.

**Figure 12: Costs of a VAT refund agent as a percentage of the average value of a VAT refund claim**



Source: PwC analysis

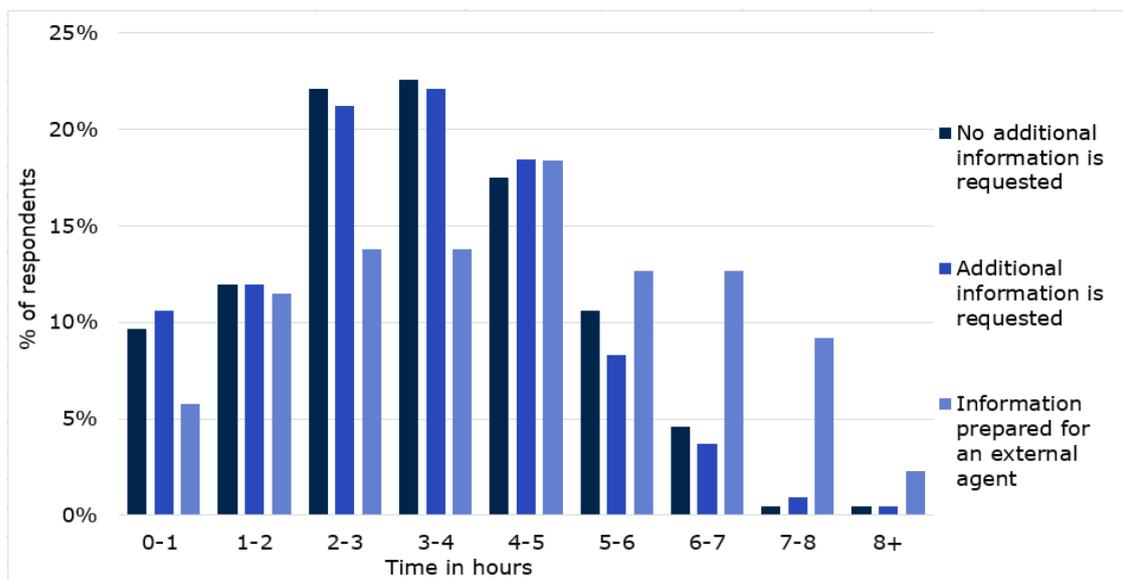
### 5.2.7 How long does it take to prepare and submit a VAT refund claim?

Figure 13 compares how long businesses take to prepare and submit claims where no additional information is requested and where additional information is requested. It also includes the time taken by businesses to prepare information for a VAT refund agent to submit a claim on their behalf.

Interestingly, respondents to the business survey that submit claims directly take similar amounts of time regardless of whether additional information is requested. Most businesses surveyed estimated that they take two to five hours to prepare and submit claims. The reason for businesses taking approximately the same time to prepare claims regardless of whether additional information was requested may be that businesses already collect some of the additional information when preparing the claim initially. In fact, of the 217 businesses surveyed that prepare and submit claims in-house, 65% observed that they find it easy to address additional information requests by tax administrations.

On the other hand, responses from businesses on how long they take to prepare information for external agents were more varied. Most of the businesses surveyed that employ external agents responded that they take between two and eight hours to prepare information. The reason for this may be that businesses are typically employing external agents to assist with more challenging claims. As discussed later in the report, claims that are of higher value or relate to a particular expense types are more likely to be queried and subsequently delayed or rejected. If a claim is more likely to be scrutinised, it may have additional requirements with regards to preparation and submission. Therefore, the fact that businesses appear to take longer to prepare the information for agents may be attributable to the nature of claims that agents deal with. Equally, this could be attributed to VAT refund agents requesting a larger volume of information upfront in case a claim is subsequently queried by the Member State of Refund.

**Figure 13: Time taken by businesses to prepare and submit VAT refund claims**



Source: PwC analysis



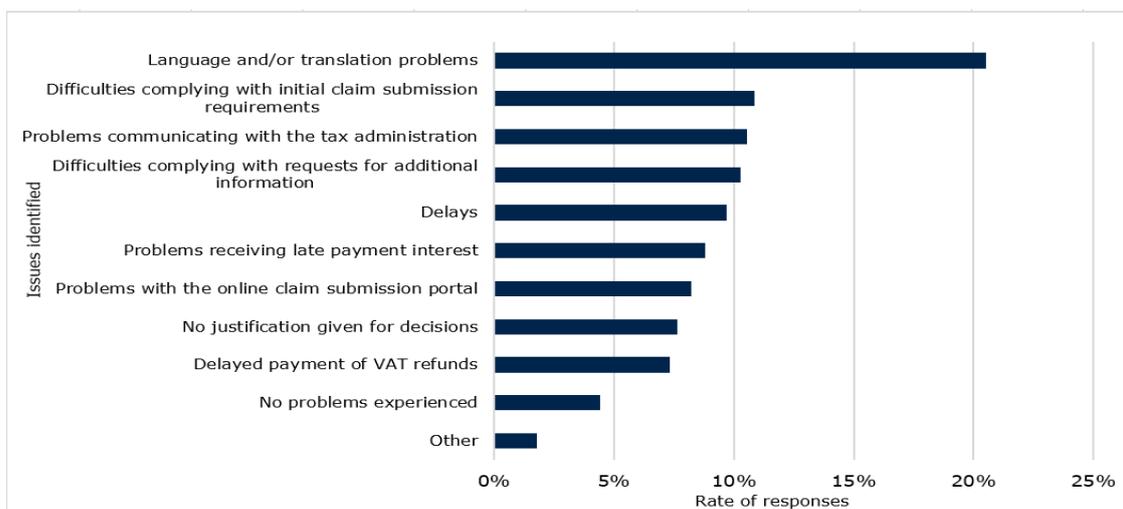
### 5.2.8 What issues are commonly encountered by businesses?

Out of 217 businesses surveyed that process claims in-house, 129 businesses provided a response on the most common issues faced when submitting a VAT refund claims and the Member State of Refund with which they faced these issues. Germany (17%) was ranked as the most common Member State of Refund where businesses had experienced issues. Belgium (9%), Bulgaria (9%) and France (7%) were other Member States of Refund where businesses recorded that they had encountered difficulties. The fact that most businesses face problems in Germany, Belgium and France may be due to high volume of claims businesses submit to these Member States of Refund.

With approximately 21% of responses, language and/or translation problems were recorded as the most common issue face by businesses. This was followed by problems in communicating with tax administrations and difficulties in complying with requests for additional information. This is particularly problematic as requests for additional information are very common, with 92% of the 217 businesses surveyed who process claims in-house recording that they have experience in addressing additional information requests. The businesses surveyed mentioned that they find tax administrations' requirements with regards to additional information and documents particularly burdensome. Furthermore, issues with regards to invalid documentation was one of the most common reasons for claims to be rejected.

Language and/or translation problems, as well as difficulties with complying with additional information requests, appeared to be a particular problem for business when dealing with the German tax administration. According to the businesses surveyed, language and/or translation problems were encountered for approximately 21% of claims and difficulties with additional information request for nearly 26% of claims submitted to Germany as a Member State of Refund. Moreover the businesses surveyed stated that the tax administration with which they had the most problems in communicating with was Bulgaria (17% of responses).

**Figure 14: Common issues encountered by businesses when making VAT refund claims**



Source: PwC analysis



Qualitative data gathered from the Phase 2 agents' questionnaire highlights a few Member States where communication issues arise due to different languages being used, in particular where certain Member States require taxpayers to provide invoices and supporting documentation in the local language.

Two agents, in responses covering the whole EU, observed significant communication and language issues in dealing with refund claims in Croatia, Bulgaria, Hungary, Czech Republic, France, Lithuania, Poland, Romania, Spain, and Italy.

In these Member States, VAT refund agents struggle to deal efficiently with queries from the tax administrations as a translation is often required. This causes delays in processing the claims and also poses other challenges such as the risk of changes in interpretation of the query due to translation issues.

In Italy, for example, other languages such as English or French seem to be accepted as means of communication. However, all required official documentation should be in Italian. Both agents whose responses covered all Member States observed this phenomenon in a few other Member States, notably in the Czech Republic and Romania, where all supporting documentation submitted to substantiate a claim must be in the local language.

The experience of the VAT refund agents suggests that whenever translation of official documentation is required, the associated costs can pose a significant burden especially if there are long documents such as contracts that need to be translated in full. Other important issues are the associated notary and apostille costs and delays that may hamper the process and make it harder to meet filing deadlines. Depending on the volume of documents that need to be translated and notarised, the costs associated with a claim may outweigh the amounts being reclaimed. In such cases, translation costs can make it uneconomic for a VAT refund agent to pursue a claim.

**Engagement with tax administrations:  
Submitting claims - Language requirements**

Tax administrations reported negative experiences resulting from the use of different languages by Member States when submitting claims, in particular those where communication is only permissible in the native language. The Danish tax administration stated that it often assists Danish companies in translating correspondence from other Member States of Refund, noting that requiring Member States to communicate in either English, French or German would be a significant improvement. The Czech tax administration reported strong negative experiences resulting from the fact that communication is only permissible in Czech. The administration noted concerns that if a second permissible language for communication was introduced, it would be difficult to justify the choice of language to other Member States who speak neither.

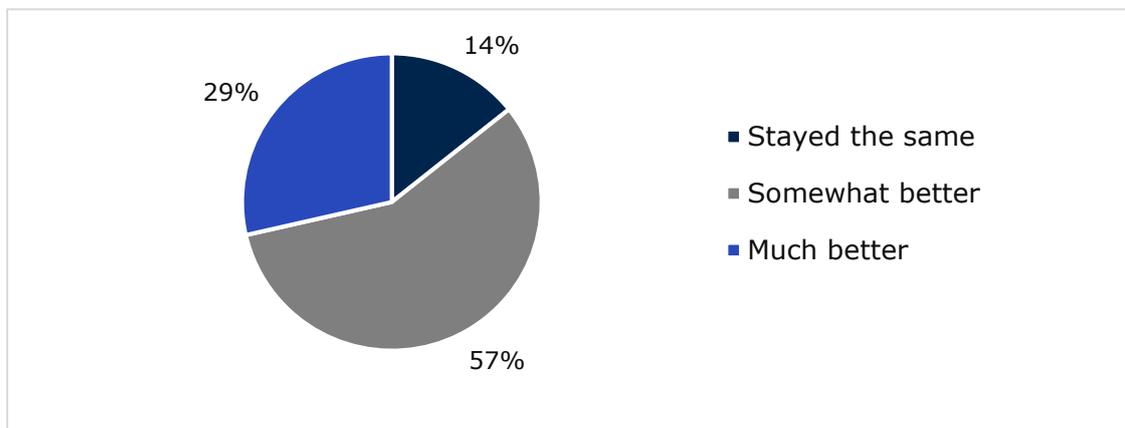
**5.2.9 Perceived improvement of process**

Figure 15 shows how businesses perceive the process for claiming a VAT refund to have changed over the last five years. None of the businesses surveyed considered that the process had worsened in this period of time. However, over 85% of

businesses considered the process to have improved while only 14% considered it to have remained the same. It should be noted that the number of responses from the businesses surveyed was limited in this area.

Businesses also provided examples of positive and negative experiences that they had with regards to making refund claims. Delays in processing claims, issues pertaining to language and lack of communication were some of the negative experiences that businesses reported. However, at the same time businesses acknowledged the fact that some tax administrations are very effective in communicating. The German tax administration was acknowledged for effective communication by businesses in Sweden and Romania.

**Figure 15: Perceived changes to the VAT refund claim process over the last five years**



Source: PwC analysis

### 5.2.10 Why might a business not submit a VAT refund claim?

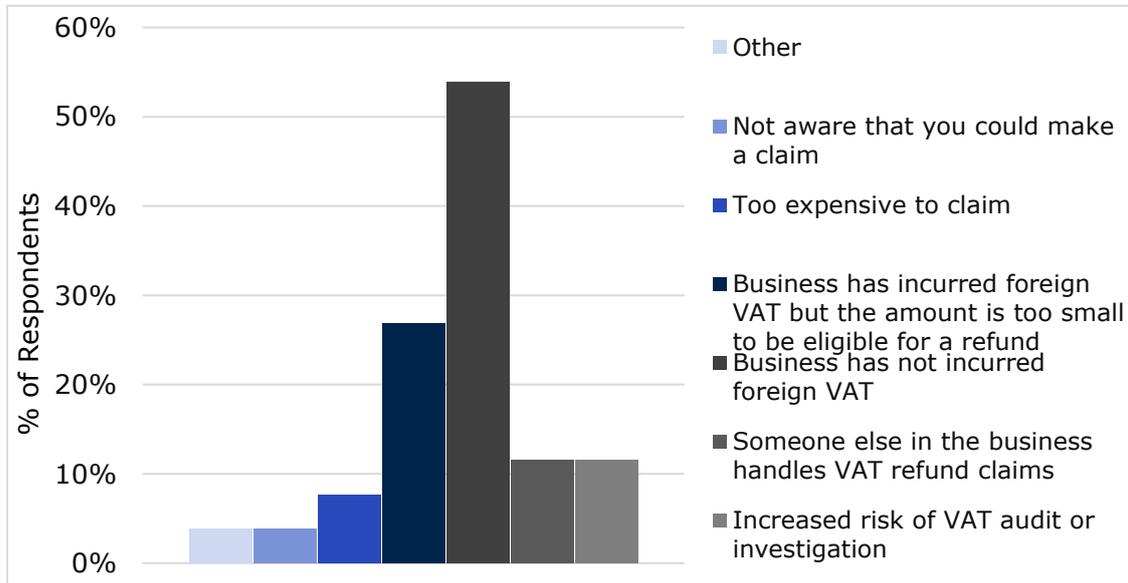
Of the 434 business surveyed, 26 respondents stated that they do not have experience in handling VAT refund claims.

Figure 16 highlights the potential reasons why these businesses might not submit a VAT refund claims.

The businesses surveyed recorded not having incurred any foreign VAT (54%) and VAT amounts being too small to be eligible for a refund in the Member State of Refund (30%) as the most common reasons for not having made a claim. This indicates that most of the businesses surveyed are aware that they can make a VAT refunds claim, but are simply not eligible to do so. This is further supported by the fact that only one business surveyed responded that they did not know about the possibility of submitting a VAT refund claim.

Interestingly, an increased risk of VAT audit or investigation (12%) was the third most common reason among the businesses surveyed for not submitting a VAT refunds claim. In addition, 8% of the businesses responded that it is too expensive for them to claim VAT.

**Figure 16: Reasons why a business might not submit a VAT refund claim**



Source: PwC analysis

### 5.2.11 Summary

The majority businesses surveyed that process claims in-house (71%) have IT systems in place to help prepare and submit a claim. Most of the businesses surveyed stated that they take between two and five hours to prepare and submit claims regardless of whether additional information is requested. The reason for this may be that businesses tend to collect information and documentation in preparation of the main claim submission. Overall, only 6% of respondents stated that they do not have any experience in handling VAT refund claims. The main reasons for this were mostly non-process related, for example, the business having not incurred any foreign VAT or VAT amounts being too small to be eligible for a refund. Moreover, 12% of the businesses surveyed stated that an increased risk of VAT audit or investigation was the main reason for them not submitting a claim and only 8% of respondents noted that claiming a VAT refund was too expensive. Furthermore, a majority of the businesses surveyed acknowledged that the process for making VAT refund claims overall had improved in the last five years.

Finally, businesses who stated that they had no experience making claims were asked what the common reasons for this were. These businesses recorded that not having incurred any foreign VAT and VAT amounts being too small to be eligible for a refund as the most common reasons for not making a claim. Thus, this indicates that most businesses surveyed are aware that they can make a claim but are simply not eligible to do so.



### 5.3 Processing efficiency of EU-28 tax administrations

In order to evaluate the current VAT refund regime and to assess its strengths and weaknesses, this section will examine the efficiency of tax administrations in processing VAT refund claims.

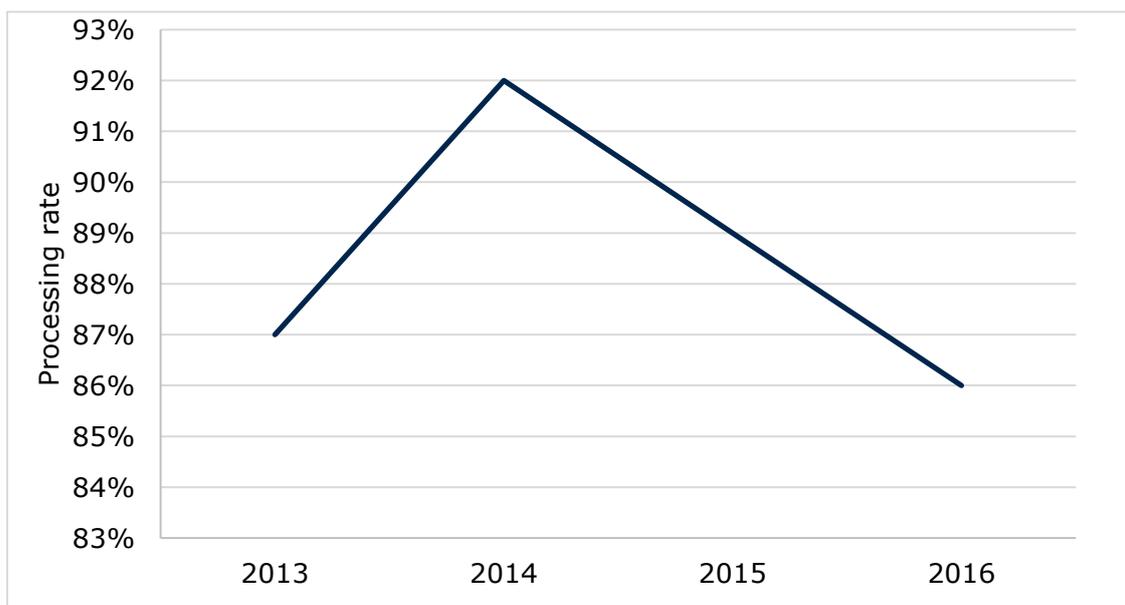
Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-26: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-21: Bulgaria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Greece, Hungary, Ireland, Italy, Finland, Luxembourg, Lithuania, Latvia, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-11: Bulgaria, Greece, Hungary, Italy, Latvia, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden.
- EU-9: Belgium, Bulgaria, Estonia, Finland, France, Hungary, Ireland, Portugal and Spain.

#### 5.3.1 Tax administration processing rates

The processing rate (i.e. the number of claims processed in 2016 as a percentage of the total number of claims brought forward from 2015 and received in 2016) for EU-26 tax administrations was 86% in 2016. This was the lowest level over the period 2013-2016, down from a high of 92% in 2014.

**Figure 17: Processing rate across the EU-26**

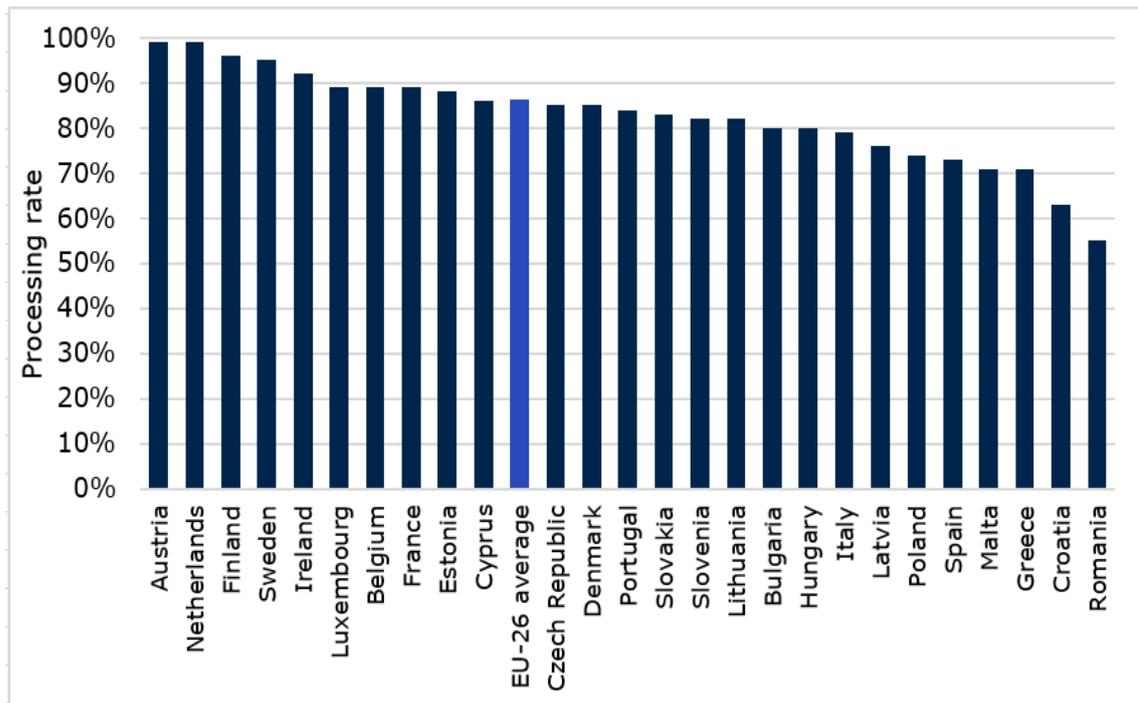


Source: European Commission data, tax administration data, PwC analysis



In 2016, 16 Member States of Refund reported a processing rate below the EU average, and 10 recorded a rate above this level. The rate ranged from 55% in Romania, to 99% in Austria and the Netherlands. The best performing Member States of Refund were concentrated in Northern and Western Europe, with nine of the 10 Member States with the highest processing rates located in these regions. The five least efficient Member States of Refund were located in Southern and Eastern Europe.

**Figure 18: Processing rates across the EU-27 in 2016**



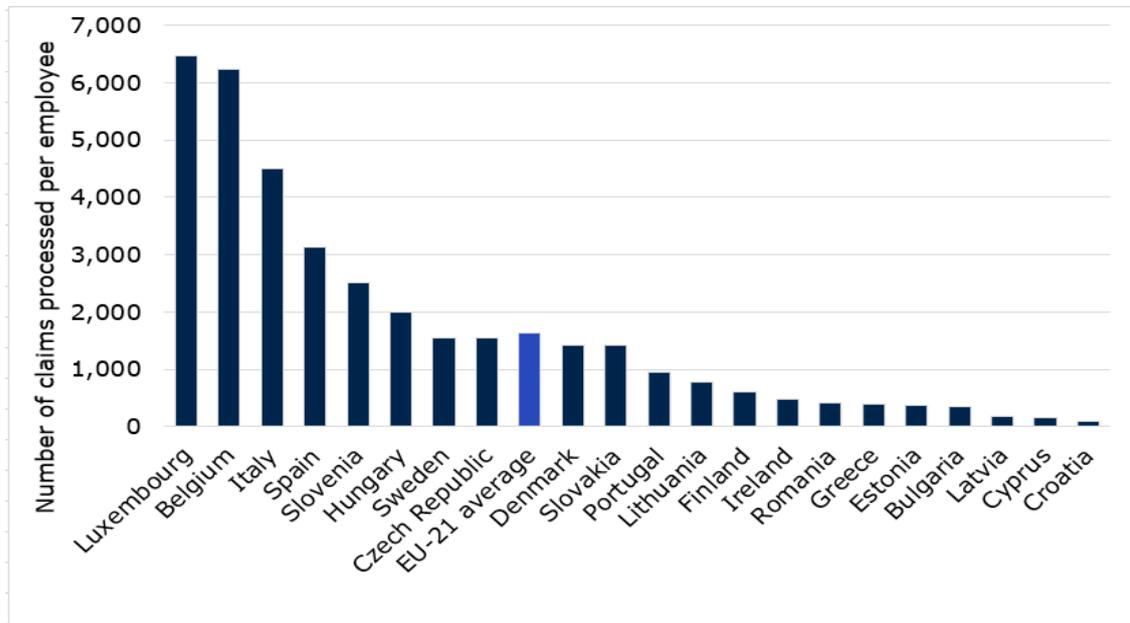
Source: European Commission data, tax administration data, PwC analysis

### 5.3.2 Processing workloads

The average number of claims processed per employee in 2016 across the EU-21 was 1,600. This varied greatly from 6,500 in Luxembourg to 90 in Croatia. There appears to be a direct correlation between processing rate and volume of claims processed per employee in most Member States. The only exception to this was Cyprus: while the processing rate in Cyprus was above the EU-26 average (86%), the volume of claims processed per employee was below the EU-21 average (second lowest at 150). It is not clear whether this variance is due to under/over-staffing or differences in productivity.

Regional trends were less obvious here, though this may be due to the relatively small dataset available. The bottom five Member States of Refund featured in Northern, Southern, and Eastern Europe.

**Figure 19: Claims processed per employee across the EU-21 in 2016**

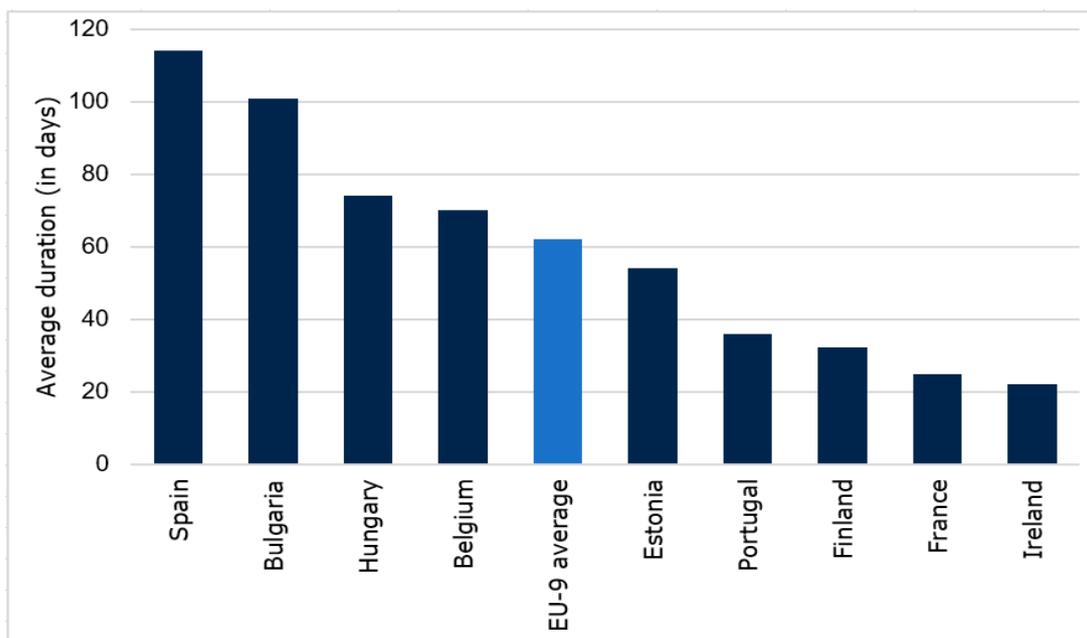


Source: European Commission data, tax administration data, PwC analysis

### 5.3.3 Processing duration of Member States of Refund

Across the nine Member States for which data on the average time taken to process a claim (excluding queried or rejected claims and those paid outside Article 19 deadlines) was available, the average duration was just over 60 days in 2016. Ireland and France were the two best performing countries, reporting average durations of 22 and 25 respectively. The worst performing countries were Spain and Bulgaria, with Bulgaria taking over four times as long and Spain over five times as long.

**Figure 20: Average processing duration across the EU-9 in 2016**



Source: Tax administration data, PwC analysis



#### **5.3.4 Processing duration of Member States of Establishment**

Directive 2008/9/EC does not explicitly state a time limit for Member States of Establishment to forward claims originating in their countries to the respective Member States of Refund. This is reflected by a wide disparity in the time taken by Member States of Establishment to send a claim to the Member State of Refund. For example, Italy took on average 14 days to forward a claim originating in their country to the respective Member State of Refund, whereas the average duration to forward a claim in Latvia, Slovenia and Sweden was only one day.

#### **5.3.5 Summary**

The processing efficiency of tax administrations fluctuated in the years 2013-2016, with an increase in the processing rate of tax administrations in 2014 followed by a return to 2013 levels in the subsequent two years.

For 2016, Austria, the Netherlands and Finland were found to be the most efficient Member States, while Romania, Croatia and Greece were found to be the least efficient.

There was a significant variance in the number of claims processed per employee among Member States in 2016. Luxembourg processed 6,500 claims per employee in 2016, while Croatia processed only 90. No regional trends in Member State efficiency were observed.

Ireland and France were the most efficient Member States measured by processing duration in 2016. Conversely, Spain and Bulgaria were the least efficient.

Finally, Directive 2008/9/EC does not explicitly state a time limit for Member States of Establishment to forward claims originating in their countries to the respective Member States of Refund. This is reflected by a wide disparity in the time taken by Member States of Establishment to send a claim to the Member State of Refund. For example, Italy took on average 14 days to forward a claim originating in their country to the respective Member State of Refund, whereas the average duration to forward a claim in Latvia, Slovenia and Sweden was only one day.

### **5.4 Queried claims**

This section explores how frequently VAT refund claims are queried and what drives the decision to query a claim.

Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-26: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden
- EU-22: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Romania, Slovakia, Slovenia, Spain and Sweden.



- EU-20: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-11 (for the purpose of most common expense types for which additional information was requested): Austria, Bulgaria, Czech Republic, Finland, Greece, Hungary, Italy, Lithuania, Slovakia, Slovenia and Sweden.
- EU-11 (for the purpose of percentage of claims queried within different value categories across the EU-11 Member States in 2016): Bulgaria, Croatia, Denmark, Finland, France, Hungary, Ireland, Lithuania, Portugal, Slovakia and Slovenia

#### 5.4.1 Number of VAT refund claims queried

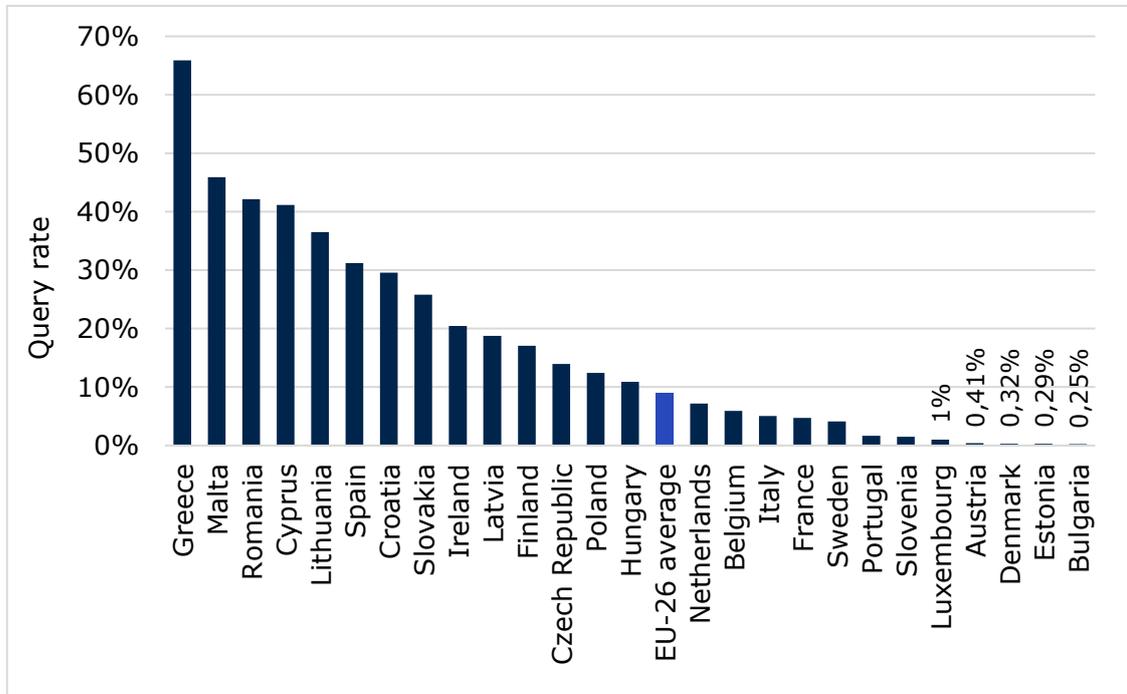
In 2016, tax administrations in the EU-26 queried just over 60,000 claims of the approximately 669,000 claims processed, equating to a query rate of 9%. The query rate fluctuated around 9% during 2014 and 2015 as well.

Looking at a detailed breakdown of query rates per Member State, as illustrated in

**Figure 21**, 14 of the 26 Member States analysed had a query rate above the EU average of approximately 9% in 2016. Tax administrations in Greece, Malta and Romania were identified as having queried a significant proportion of the claims processed in 2016, with query rates of 66%, 46% and 42% respectively. Conversely, the Member States with the lowest query rate in 2016 were Bulgaria, Denmark and Estonia, all having queried less than 0.5% of claims processed.

Information received from the Romanian and Greek tax administrations showed that both Member States make further checks rather than rejecting a claim where additional information requested from an applicant is not received within the deadlines set by Directive 2008/09/EC. Moreover, both tax administrations provided, compared to other Member States, a relatively long list of documents that are commonly requested. The Greek tax administrations stated that in many cases scanned copies of documents are either missing or not legible and have to be re-requested, license cards for international transportation for new applicants have to be obtained, or the power of attorney has to be requested in cases where the beneficiary of the bank account is not the claim applicant. Additional information requests in Romania are usually made for invoices and associated documents such as contracts or orders, documents regarding the scope of the purchase, proof of economic activity and final beneficiaries or the power of attorney for the person designated to receive the refund.

**Figure 21: Query rate across the EU-26 in 2016**

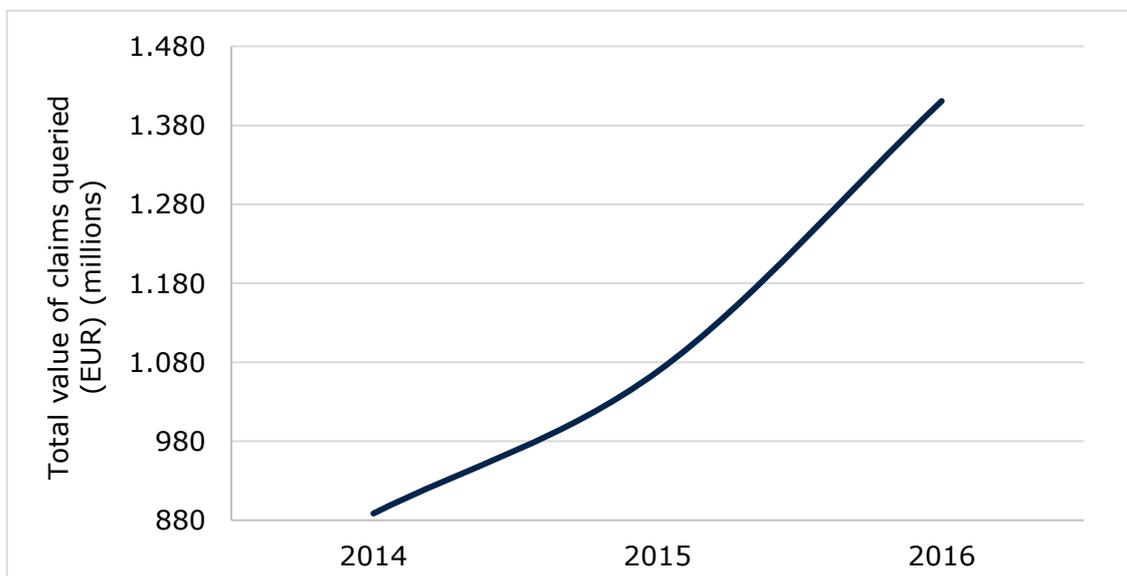


Source: European Commission data, tax administration data, PwC analysis

#### 5.4.2 Value of VAT refund claims queried

In 2016, the value of claims queried across the EU-26 equated to approximately EUR 1.4 billion. Looking at the period 2014-2016, as illustrated in Figure 22, the total value of claims queried increased significantly, growing by 58.8% over the period. This is in sharp contrast to the development of the volume of queried claims, which only saw a modest increase over the same three-year period.

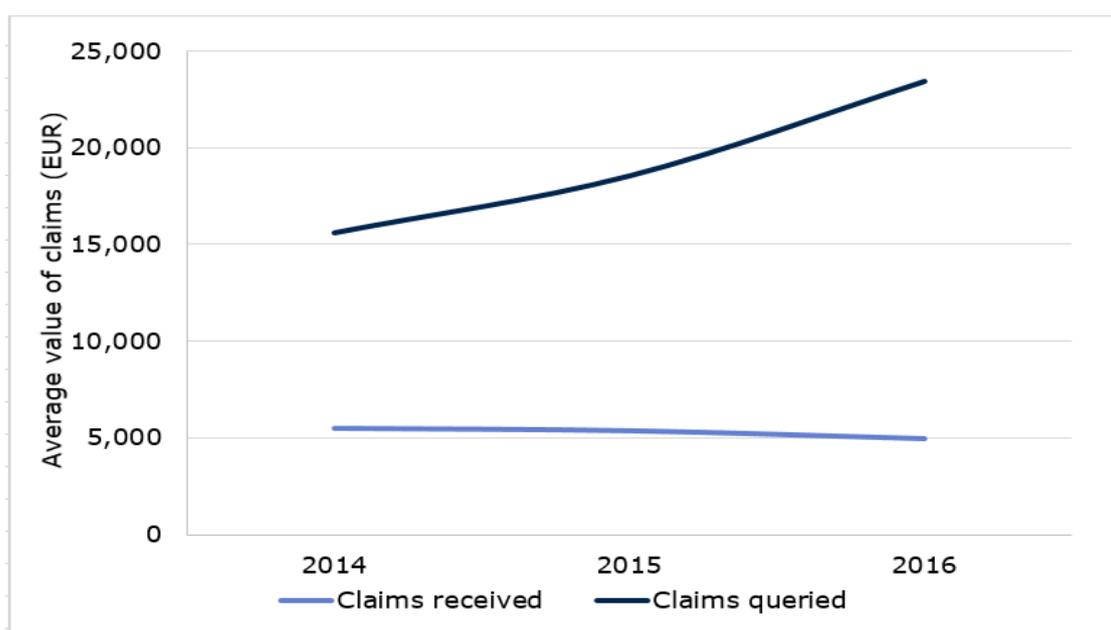
**Figure 22: Total value of claims queried across the EU-26**



Source: European Commission data, tax administration data, PwC analysis

In 2016, the average value per claim queried across the EU-26 was EUR 23,400 compared to an average value per claim received in the EU-20 of just over EUR 4,700. As shown in, the average value of a queried claim was consistently higher than the average value of a claim received by tax administrations over the period 2014-2016. This suggests that tax administrations use a risk based approach and target higher-value claims in their verification processes.

**Figure 23: Comparison of the average value of claims queried across the EU-26 and claims received across the EU-20**



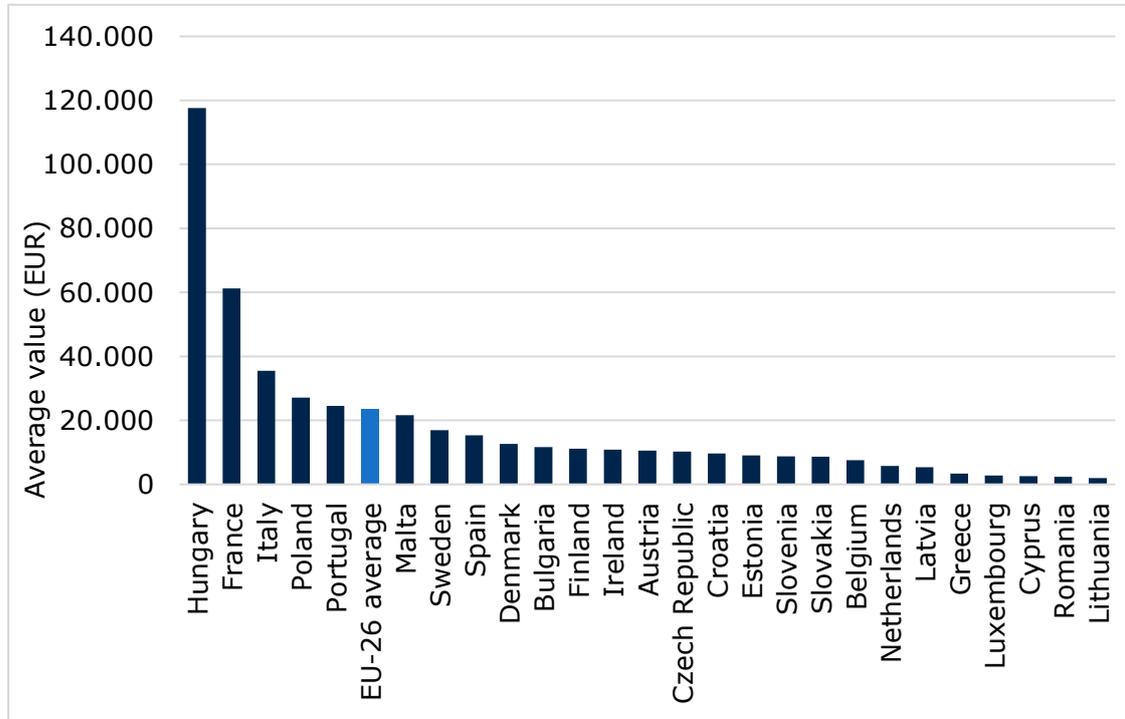
Source: European Commission data, tax administration data, PwC analysis

Overall, five Member States had an average value per claim above the EU-26 average of approximately EUR 23,400 in 2016. 24 shows that Hungary appeared to have queried larger claims, with an average value per queried claim of approximately EUR 118,000. Given that Hungary also has the highest average value per claim (approximately EUR 15,100), this appears to be in line with expectations.

However, given that domestic rules with regards to the eligibility of expenses for refund are currently not harmonised across the EU Member States, differences in the average size of a refund claim received across Member States are to be expected.

On the other hand, Lithuania (EUR 2,000) was the Member State that queried claims with the lowest value on average in 2016. The Lithuanian tax administration appears to use a volume-based approach to query claims, with 40% -60% of claims of a value of less than EUR 1,000 and 20% -40% of claims with a value between EUR 1,000 and EUR 5,000 having been queried in 2016. Claims with a value of more than EUR 5,000 are rarely queried. Considering claims received in Lithuania tend to be of a lower value, with an average value per claim received of EUR 2,500, these trends explain a lower average value per queried claim.

**Figure 24: Average value of queried claim across the EU-26 in 2016**



Source: European Commission data, tax administration data, PwC analysis

### 5.4.3 Distribution of VAT refund claims queried by value

In order to gain more insight into the sizes of claims that are most commonly queried by tax administrations, a breakdown of queried claims per value was requested from tax administrations. This information was collected from 11 Member States for 2016. Table 23 shows the percentage ranges of how many claims were queried by the EU-11 Member States within six specified value categories. Overall, the majority of EU-11 tax administrations appear to balance their queries between value categories fairly evenly, with, on average, approximately 20% of claims in each category being queried.

Contrary to that, Slovakia queries a relatively high share of claims across all value categories, and appears to focus on querying higher-value claims more frequently compared to tax administrations in other Member States, with 80%-100% of claims with a value over EUR 10,000 being queried. Considering Slovakia has a query rate of approximately 26% and an average value per queried claim of EUR 8,600, this suggests that the tax administration receives a large proportion of low-value claims.

In addition, Slovakia, Portugal and Denmark also appear to focus their efforts on querying high-value claims, with 60%-80% and 40%-60% of claims above EUR 30,000 being queried. Claims received by these three tax administrations with a lower value are queried less frequently, with a maximum of 20%, on average, attracting additional information requests. These Member States have a query rate below the EU-26 average of 1.7% and 0.32% respectively. This, again, suggests that high-value claims are a rarer occurrence in these countries.



**Table 3: Claims queried within different value categories across the EU-11 in 2016**

Member State	Claim value ≤ EUR 1,000	Claim value < EUR 1,000 but ≤ EUR 5,000	Claim value > EUR 5,000 but ≤ EUR 10,000	Claim value > EUR 10,000 but ≤ EUR 20,000	Claim value > EUR 20,000 but ≤ EUR 30,000	Claim value > EUR 30,000
Bulgaria	20-40%	0-20%	0-20%	0-20%	0-20%	0-20%
Croatia	0-20%	40-60%	0-20%	0-20%	0-20%	0-20%
Denmark	0-20%	20-40%	0-20%	0-20%	0-20%	40-60%
Finland	40-60%	20-40%	0-20%	0-20%	0-20%	0-20%
France	20-40%	20-40%	0-20%	0-20%	0-20%	0-20%
Hungary	40-60%	20-40%	0-20%	0-20%	0-20%	0-20%
Ireland	40-60%	20-40%	0-20%	0-20%	0-20%	0-20%
Lithuania	40-60%	20-40%	0-20%	0-20%	0-20%	0-20%
Portugal	0-20%	0-20%	0-20%	0-20%	0-20%	60-80%
Slovakia	20-40%	60-80%	60-80%	80-100%	80-100%	80-100%
Slovenia	0-20%	0-20%	20-40%	20-40%	20-40%	20-40%

Source: Tax administration data, PwC analysis

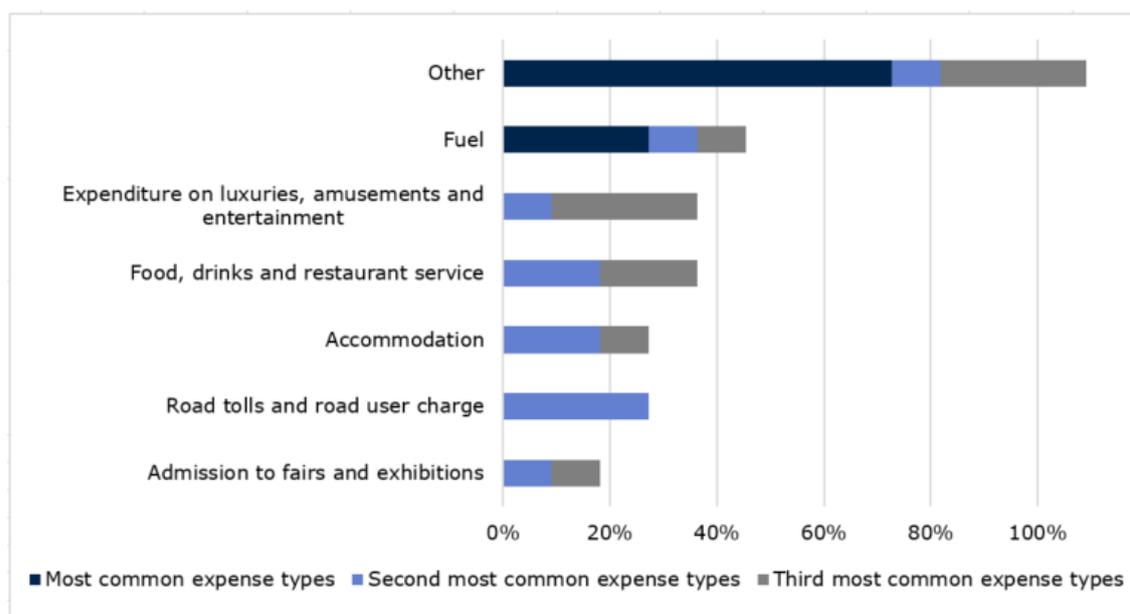
Key:

	0-20%		60-80%
	20-40%		80-100%
	40-60%		

#### 5.4.4 Additional information requested for VAT refund claims queried

Out of the 21 Member States for which data was available, 11 Member States noted that additional information requests are more common for certain expense types.<sup>18</sup> The most common ones were “other” expenses (72%) and “fuel” (27%), followed by expenses incurred for “road tolls and road user charges” (27%), “food, drinks and restaurant services” (18%), as well as “expenditure on luxuries, amusements and entertainment” and “admission to fairs and exhibitions” (9%).

**Figure 25: Most common expense types for which additional information was requested across the EU-11 in 2016**



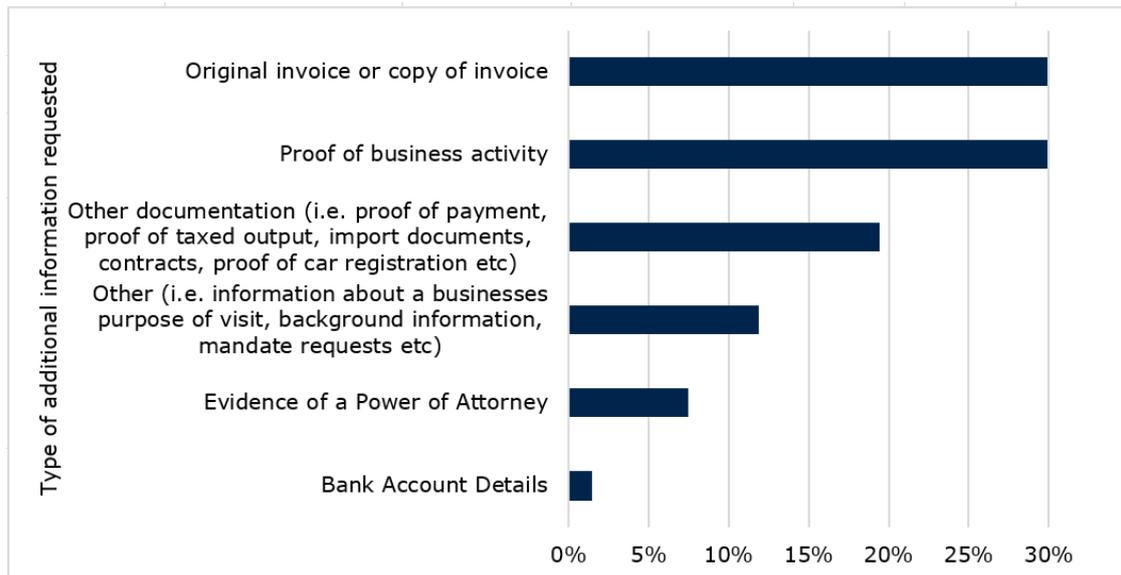
Source: Tax administration data, PwC analysis

Moreover, information with regards to the most common types of additional information requested was collected from taxpayer from 22 Member States. 75% of the EU-22 stated that claims are most commonly submitted for fuel expenses, explaining the higher frequency of queries for claims for this expense type. However, no Member State listed claims for “other” expenses as the most common expense type and only 13% of Member States listed this as the second most common expense for which claims are submitted.

Given refund requests for “other” expense types are generally claims for expenses that are more difficult to categorise, a higher volume of additional information requests seems to be natural. This is also reflected in the type of additional documentation requested. As illustrated in Figure 26 below, tax administrations in the EU-22 noted that the most common types of additional information requested are original invoices or copies of invoices, as well as proof of business activity (in 30% of cases). Moreover, other documentation such as proof of payment, import documents, contracts or proof of car registrations (19%) are also frequently requested.

<sup>18</sup> In order to assess for which expenses additional information is most commonly requested, the expense codes to describe the nature of goods and services acquired as outlined in Directive 2008/09/EC were used. Please see appendix 2 for more details.

**Figure 26: Common types of additional information requested across the EU-21 in 2016**



Source: Tax administration data, PwC analysis

### **Engagement with tax administrations: Problems with additional information requests**

In interview, tax administrations expressed views on common problems with documentary evidence submitted by the claimant in response to a request for additional information. Common issues include insufficient evidence that the expense was incurred for business purposes and low-resolution invoices. Indeed, one tax administration mentioned that a number of claimants are, as a matter of course, uploading with their claims a statement explaining the nature of their business in order to help the tax administration to establish that the underlying expenditure was incurred wholly and exclusively for business purposes. An absence of risk analysis software could also a cause of additional information requests. For example, the Greek tax administration does not use an electronic system to determine the relative risk of a claim, and, as such, the administration requests additional information on a more frequent basis.

Results from the business survey further substantiate findings from data collected from tax administrations on the most common pieces of information to be requested. According to the business survey respondent that process VAT refund claims in-house, originals and copies of invoices are the most common type of information requested by tax administrations. This is followed by evidence of business purpose for the underlying expenditure and non-invoice related information.

Qualitative data gathered from the Phase 2 agents' questionnaire also supports the findings from the tax administration data.

Data from all four VAT refund agents who responded to the Phase 2 survey indicates that the three most common pieces of additional information that are requested by the



tax administrations are invoices (original or copies), proof that expenses were incurred and other supporting documentation to demonstrate the eligibility of expenses.

One agent, in a response which covered all Member States, suggests that there is a general tendency for most Member States, and in particular the United Kingdom, to make "excessive requests for details relating to claim validation and submission, detailed and impractical requests on incurred expenses. Requests are often not proportional to the detail being verified and are excessively onerous when considering substance over form".

Across all the agents who responded to the survey, the three most common expense types for which additional information is requested are "accommodation", "other", "food, drinks and restaurant services" and "fuel".

#### **5.4.5 Common issues faced by businesses**

Of the 217 businesses surveyed, 71% of respondents that process claims in-house recorded that tax administrations ask for additional information for 50%- 90% of the claims submitted. This resonates with the VAT refund agents survey finding that all Member States have a tendency to require disproportionate amounts of information for the purposes of claim validation. This perception is in contrast to information received from tax administrations across the EU-26, which demonstrated a query rate of only 9% in 2016.

Qualitative data gathered from the Phase 2 agents' questionnaire highlights some important examples of deficiencies in the process of complying with additional information requests from tax administrations.

Almost all the VAT refund agents who responded highlighted that communicating with Member States and obtaining status updates and feedback on outstanding applications has become an increasingly difficult process to manage.

One VAT refund agent, in a response which covered all Member States, experiences recurring and ongoing issues with requests for additional information with all Member States in some instances. In particular, an area of concern seems to be the communication between the agent and the tax administration in respect of requests for additional information. For example, in France and the UK there have been cases where requests for additional information have gone to the agent, the taxpayer or both. This suggests that there are inconsistencies in communication channels that make it harder for the agent/taxpayer to properly monitor such requests.

#### **5.4.6 How taxpayers are notified that the additional information has been received**

VAT refund agents provided data on how taxpayers are notified of additional information request. Data from all agents who responded to the Phase 2 survey suggests that, generally, tax administrations do not issue a notification when they have received additional information. The agents will not hear back from the tax administration until the claim has been either accepted, rejected or reduced. The data suggests that there is a high degree of inconsistency both in the way additional information is submitted to the tax administration and in the way agents are notified that such information has been received by the tax administrations.



The agents report that some Member States require additional information to be sent by post, while others accept also electronic email submissions. A few Member States, such as the United Kingdom, do acknowledge the receipt of such information by email, while others send no notification of receipt.

Two of the four agents, one in a response covering all Member State and one in a Germany specific response, highlighted Germany as having particularly significant issues with additional information. This is further substantiated by the fact that the European Commission has commenced infringement proceedings against Germany in respect of its non-compliance with Article 20.<sup>19</sup>

They reported that the German tax administration is no longer making requests for additional information, but is instead rejecting applications, even in cases where there are missing scans of invoices or low resolution scans – information which it is likely the taxpayer could provide if requested.

Given the approach followed by the German tax administration, in practice, the only way for the agents or taxpayers to pursue a claim after it has been rejected is to file an appeal. This, in turn, delays the refund process and makes it harder for taxpayers to comply with the rules in what could have been a much simpler process if the tax administration had issued additional information requests as foreseen by the paragraph 1 of Article 20 of Directive 2008/9/EC.

It is worth noting that the German tax administration has not provided any information with respect to VAT refunds. As a result an assessment cannot be made on the impact of the approach followed by the German tax administration as highlighted by the agents' data.

#### **5.4.7 Summary**

In 2016, tax administrations in 26 EU Member States (excluding Germany and the United Kingdom) queried just over 60,000 claims, equating to a query rate of 9%.

Responses from businesses show that the tendency of tax administrations to request additional information is widespread across the EU and appears to be increasingly formalistic. Approximately 70% of the businesses surveyed received requests for additional information frequently, very frequently or almost always. This may be explained by the fact that some of the businesses surveyed submitted a large share of their claims to Member States of Refund with query rates higher than the EU average. However, this connection could only be established for businesses surveyed in Greece, which submitted approximately 16% of their claims to Cyprus as a Member State of Refund. Cyprus had a query rate of 41% in 2016, which was significantly above the EU average. Businesses surveyed in other Member States of Establishment included in the business survey submitted large proportions of their VAT refund claims to the German and UK tax administrations, for which no data on query rates was available.

### **5.5 Approval rates and VAT refund claim rejections**

This section explores how many claims are approved and rejected by Member States of Refund, the justifications provided for rejections, and the impact that rejections have on businesses.

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<sup>19</sup> See press release dated 24 January 2019: IP/19/472



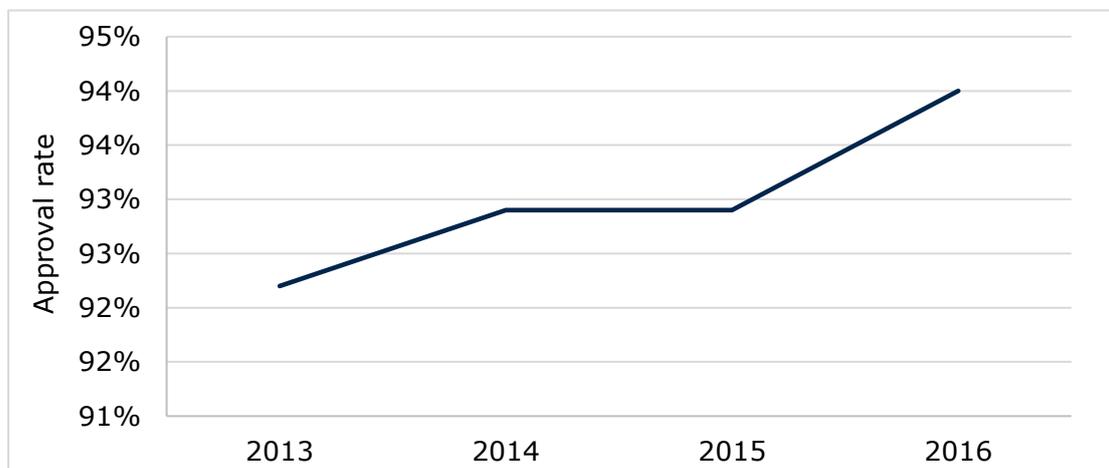
Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-26: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-25: Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-19: Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Slovakia, Slovenia, Spain and Sweden.

### 5.5.1 Number of VAT refund claims approved

Tax administrations across the EU approved 629,000 of the 669,000 claims processed in 2016, equating to an approval rate of approximately 94%. There has been a consistent increase in the number of claims approved between the periods 2013-2016. The lowest number of claims approved was in 2013 (556,000) and the approval rate was 92.5% (See Figure 27 below).

**Figure 27: Rates of approval in the EU-26**



Source: European Commission data, tax administration data, PwC analysis

As depicted in Figure 28, 11 Member States had an approval rate above the EU average of 94% in 2016. Tax administrations in France, Finland and Austria approved the most claims processed, approving 97.1%, 96.8% and 96.4% of claims respectively. Considering France and Austria also contributed the highest share of claims processed in this period, a higher share of approved claims is expected.

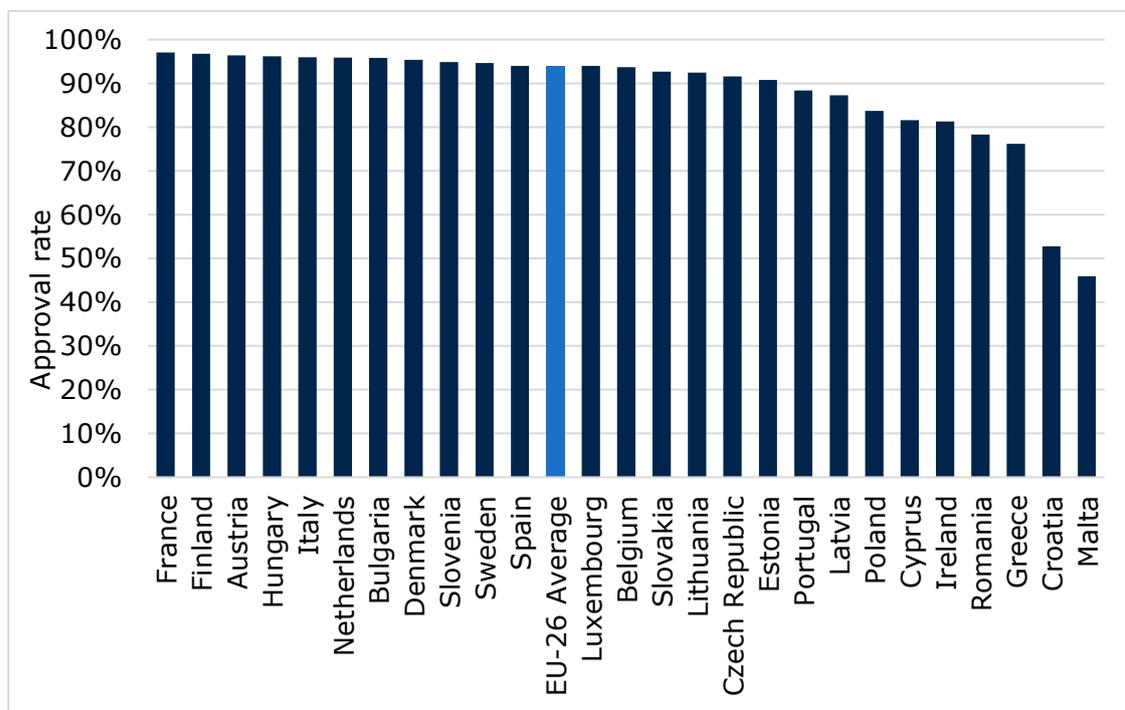
Compared to this, Malta (45.9%), Croatia (52.8%) and Greece (76.2%) had the lowest approval rates in the same period. A lower approval rate may be the result of more claim queries or additional information requests. This is evidenced by the fact



that all three Member States had query rates well above the EU-26 average of 9%, querying 45.9%, 29.6% and 65.9% of claims respectively.

According to more detailed evidence from 21 EU tax administrations, there is no relationship between approvals/rejections and additional information requests. For example, in Greece and Romania, where further enquiries are made by tax administrations before making a decision if taxpayers do not submit requested additional information within the deadline, approval rates are low. Meanwhile, in France and Finland, where tax administrations automatically reject a claim if additional information requested from a taxpayer is not submitted in a timely manner, approval rates are high.

**Figure 28: Rates of approval across the EU-26 in 2016**

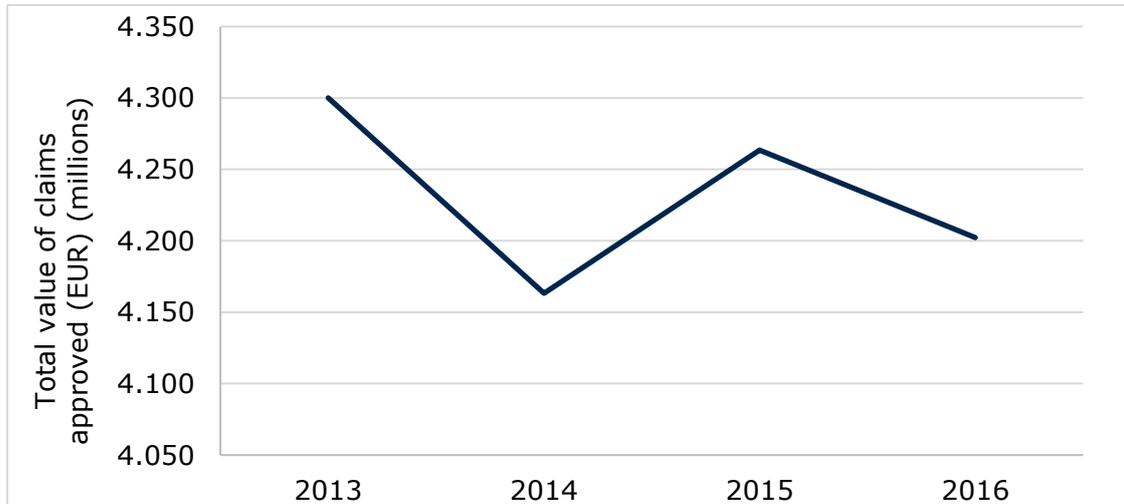


Source: European Commission data, tax administration data, PwC analysis

### 5.5.2 Value of VAT refund claims approved

In 2016, tax administrations approved claims amounting to over EUR 4.2 billion, which equates to 93.6% of the total value of all claims processed in the year. As illustrated in Figure 29, the total value of claims approved fluctuated over the four-year period, with a maximum of EUR 4.3 billion in 2013 and a low of under EUR 4.2 billion in 2014.

**Figure 29: Total value of claims approved across in EU-26**

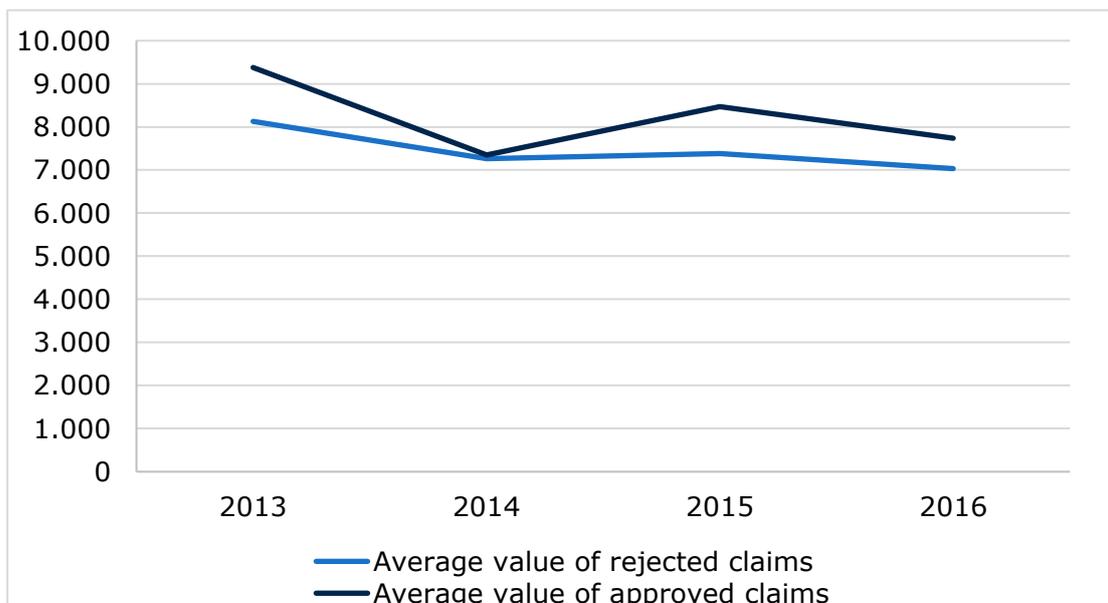


Source: European Commission data, tax administration data, PwC analysis

Looking at the EU average value of an approved claim, a downward trend was experienced over the period 2013-2016. As shown in Figure 30, the average value of an approved claim was just over EUR 7,000 in 2016. This was 15.6% lower than in 2013, where tax administrations approved claims with an average value of EUR 8,100.

The EU average value of rejected claims was higher than that for approved claims in 2016 at approximately EUR 7,700. While it fluctuated more than the average value for approved claims, it also decreased slightly (by 21.2 percentage points) since 2013.

**Figure 30: Comparison of the average values of approved and rejected claims in the EU-25**



Source: European Commission data, tax administration data, PwC analysis

Figure 31 shows that 10 Member States approved claims with an average value higher than the EU-26 average of EUR 6,700 in 2016. Malta, Hungary, France and Poland approved claims with the highest average values: EUR 21,600, EUR 15,900, EUR

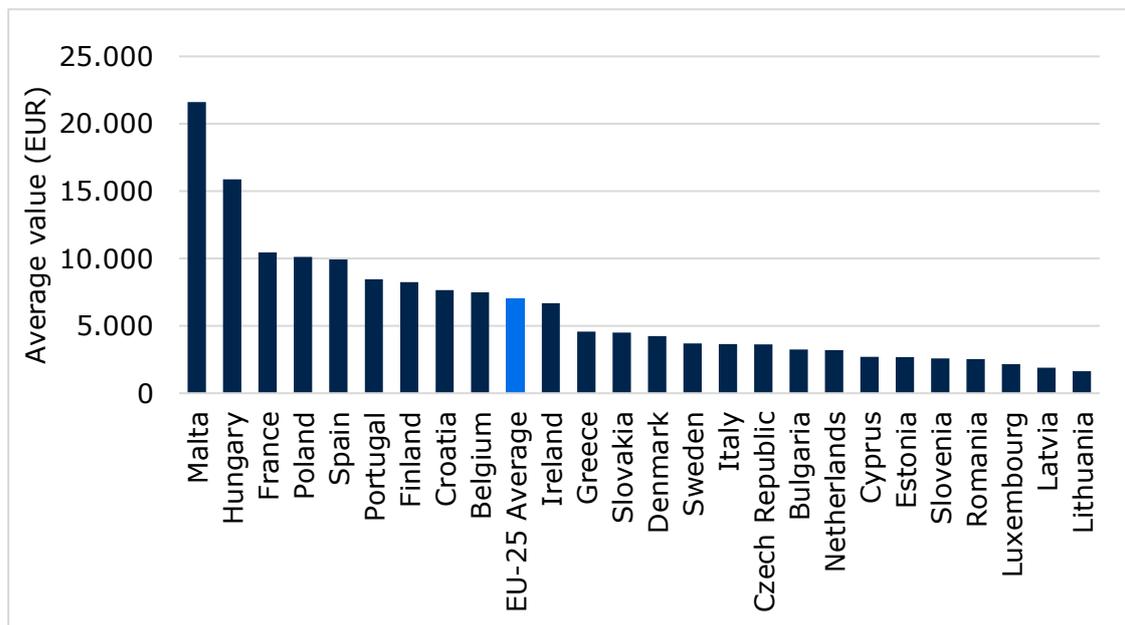


10,500 and EUR 10,100 respectively. No data regarding the average value of a claim received was available for Malta. However, for Hungary, France and Poland, a clear trend of claims above EU-averages can be identified as the average value of a claim received in 2016 was also significantly above the EU-24 average, at EUR 15,200, EUR 8,300 and EUR 11,400 respectively.

Compared to this, as illustrated in Figure 32, seven Member States had an average value of a rejected claim above the EU-25 average in 2016. Italy was the Member State that rejected claims with the highest average value at nearly EUR 26,000, followed by Poland and Spain with average values of a rejected claim of EUR 17,100 and EUR 13,200 respectively. Considering the average value of a claim received by these three tax administrations in 2016 was EUR 4,600, EUR 11,400 and EUR 5,100 respectively, this suggests that high-value claims are more likely to be rejected.

Romania, Latvia and Luxembourg had the lowest average values per claim rejected in 2016, with EUR 1,000, EUR 1,200 and EUR 1,300 respectively. Especially for Romania this may be driven by a large volume of low value claims being rejected. This finding coincides with further information received from the Romanian tax administration, namely that one of the main reasons for claims to be rejected is that they do not meet minimum value thresholds established in domestic legislation implementing Article 17 of Directive 2008/9/EC.<sup>20</sup>

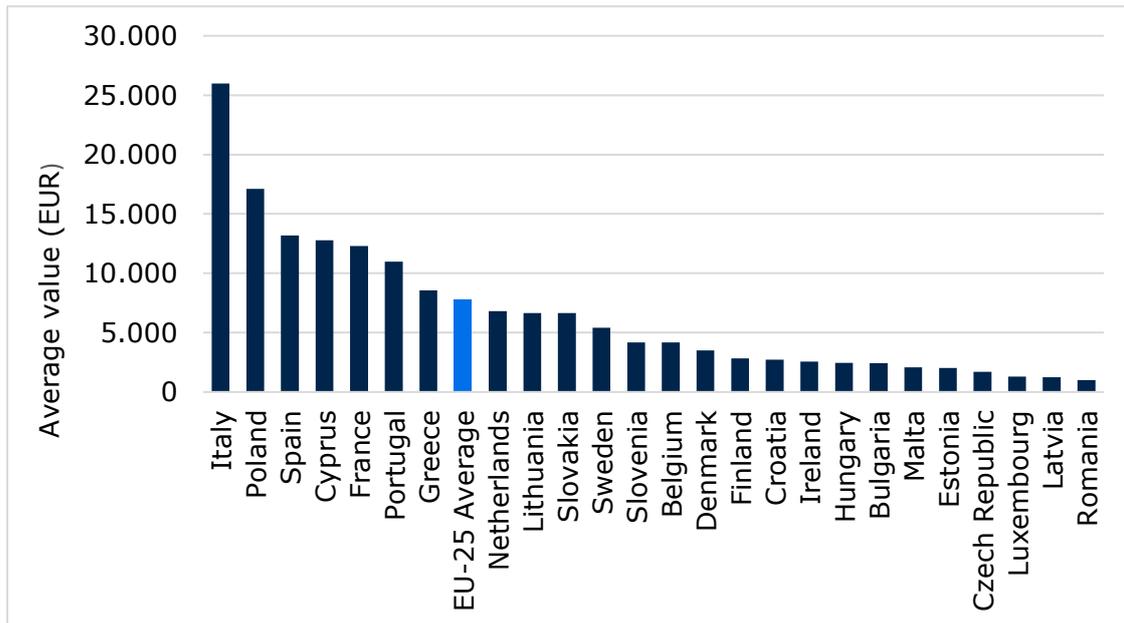
**Figure 31: Average value of approved claims across the EU-25 in 2016**



Source: European Commission data, tax administration data, PwC analysis

<sup>20</sup> Article 17 of Directive 2008/9/EC states that "if the refund application relates to a refund period of less than one calendar year but not less than three months, the amount of VAT for which a refund is applied for may not be less than EUR 400 or the equivalent in national currency. If the refund application relates to a refund period of a calendar year or the remainder of a calendar year, the amount of VAT may not be less than EUR 50 or the equivalent in national currency."

**Figure 32: Average of rejected claims across the EU-25 in 2016**



Source: European Commission data, tax administration data, PwC analysis

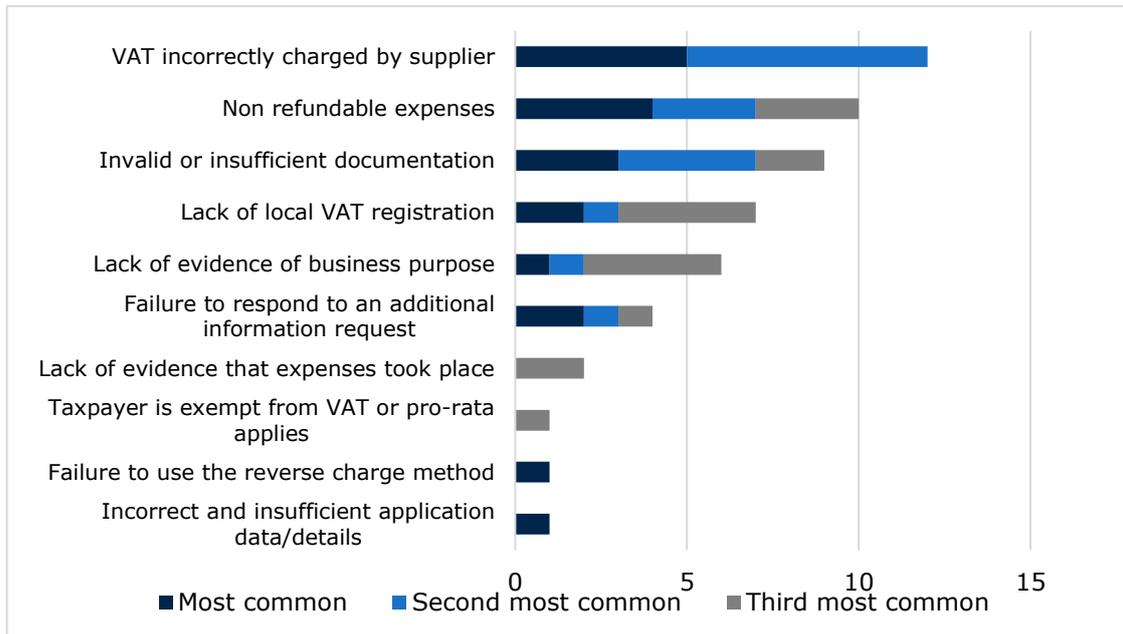
### 5.5.3 Common justifications for rejections

Tax administrations in 19 Member States provided more detailed information regarding the issues they commonly encounter that lead to claims being rejected. As illustrated in Figure 34, this was due to the expenses being non-refundable based on domestic legislation or provisions outlined in Directive 2008/9/EC or because suppliers incorrectly charged VAT. As highlighted in section 5.1.4 eligibility rules for expense categories vary by Member State of Refund. In particular, Member States of Refund tend to differ in the way they treat expenses relating to “food, drink and restaurant services”, “Expenditure on amusement, luxuries and entertainment” and “accommodation”.

Failure of the applicant to respond to additional information requests also featured in the common reasons for claim rejections. 55% of tax administrations would reject a claim automatically if a taxpayer failed to submit additional information requested within the relevant deadlines outlined in Article 20 of Directive 2008/9/EC.

Taxpayers failing to correctly use the reverse charge method, being exempt from VAT or not correctly applying a pro-rata, as well as not being able to provide evidence of the legitimacy of an expense were among the least common issues encountered by tax administrations.

**Figure 33: Common justifications for the rejection of claims in the EU-19 in 2016**



Source: Tax administration data, PwC analysis

**Engagement with tax administrations:  
Claims rejected because a local VAT registration is required**

In interview, a number of tax administrations mentioned that VAT refund claims are commonly rejected because the claimant should be registered for VAT in the Member State of Refund. Where this occurs, the claimant is generally directed toward tax administration guidance on how to register for local VAT. In addition, the case may be referred to the competent department dealing with VAT registrations for foreign traders for further action.

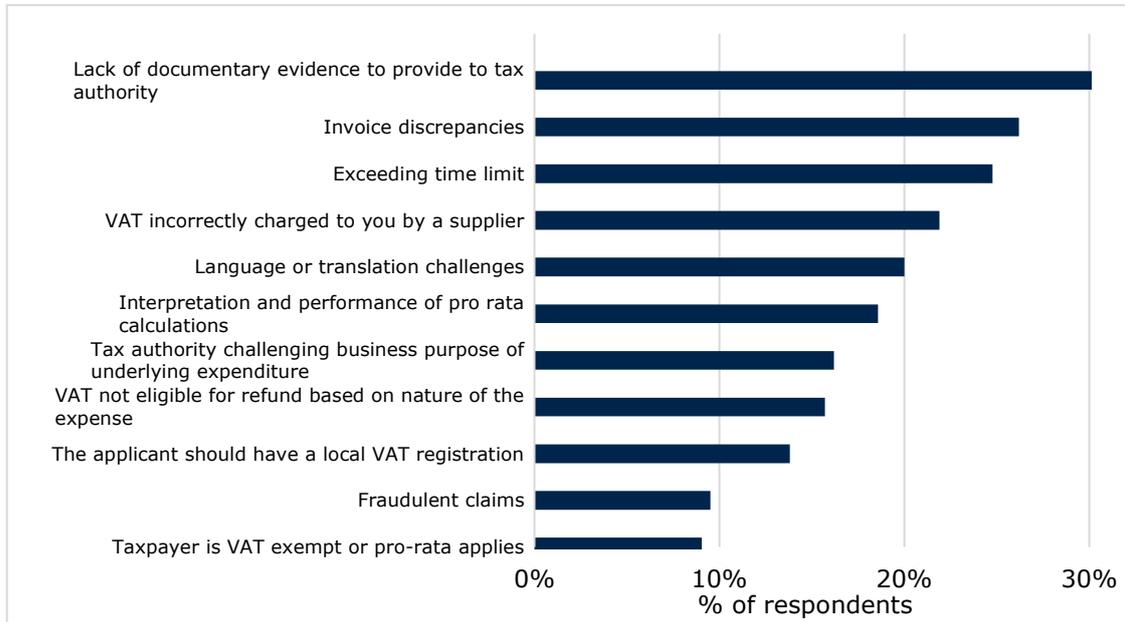
Figure 34 shows common grounds for rejection according to the businesses surveyed. Business perceptions as to why tax administrations reject claims align with that of the VAT refund agents and the reasons given by tax administrations. As seen in figure 34, the most common reasons are invoice discrepancies, lack of documentary evidence to provide to tax administrations, exceeding time limits and VAT incorrectly charged by the supplier.

In particular, it is interesting to note that while businesses surveyed recorded a lack of documentary evidence to provide to tax administrations as the most common reason for claims being rejected, tax administrations stated invalid and insufficient documentation as the third most common reason for claims being rejected.

This indicates that tax administration requirements with regards to additional information may be burdensome for businesses who may often lack appropriate documentary evidence. Failure to produce the right documentation then leads to claims being rejected on the grounds of invalid and insufficient documentation. This

can be problematic, particularly in light of businesses having noted that requests for additional information by tax administrations are very frequent.

**Figure 34: Common reasons given to businesses for rejecting VAT refund claims**



Source: PwC analysis

In addition, the results of the Phase 2 agents' questionnaire are also broadly consistent with the observations from the tax administration data, as they suggest that across the EU-28 the three most common reasons for refunds being rejected in whole or in part are:

1. VAT incorrectly charged by supplier;
2. Lack of evidence of business purpose; and,
3. VAT not eligible for refund based on nature of the expense.

The issue of VAT being initially charged incorrectly and then claimed through a refund is evident across all the agents' responses. Some examples include, purchases which are subject to the reverse-charge mechanism, exempt purchases, and purchases with variable VAT rates. Such an approach might indicate a lack of understanding of domestic rules and suggests that there is more to be done in educating or upskilling businesses with respect to the general application of VAT rules. Also, a lack of evidence that the expenses have been incurred exclusively for business purposes` is among the main reasons for claims being rejected. This again may suggest a deficiency in understanding domestic rules.

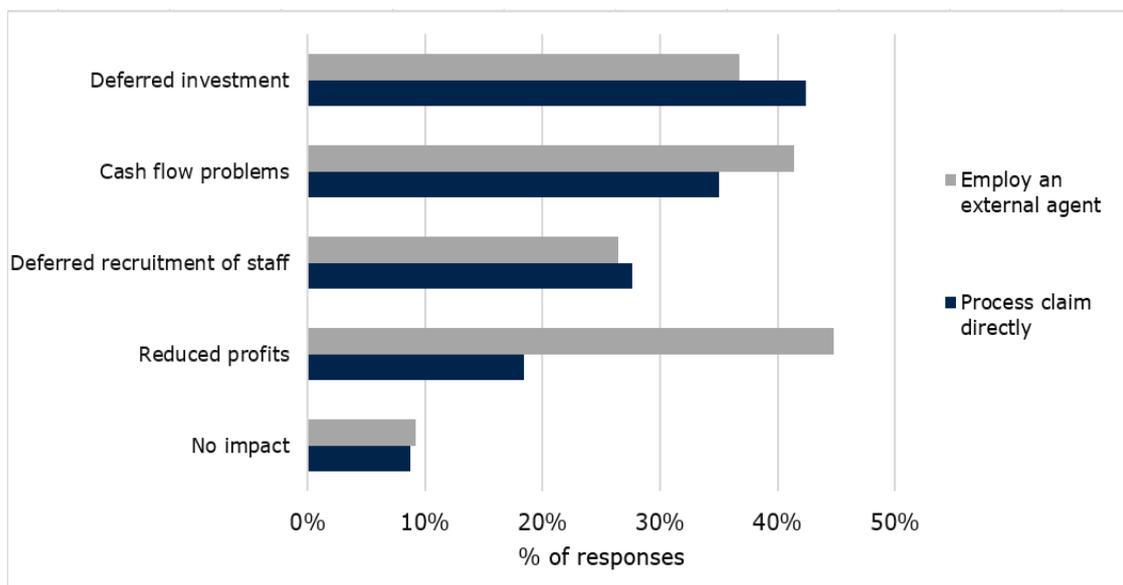
#### 5.5.4 How can a rejected VAT refund claim affect a business?

Figure 35 shows the impact that rejected claims have on businesses. Only 8% of business surveyed that process claims in-house and 9% of businesses surveyed that employ external agents said that rejection of claims had no impact on their businesses. Thus, most of the businesses surveyed are affected by claim rejections.

Of the 217 business surveyed that process claims in-house, 42% recorded that rejection of a claim could lead to the deferral of investment. Cash flow problems and deferred recruitment of staff were recorded as the second and third most common impacts of claims being rejected. This highlights the fact that businesses do rely on the refund of VAT for their day-to-day operations.

18% of the businesses surveyed that process claims in-house recorded that the rejection of claims reduced their profits. In contrast, of the 87 businesses surveyed that employ external agents, 44% of respondents recorded reduced profit as the impact of a claim being rejected. The reason for businesses employing external agents being affected more severely by reduced profits than those that process claims in-house may be that businesses typically use agents to process high value claims. Thus, rejection of high value claims is likely to have a bigger impact on business profits.

**Figure 35: Impact of rejected VAT refund claims on businesses**



Source: PwC analysis

### 5.5 5 Summary

In 2016, tax administrations in 26 EU Member States had a claim approval rate of 94%. Approval rates have increased by 1.8% over the period 2013-2016.

Decisions seem to be made on a case-by-case basis, and there does not appear to be a relationship between approvals and types of expenses or additional information requests. Businesses recorded invoice discrepancies, a lack of sufficient documentary evidence, VAT having been incorrectly charged by suppliers and the business requiring a local VAT registration as the most common reasons for claims being rejected by tax administrations. This aligns with responses received from tax administrations and VAT refund agents. When rejections do occur, businesses indicated that they experience adverse cash flow impacts (35% of respondents), deferral of investment (42%) and hiring (28%), and in some instances reduced profits (18%).

## 5.6 Prevalence of delays, drivers and impacts on businesses

This section covers the prevalence of delays in the processing of VAT refund claims, common reasons for delays and how perceptions of delays differ between taxpayers and tax administrations.

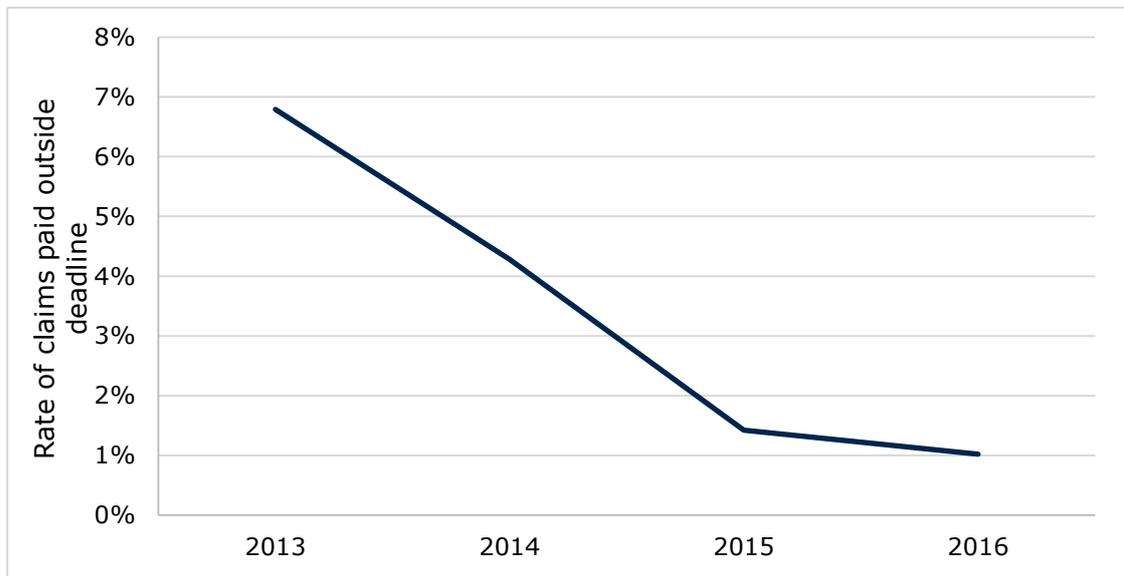
Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-18: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Luxembourg, Romania, Slovakia, Spain and Sweden.
- EU-17: Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Luxembourg, Portugal, Romania, Spain and Sweden.
- EU-14: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Slovakia, Slovenia and Sweden.

### 5.6.1 Number of claims paid outside deadlines

Data from 17 Member States shows that between 2013 and 2016 delays in the VAT refund process fell by 85% across the EU. By 2016, just 1% of claims processed by EU tax administrations were paid outside statutory deadlines, down from nearly 7% in 2013.

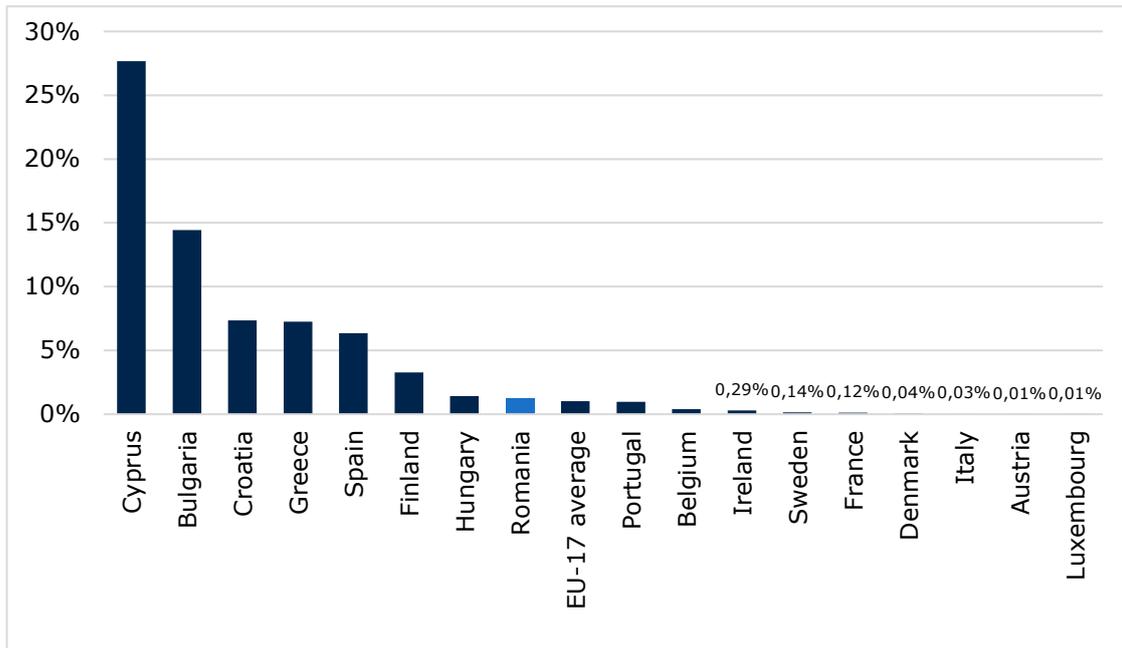
**Figure 36: Rate of claims paid outside deadlines in the EU-17**



Source: Tax administration data, PwC analysis

When the data on delays was broken down on a country-by-country basis for the year 2016, it was also revealed that the average figure had been skewed by a small number of poorly performing countries, in particular Cyprus and Bulgaria which recorded delay rates of 27.7% and 14.4% respectively.

**Figure 37: Rate of claims paid outside deadline across the EU-17 in 2016**

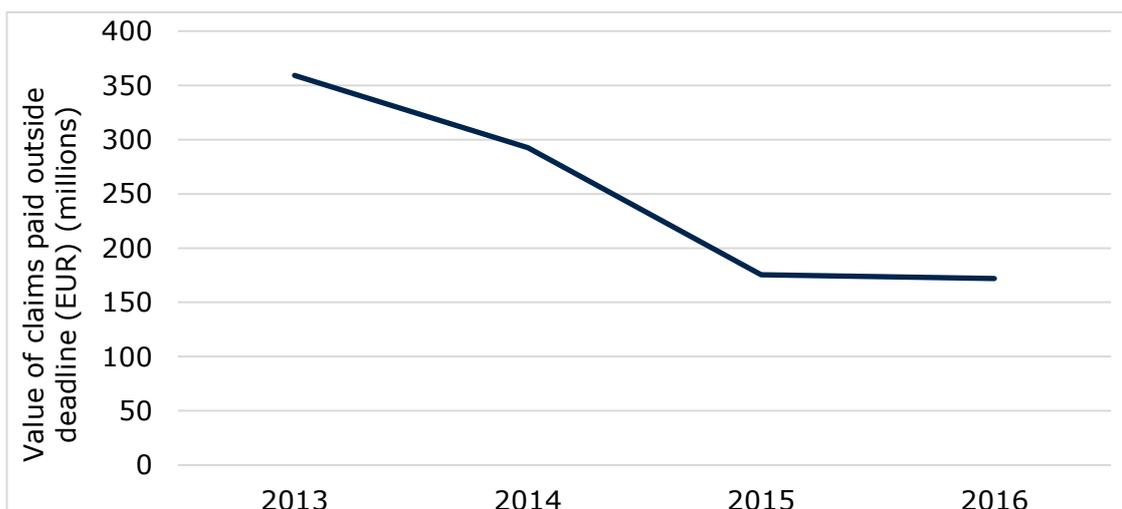


Source: European Commission data, tax administration, PwC analysis

### 5.6.2 Value of claims paid outside deadlines

As the number of delayed claims fell year-on-year, so too did the total value falling from EUR 359.2 million in 2013 to EUR 171.9 million in 2016, a decrease of over 50%. Similarly to the rate of claims paid outside deadlines, the biggest improvements in the value of claims paid outside deadlines were seen in 2014 and 2015, with little change on the previous year in 2016.

**Figure 38: Value of claims paid outside deadline in the EU-17**

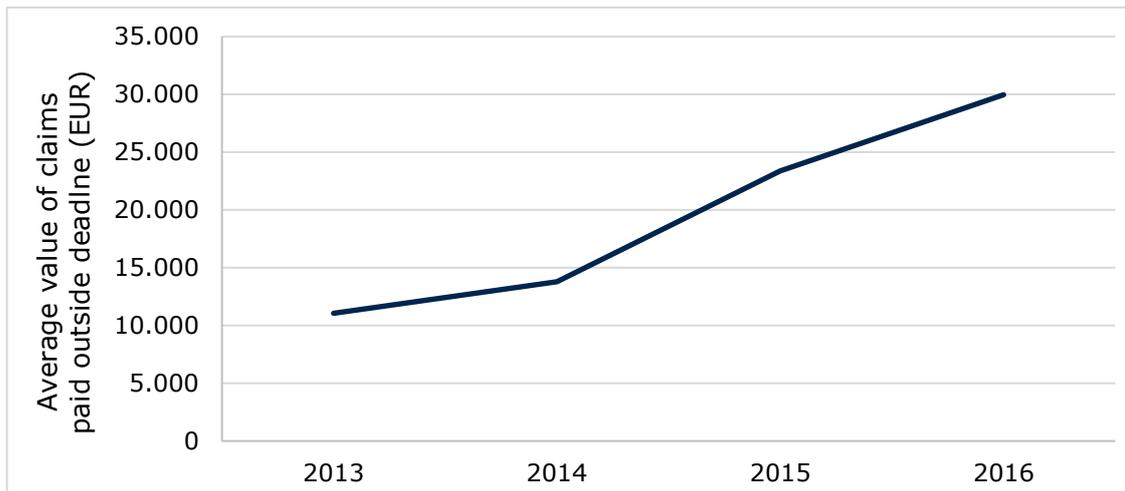


Source: European Commission data, tax administration data, PwC analysis

However, between 2013 and 2016 the average value of a delayed claim rose from EUR 11,000, to EUR 30,000, an increase in value of over 270%. This suggests that the improvements in the number of claims paid outside deadlines since 2013 were

achieved through reducing delays in lower-value claims. Though a breakdown of changes in the frequency of delays by claim size is unavailable, the available data suggests significantly less progress has been made on reducing delays among high-value claims and, therefore, that processing high-value claims within statutory deadlines still remains a challenge across the EU.

**Figure 39: Average value of claims paid outside deadline in the EU-17**

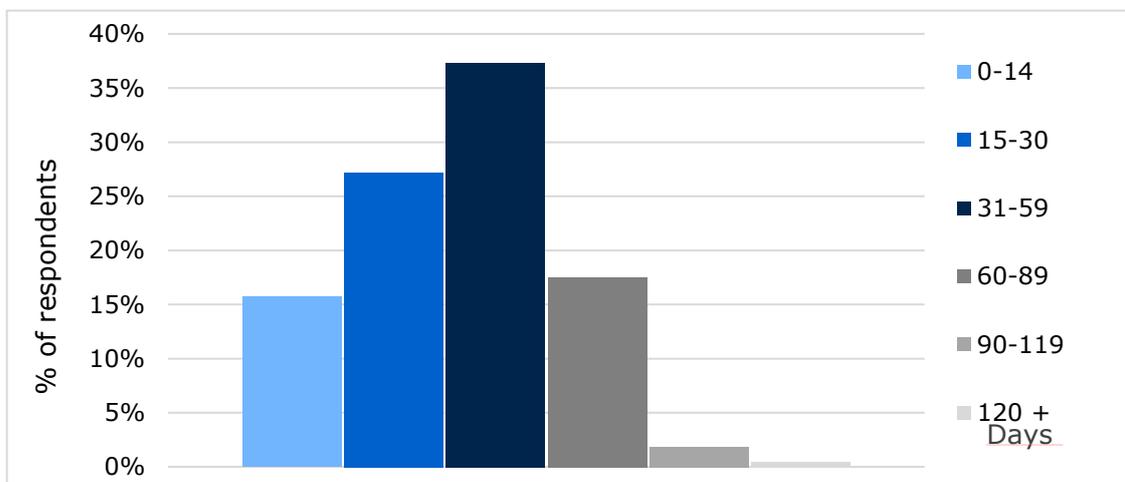


Source: European Commission data, tax administration data, PwC analysis

### 5.6.3 How long are delays?

Figure 40 shows the average length of delays in days for VAT refund claims. Of the 217 businesses surveyed that process claims in-house, most stated that the length of delay ranges from 15 - 90 days. 37% of the respondents stated that claims are delayed by 31 - 60 days. Businesses can make complaints about delayed claims via the SOLVIT network. As seen in the discussion on the impact on businesses of claims being delayed, these timescales can be problematic given how delayed claims are found to typically be a high value.

**Figure 40: Average length of a delay in days**



Source: PwC analysis



#### 5.6.4 Procedures in place to prevent delays

Nine tax administrations described the procedures they have in place to prevent delays (Czech Republic, Denmark, Finland, Hungary, Italy, Luxembourg, Slovakia, Spain, Sweden). Procedures varied from automatic alarms embedded in their IT systems that notify when a deadline is approaching to arranging the applications according to the date received. Seven Member States, namely Austria, Bulgaria, Croatia, Estonia, France, Greece, Latvia and Romania reported having no such procedure in place. Interestingly, a number of Member States, such as Bulgaria and Croatia, reported no specific procedures in place to prevent delays also recorded the highest proportion of claims paid outside deadline in 2016.

In the Czech Republic, the competent department has adopted a systematic supervisory and coordination system, which monitors the activity of senior staff in order to manage the workload. Like many of the Member States, the systems used by the Danish tax administration has alarms which notifies them of any upcoming deadlines. Similarly, in Hungary the internal IT processing system is integrated with a timetable that automatically warns the tax officer of deadlines. Likewise, the Italian tax administration have a system that, when a particular date is keyed in, shows all applications that are due on that day. Luxembourg and Spain have adopted equivalent procedures. In Luxembourg, the deadlines are automatically calculated and are displayed to the tax office. In Spain, automatic notifications warn the tax administration if a deadline is approaching. The Slovakian tax administration also has alarms embedded in their systems that indicate when there is less than 14 days for claims to be processed.

In Sweden, the IT system used by the tax administration lists the oldest applications first. Furthermore, Sweden has implemented an ongoing internal audit process to prevent delays. In Finland, if possible and necessary, more resources are allocated to handle the application numbers.

#### **Engagement with tax administrations:**

##### **Manual verification of additional information received from taxpayers**

In the interviews, one tax administration noted that they do not have an electronic system in place to verify the authenticity of additional information, especially invoices, submitted by taxpayers for VAT refund claims. In order for the tax administration to be able to carry out relevant verification procedures manually, the tax officer has to be in direct contact with either the taxpayer or the invoice issuer, which is typically very time consuming. Additionally, it is common practice to give taxpayers more time to respond to additional information requests than the one month prescribed by Article 20 in Directive 2008/9/EC. For example, if taxpayers have not responded to a request within one month of issuing it, the respective tax administration generally sends a reminder. These two factors appear to have significantly contributed to the Member State's low performance in the processing of VAT refunds compared to other EU Member States, prolonging the processing duration for a VAT refund claim and leading to a higher number of delays and lower approval rates.

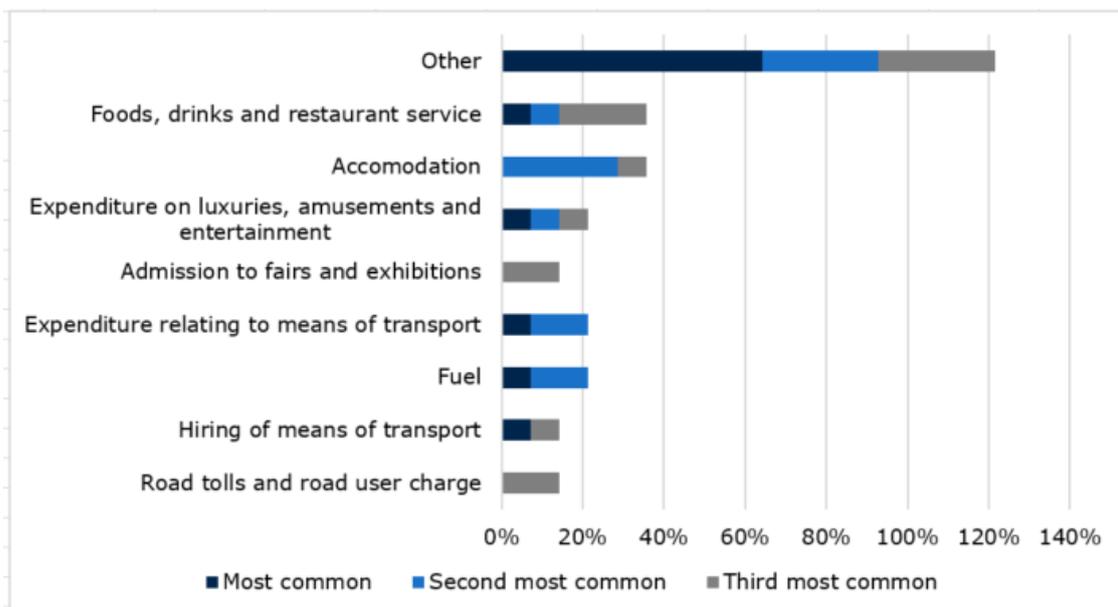
#### 5.6.5 Common expense types that are delayed

14 Member States provided responses with regard to the most common expense types that are likely to be delayed. As illustrated below, claims falling in the "other" expense

type category are most likely to be delayed (64%). Claims for "Accommodation" (28%), "Other" (28%) and "Fuel" (14%) were listed as the second most common expense types to be delayed and claims for "Food, drinks and Restaurant service" (21%) alongside "other" (28%) were listed as the third most common expense type to be delayed.

As already discussed in section 5.1.5, "other", "fuel" and "accommodation" were listed as common expense types for which additional information is requested. Thus, there appears to be a direct correlation between claims being queried and subsequently delayed. Moreover, it is particularly concerning that "Fuel" and "Accommodation" were among the common expense types to be delayed given how they were also listed as the most common expense types to be claimed.

**Figure 41: Most common expense types which are likely to be delayed in the EU-14 in 2016**



Source: Tax administration data, PwC analysis

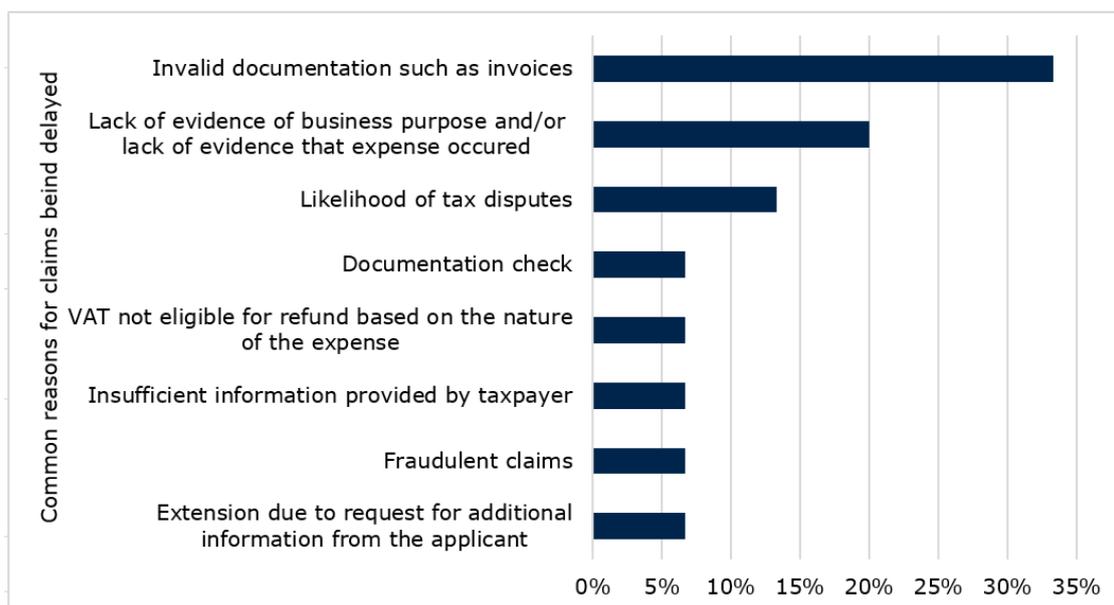
Data gathered from the Phase 2 agents' questionnaire also suggests a similar pattern with regards to the most common expense types that are likely to be delayed. Three out of four of the agents who responded highlighted that claims falling in the "Other" expense type category are most likely to be delayed, while "Accommodation" claims are the second most likely to be delayed. The third most likely expense type to be delayed, according to the agent data is "Expenditure on luxuries, amusements and entertainment".

### 5.6.6 Common reasons for claims being delayed

Fourteen Member States provided reasons for claims being delayed. "Submission of invalid documentation such as invoices" (35%), "Lack of evidence of business purpose/expense type" (14%) and "Likelihood of tax disputes" (13%) were identified as the most common reasons for delay. In addition to the reasons listed below, some Member States also listed "VAT exemption and application of pro-rata", "application eligible for local VAT registration", "Non-Refundable expense" and "Request for mutual assistance under Directive 2010/24/EU" as the second and third most common

reasons for claims being delayed. As discussed in the “Queried claims section”, “Original/Copy of invoices”, “Proof of business activity” and “Other documentation such as evidence of business purpose” were the most common types of additional information requested. Once again there appears to be correlation between claims being queried and subsequently delayed. Furthermore, in Section 5.1.6 the most common reasons for claims being rejected were discussed. “non-refundable expenses”, “taxpayer eligible for local VAT registration”, “incorrect/insufficient application details” and “application for pro-rata” were listed as common reasons for claims being rejected. Thus, claims delayed are also likely to be rejected for similar reasons.

**Figure 42: Most common reasons for VAT refund claims being delayed**



Source: Tax administration data, PwC analysis

According to the businesses surveyed, the nature of the underlying expense and large amounts of invoices or items of expenditure are the most common reasons for claims being delayed. This is followed by claims being the first VAT refund claim submitted by the business and claims being of a high value.

Issues around invoices and expense types are also repeatedly listed as a common reasons for delay by tax administrations and VAT refund agents. In addition, the fact that the businesses surveyed noted high value claims as one of the most common reason for claims being delayed further substantiates the finding that tax administrations are likely to take longer to process higher value claims.

Data gathered from the Phase 2 agents’ questionnaire also suggests a similar pattern with regards to the three most common reasons for a refund being delayed. Three out of four of the agents who responded highlighted that “VAT incorrectly charged by supplier” is the most common reason for a refund to be delayed, while “Invalid documentation such as invoices” and “lack of evidence of business purpose” are the second and third most common reasons for a refund being delayed.



Data from agents also strongly suggests that higher value claims are much more likely to be delayed or subject to greater scrutiny than low value claims.

One agent, in a response which covered all Member States, highlighted that, in general, among the most common reasons for a refund being delayed are general requests for additional information of expenses incurred on high value invoices and the business rationale behind them.

In terms of individual Member States, one agent, in a response which covered all Member States, suggested that in Italy and the UK one of the main reasons for a refund being delayed is an overly formalistic approach to requiring supporting evidence.

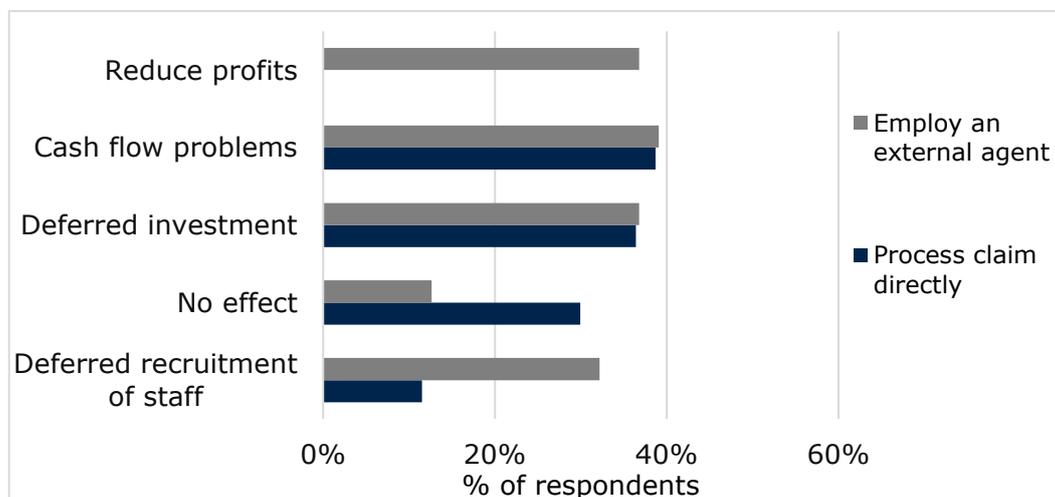
### 5.6.7 How can a delayed VAT refund claim affect a business?

Figure 43 shows the impact a delayed claim has on the businesses surveyed. There were some consistencies in the impact of delayed claims and rejected claims. The businesses surveyed that process claims in-house stated cash flow problems and deferred investment as the two biggest impacts of a delayed VAT refunds claim. Given the fact that a claim being of high-value is a common reason for delays, it is not particularly surprising that it impacts businesses' day-to-day operations.

However, 30% of the businesses surveyed that process claims in-house stated that they were not affected by delayed claims. This may be attributed to the fact that the proportion of businesses that are not affected by delays either have larger annual turnover or are making smaller value claims and therefore do not rely on timely VAT refund payments to the same extent to run their day-to-day operations.

Businesses surveyed that employ external agents gave similar responses with regards to the impact of delayed and rejected claims. Reduced profits, cash flow problems and deferred investment were listed as the main impacts delayed claims have on businesses. This substantiates the finding that businesses typically employ external agents for processing claims of higher value.

**Figure 43: Impact on businesses of delayed VAT refund claims**



Source: PwC analysis



### **5.6.8 Claiming late payment interest from tax administrations**

As set out in Directive 2008/9/EC, tax administrations are required to pay interest on VAT refund claims paid outside deadlines stipulated in the Directive.

Of the 217 businesses surveyed that process claims in-house, 67% of respondents stated that tax administrations paid interest on claims that were paid outside deadline in 50% -90% of cases. This is particularly important given that delayed claims are typically of a higher value.

In particular, businesses surveyed in Greece and Romania noted that they faced challenges with receiving late payment interest from other EU tax administrations. 50% of businesses surveyed in Greece and 44% of businesses surveyed in Romania stated that they never, very rarely or rarely received interest payments from Member States of Refund on VAT refund claims that were paid outside the time limits prescribed by Directive 2008/9/EC. Interestingly, as outlined in section 5.1.2, businesses surveyed in both countries submitted the largest proportion of VAT refund claims in the last three calendar years to the UK tax administration. This suggests that it may be particularly difficult for businesses to recover late payment interest for VAT refund claims from the United Kingdom.

### **5.6.9 Summary**

Between 2013 and 2016, instances of delays in the VAT refund process have fallen by 85% across the EU. By 2016, just 1.02% of claims submitted to EU tax administrations were paid outside statutory deadlines.

When delays do occur, businesses indicated that they can have adverse impacts on cash flow or result in the deferral of investment or hiring. In addition, businesses indicated that they experience challenges in receiving late payment interest from tax administrations. Nearly one-third of businesses surveyed reported that they never, very rarely or rarely receive interest for claims that are paid late. In Member States where tax administrations fail to pay late interest, a further burden is put on taxpayers as a result.

## **5.7 Efficiency of VAT refund agents**

This section presents the views of three VAT refund agents operating across the EU Member States in order include their perception on the efficiency of the VAT refund process.

### **5.7.1 Efficiency of VAT refund agents**

The results discussed below need to be considered in the context of our sample of VAT refund agents. The agents surveyed prepared claims across most expense types as outlined in Directive 2008/9/EC. One agent focussed on fuel expense claims. This will be referred to and addressed in relevant sections of the discussion around the effectiveness of agents.

In order to aid the comparison of claims prepared by VAT refund with claims for the total taxpayer population based on data submitted by the EU tax administrations, Table 4 summarises the key metrics analysed.



**Table 4: Comparison of key metrics for claims across the EU population and VAT refund agent sample**

<b>Key Metric</b>	<b>All claims in 2016</b>	<b>Claims made through the VAT refund agents sample in 2016</b>
<b>Query rate</b>	9%	10.8%
<b>Rejection rate</b>	6%	3.1%
<b>Delay rate</b>	1%	23.5%
<b>Average value per claim received/submitted</b>	EUR 4,900	EUR 2,400
<b>Average value per claim approved</b>	EUR 7,000	EUR 2,500
<b>Average value per claim rejected</b>	EUR 7,700	EUR 3,500
<b>Average value per claim queried</b>	EUR 23,400	EUR 5,100
<b>Average value per claim paid outside deadlines stipulated by Directive 2008/9/EC</b>	EUR 30,000	EUR 2,500

*Source: European Commission data, tax administration data, VAT refund agent data, PwC analysis*

As illustrated in Figure 43, the VAT refund agents handle claims of lower value with an average value of a claim submitted amounting to EUR 2,400. Accordingly, the average value of claims approved, rejected, queried and paid outside deadlines are also lower than the average values for such claims reported by the EU tax administrations.

The VAT refund agents had fewer claims rejected compared to the general population of claims made across the EU, with a rejection rate in 2016 of 3.1%. This is in line with expectations considering VAT refund agents have specialist knowledge and are more likely to be aware of domestic rules and legislation governing VAT refunds in the respective Member States.

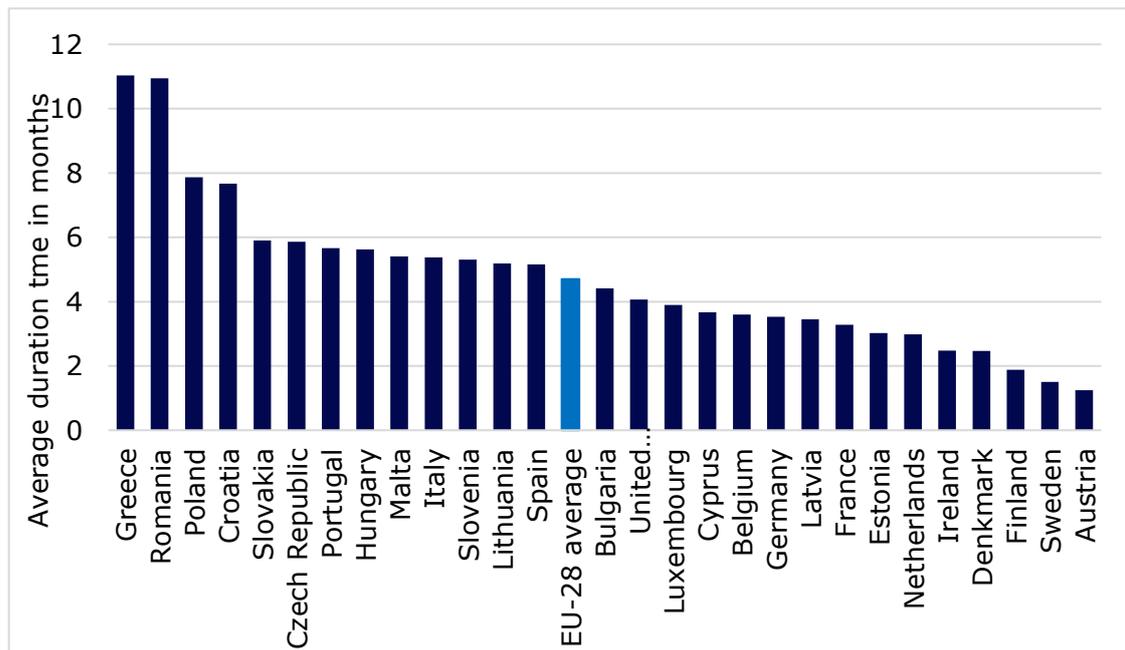
Taking this expectation into consideration, it is surprising that VAT refund agents have experienced, with 10.8%, a higher query rate than the 9% query rate of the wider refund claim population. However, this result has to be considered in the context of the types of claims agents usually submit. 18% of claims submitted are for expenses falling under the "other" expense category. This category usually includes expenses that are more unique and less easy to standardise.

Data received from the three VAT refund agents suggests that they experienced a significantly higher rate of claims being paid outside the deadlines stipulated by Directive 2008/9/EC compared to businesses based on data provided by tax administrations. Approximately 7,100 claims submitted by agents, totalling around

EUR 17.7 million, were processed and paid late, equating to a rate of 23.5%. This compares to a delay rate of only 1% as reported by tax administrations in 17 Member States. However, the average value of a claim paid outside deadlines was, with EUR 2,500, much lower compared to the average value reported by EU-17 tax administrations of EUR 29,900.

The VAT refund agents gave the length of time taken by the tax administrations to process a VAT refund claim. In 2016, the average duration across all categories and sizes of claim was 4.7 months. The duration for processing a claim ranged from a maximum of 11 months in Greece to just over one month in Austria.

**Figure 44: Average processing duration of claims in the EU-28 in 2016**



Source: VAT refund agent data, PwC analysis

### 5.7.2 Summary

In 2016, three VAT refund agents prepared and submitted approximately 30,000 claims, which amounted to 4.5% of all claims processed by tax administrations in 27 EU Member States. The average value of a claim submitted by the VAT refund agents surveyed was EUR 2,400, significantly lower than the average value of a claim received by tax administrations in 2016. This suggests that businesses use agents for low value, high volume claims, but also for more complicated claims, which are less standardised.

## 5.8 Frequency and causes of appeals, disputes and litigation

This section of the report discusses the frequency and common causes for disputes over VAT refund claims. Disputes at both the administrative and judicial levels will be assessed. Disputes at the administrative level refer to informal challenges between tax administrations and businesses, where there are disagreements over actions and decisions. Judicial disputes refer to conflicts where the tax administration and the business decide to resort to legal recourse to resolve the issue.

Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-5: France, Greece, Hungary, Latvia and Lithuania.
- EU-3: Greece, Hungary and Lithuania.

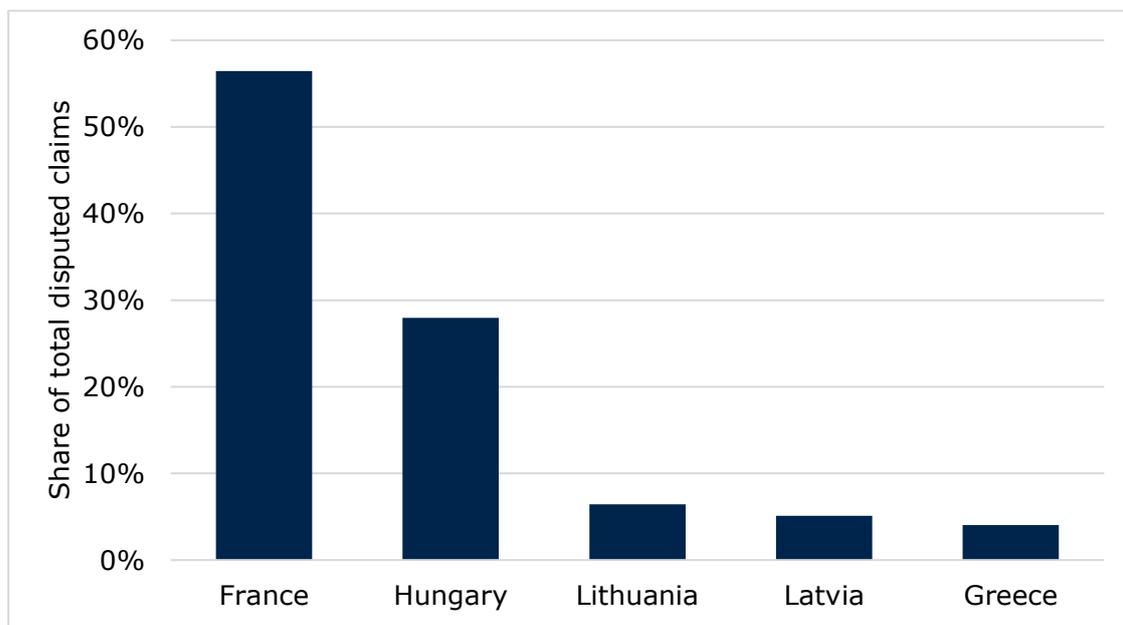
### 5.8.1 How frequent are appeals, disputes and litigation?

Tax administrations from five Member States provided data on the number and value of appeals, disputes and litigation at the administrative level and judicial level.

Their average dispute rate was 0.23% of all VAT refund claims received in 2016. The disputed claims had an average value of EUR 575,000.

Figure 45 shows that taxpayers claiming VAT refunds from Latvia disputed the highest number of claims, with 0.91% in 2016, whereas only 0.12% of claims received in France were disputed.

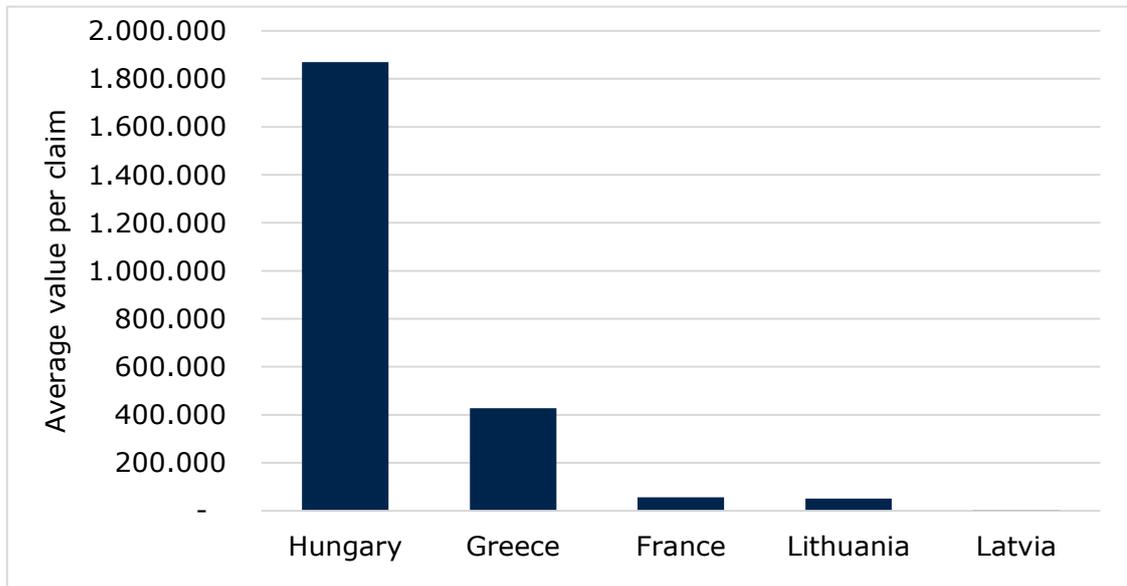
**Figure 45: Percentage of claims disputed compared to total refund claims received in 2016 across the EU-**



Source: Tax administration data, PwC analysis

Compared to a small difference in dispute rates, the average value per disputed refund claim varied remarkably across the five Member States. As illustrated in Figure 46, Hungary had a high average value per disputed claim, standing at EUR 1.9 million, followed by Greece with EUR 427,000. On the other hand, Latvia had the lowest average value of a disputed VAT refund claim, with EUR 4,000.

**Figure 46: Average value of disputed claims in 2016 across the EU-5**



Source: Tax administration data, PwC analysis

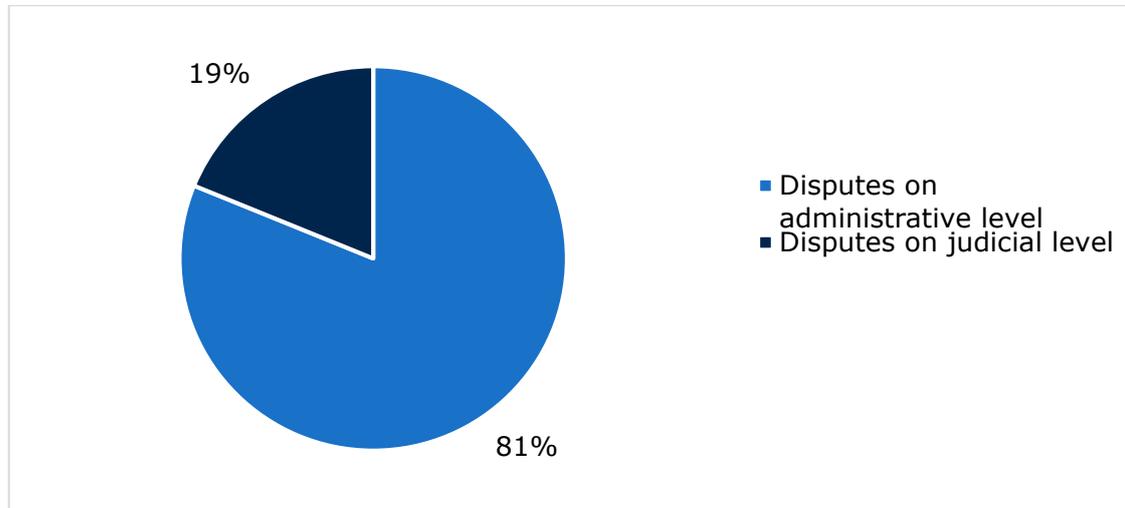
### 5.8.2 At which level did the appeals, disputes and litigation occur?

Taxpayers can appeal or dispute tax administration decisions at two levels, either the administrative level or the judicial level.

For the purposes of this study, appeals at an "administrative level" includes appeals and disputes which are handled within the tax administration itself, such as appeals within the tax administrations to a higher level than the tax official that made the original decision on the VAT refund claim. Appeals at a "judicial level", on the other hand, are those handled by a body outside the tax administrations such as a local or national court.

As shown in Figure 47, 81.2% of the VAT refund claims received by the 5 EU Member States in 2016 were disputed at the administrative level and only 18.8% at the judicial level. Latvia and Lithuania experienced the most disputes at the administrative level, with 0.91% and 0.71% respectively. Lithuania also experienced the most disputes at judicial level, with 0.19% of claims received being disputed at that level, followed by Greece with 0.17%.

**Figure 47: Percentage of disputed refund claims at administrative and judicial level across the EU-5 in 2016**



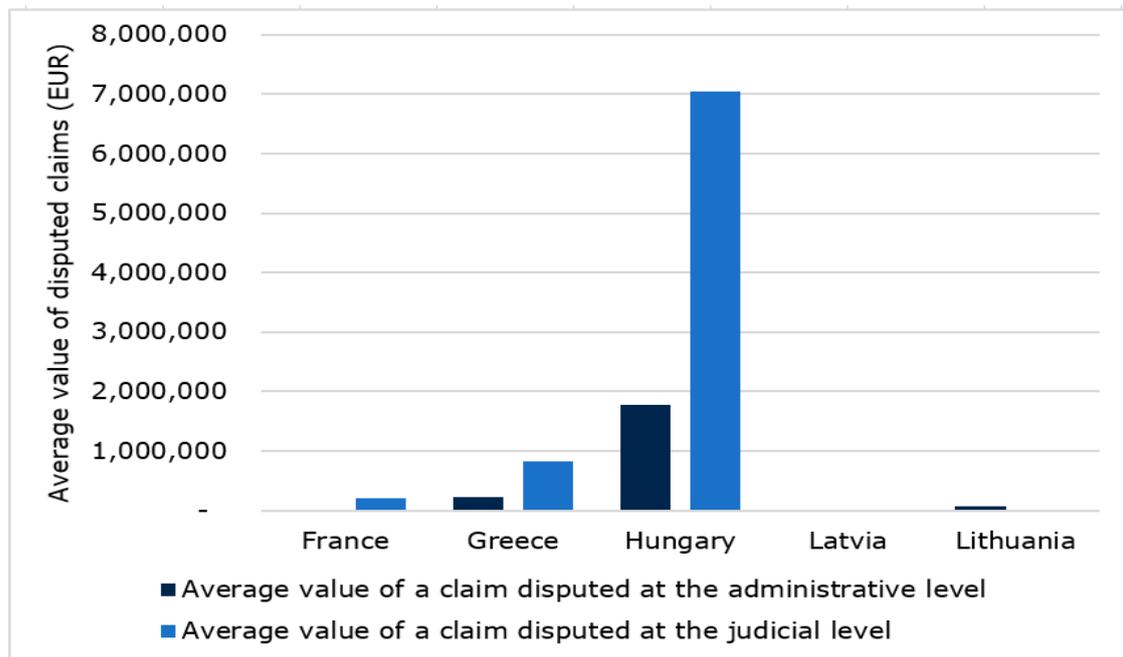
Source: Tax administration data, PwC analysis

Responses from businesses show a similar pattern. Of the 408 businesses surveyed that have experience in handling refund claims, 143 businesses (35% of respondents) stated that they have experience with claims resulting in disputes. Of these 143 businesses, 81% disputed a decision at the administrative level, whereas only 18% disputed the decision at the judicial level.

Across the five Member States, taxpayers disputed claims with an average value of EUR 609,000 at the administrative level and EUR 433,000 at the judicial level in 2016. This is surprising given the expectation that higher-value claims are more likely to be disputed at the judicial level given the higher costs associated with judicial proceedings. However, based on the average values of disputed claims at each level, as illustrated in Figure 48, in four of the five Member States, the average value of a claim disputed at the judicial level was higher than that at the administrative level.

In general, the average value per disputed claim varied significantly across the five Member States. In 2016, the average value of a disputed claim at both levels in Hungary was EUR 1.8 million and EUR 7 million, significantly higher than in the rest of the sample. Taxpayers submitting claims to France launched administrative-level dispute proceedings for claims with a surprisingly low average value of EUR 100, followed by Latvia with claims of an average value of EUR 3,500. Interestingly, the average value of a claim disputed at the judicial level in France was remarkably higher, at EUR 210,000, whereas in Latvia, the average value amounted to only EUR 12,800.

**Figure 48: Average value of refund claim disputed at the administrative and judicial level across the EU-5 in 2016**



Source: Tax administration data, PwC analysis

### 5.8.3 Average duration and cost of an appeal, dispute or litigation

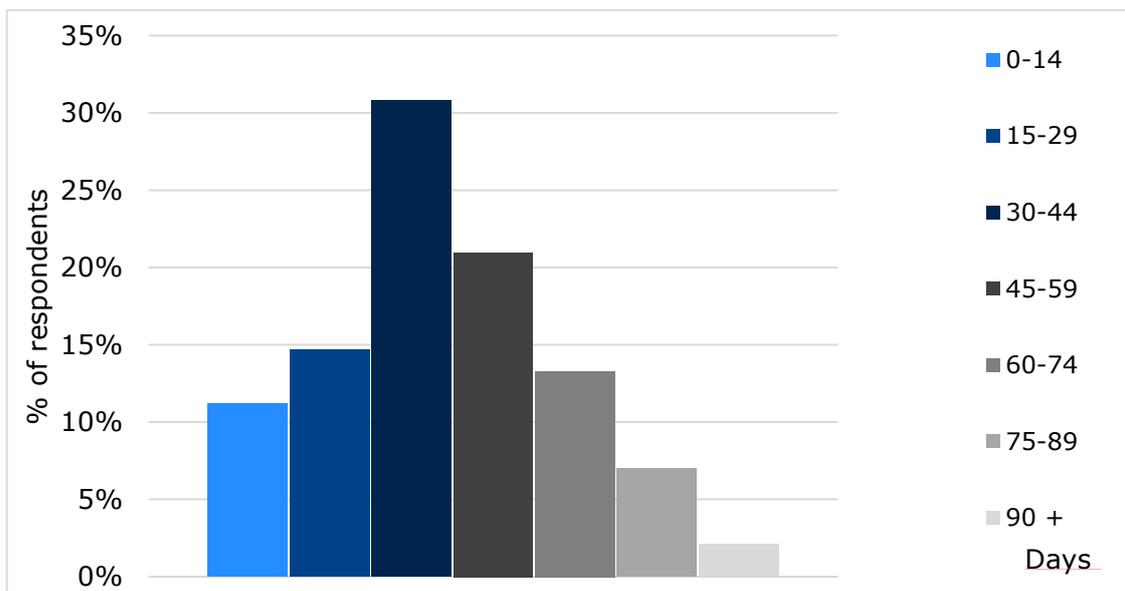
As seen in

Figure 49, the businesses surveyed that have experience with disputing a VAT refund claim stated that the procedure typically takes between 15 and 75 days. 31 % of the businesses surveyed noted that the procedure takes 30 - 45 days. Only 9% of respondents stated that disputes took longer than 75 days.

In particular, businesses surveyed in Greece and Spain appeared to have experienced disputes that take longer than the average of 30 - 45 days. 50% of business respondents established in Greece and 35% of respondents established in Sweden noted that they experienced disputes taking 60 days or longer.

As outlined in section 5.1.2, business respondents in Greece submitted a majority of their VAT refund claims to the United Kingdom, whereas businesses established and surveyed in Sweden mostly claimed from Germany. It may, therefore, be possible that the particularly long dispute procedure was caused by legal procedures in either of these Member States of Refund. However, it is also worth noting that the sample size in Greece was small (only eight of the businesses surveyed responded to this question).

**Figure 49: Average duration of disputes according to businesses**



Source: PwC analysis

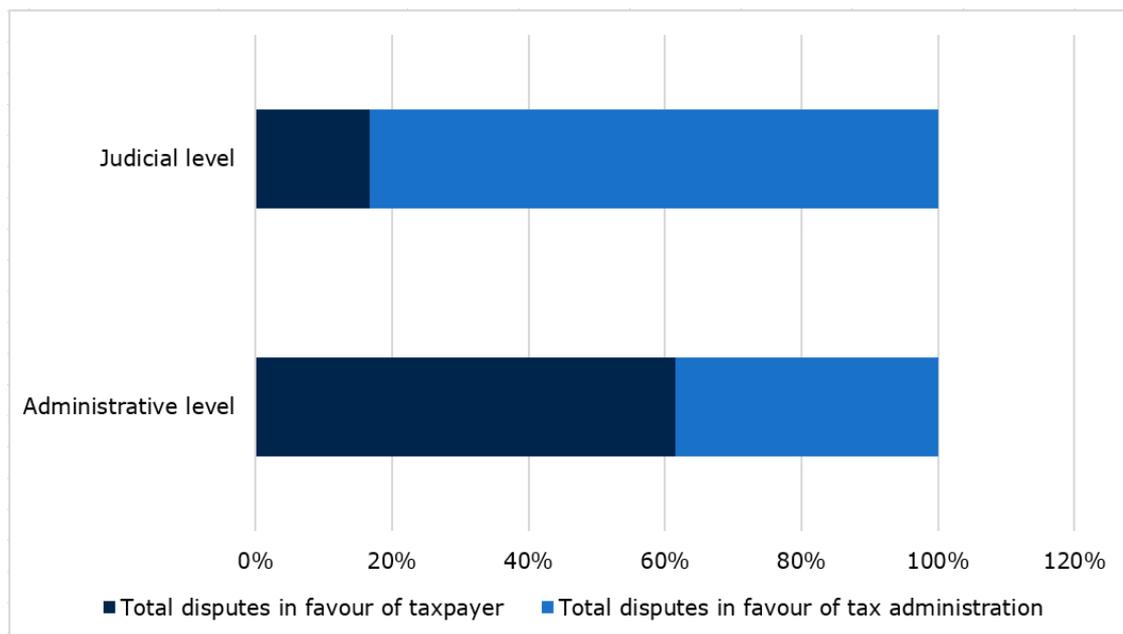
#### 5.8.4 Decisions awarded in favour of the taxpayer versus the tax administration

Data regarding the decisions made on appeals, disputes and litigation in 2016 was received from three tax administrations within the EU.

Of the VAT refund claims for which a decision was made within the EU-3 Member States, 57.7% were decided in favour of the taxpayer and 42.3% in favour of the tax administrations. As outlined in Figure 50, this trend also holds for decisions made on claims disputed at the administrative level, where 61.5% of decisions were made in favour of the taxpayer and only 38.5% are made in favour of tax administrations. However, rulings at the judicial level show a different picture where, the majority of disputes were ruled in favour of the tax administrations.

Overall, the average value per disputed claim appeared to be fairly consistent regardless of whether a claim was found in favour of the taxpayer or tax administrations. Not taking the level at which the claim was disputed into account, the average value of a disputed claim awarded in favour of the taxpayer amounted to approximately EUR 1.5 million, whereas the average value of a disputed claim awarded in favour of the tax administration was approximately EUR 1.7 million.

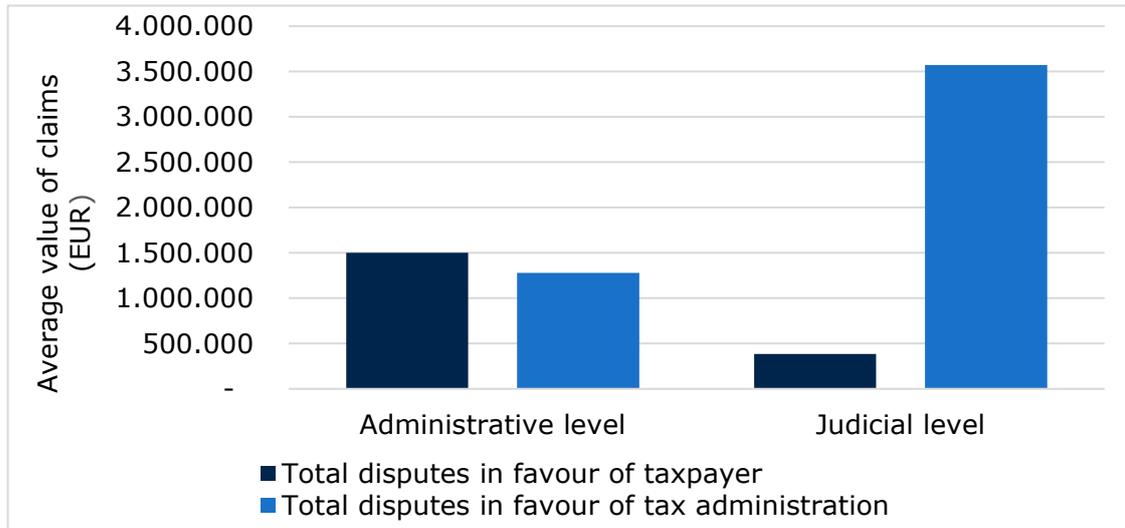
**Figure 50: Proportion of disputed claims decided in favour of taxpayers and tax administrations**



Source: Tax administration data, PwC analysis

Looking at the average values awarded to each party to a disputed claim on the different levels of disputes as illustrated in Figure 51, disputed claims decided in favour of tax administrations at the administrative level are, on average, EUR 1.3 million lower than disputed claims found in favour of taxpayers (EUR 1.5 million). However, the opposite is true for claims disputed at the judicial level. The average value of a disputed claim decided in favour of the taxpayer is with EUR 385,000 significantly lower than the average value of a disputed claim found in favour of the tax administration, which is EUR 3.6 million.

**Figure 51: Average value of disputed claims by level of dispute and decision**

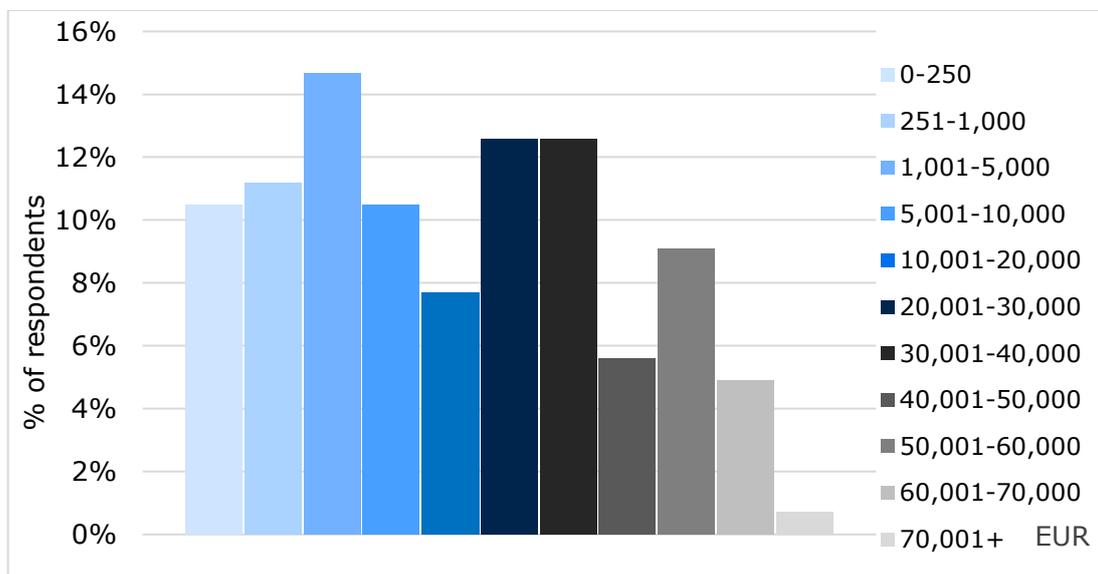


Source: Tax administration data, PwC analysis

### 5.8.5 Costs to businesses for disputing a decision

As illustrated in Figure 52, 15% of the businesses surveyed that had disputed a claim stated that it cost EUR 1,000 to EUR 5,000 to do so, followed by 24% of respondents stating that it costs between EUR 20,000 and EUR 40,000 to dispute a claim. The variation in responses can be attributed to two main factors. Firstly, the costs may vary depending on the Member State in which businesses are established. For example, the majority of the businesses in Romania that had experience disputing a claim (28% of respondents) stated that it cost them less than EUR 250 to do so. On the other hand, 40% of the businesses surveyed in Sweden stated that it cost between EUR 30,000 and EUR 40,000 to dispute a claim. Secondly, the costs to businesses may also vary depending on the Member State of Refund where the dispute takes place.

**Figure 52: Costs to businesses to dispute a VAT refund claim**





Source: PwC analysis

### 5.8.6 Summary

Taxpayers disputed a small number of claims in 2016 (0.23%) and the majority of these disputes occurred at an administrative level (81%). This trend is confirmed by the businesses surveyed, as 81% of the disputes they entered into were at the administrative level. The value of a claim did not appear to relate to the level at which the appeal was heard, with the average value of a disputed claim at the judicial level being lower than at the administrative level. Given the additional cost of disputes being heard at a judicial level it would have been expected that this route is used only for the higher value claims. Further investigation into the nature of claims disputed at the administrative and judicial levels would be warranted to explain this in more detail.

Overall, the costs to dispute a claim varied with 15% of respondents to our business survey stating that it cost them between EUR 1,000 to EUR 5,000 to dispute a claim while 24% of respondents incurred a cost of EUR 20,000 to EUR 40,000 to dispute a claim. This compares to an average value per disputed claim received by tax administrations of approximately EUR 580,000, although it has to be noted that the number of responses in this area was limited. This cost variance depends on the Member State in which the business is established, the nature of the dispute and the legal options available in the Member State of dispute.

## 5.9 Effectiveness of tax administration communication and support

This section will look into the effectiveness tax administration support and communication, both to businesses and to other tax administrations. In addition, it will assess the effectiveness of information provided to taxpayers by the European Commission.

Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. The different combinations are as follows:

- EU-19: Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Romania, Slovakia, Slovenia, Spain and Sweden.
- EU-14: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Spain and Sweden.

### 5.9.1 Communication with taxpayers

Tax administrations in the Member State of Refund are in contact with claimants throughout the VAT refund process. A number of articles in Directive 2008/9/EC set out requirements for communication with claimants at each step of the VAT refund process.

In general, EU-28 tax administrations communicate with claimants via email. However, where additional information is requested or there are issues with the claim, tax administrations may employ other means of communication.



A number of tax administrations indicated that, although email is the main form of communication, the tax officer handling the claim may communicate with the claimant via telephone or post.

Table 2 in section 5.1.3 highlights the languages businesses can use when making a VAT refund claim to EU-28 Member States of Refund. A large proportion of Member States of Refund (60%) consider English to be the primary language for this purpose. Furthermore, of the 11 Member States of Refund that do not consider English to be the primary language, 5 consider it to be the secondary language. Only Czech Republic, Malta, Poland, Romania, Slovenia and Spain do not consider English to be either a primary or secondary language.

**Engagement with tax administrations:  
Communicating with the claimant**

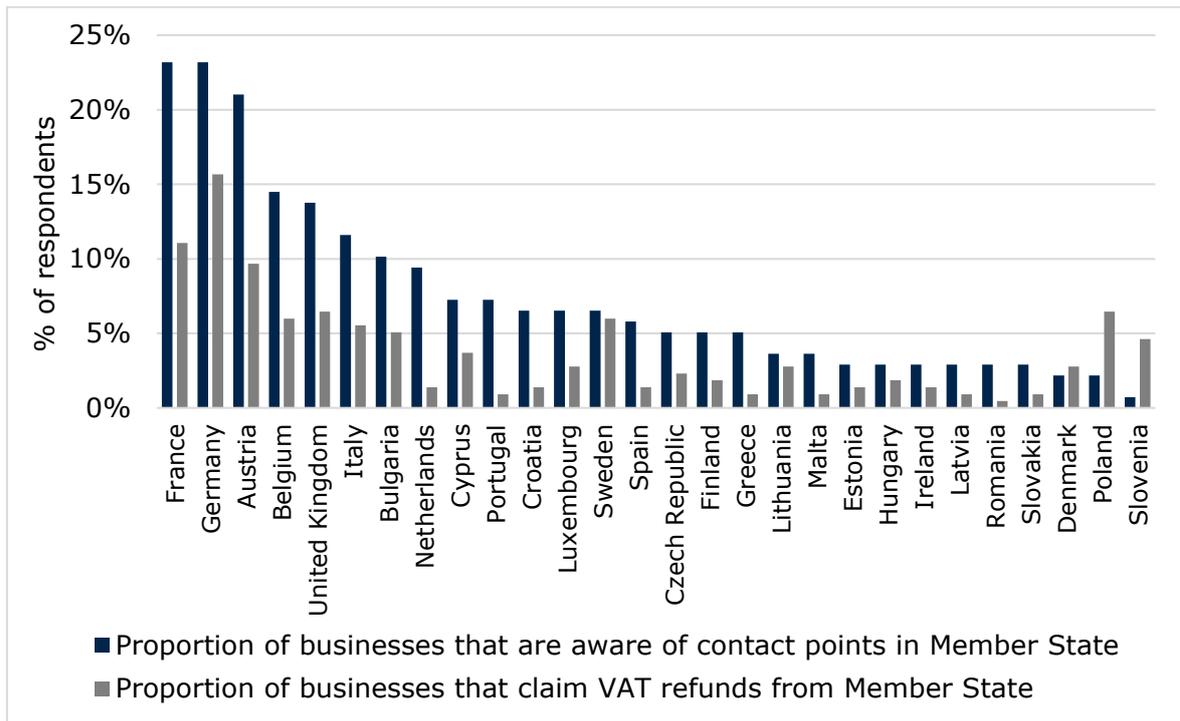
In interview, a number of tax administrations mentioned that there is limited flexibility in how they contact a claimant. They mainly rely on the email address provided by the claimant in the refund application. In the event of issues with email communication, it is incumbent on the claimant to contact the tax administration in question. However, the claimant is permitted to contact the tax administration by any means operated by the tax administration in question. The Greek tax administration described how applications with technical mistakes are automatically rejected, but that the administration does not communicate with the taxpayer regarding this, and instead forwards the rejection to the Member State of Establishment.

### 5.9.2 Awareness of specific contact points

Each Member State has established a specific contact point within the tax administration to field questions from businesses preparing and submitting VAT refund claims.

Figure 53 illustrates the awareness of businesses of contact points established by tax administrations. Overall, a direct correlation appears to exist between the Member States to which businesses send most of their VAT refund claims to and the Member States where businesses are aware of contact points for information within tax administrations. For example, Austria, Belgium, France and Germany are the four most common Member States of Refund to which businesses submitted VAT refund claims. Most of the businesses surveyed also recorded that they are aware of contact points in these Member States of Refund. The only two outliers that were identified were Slovenia and Poland. For example, while 7% of businesses surveyed stated that they send their claims to Poland, only 2% were aware of contact points established by the Polish tax administration.

**Figure 53: Awareness of contact points compared to experience in submitting claims to particular Member State of Refund**



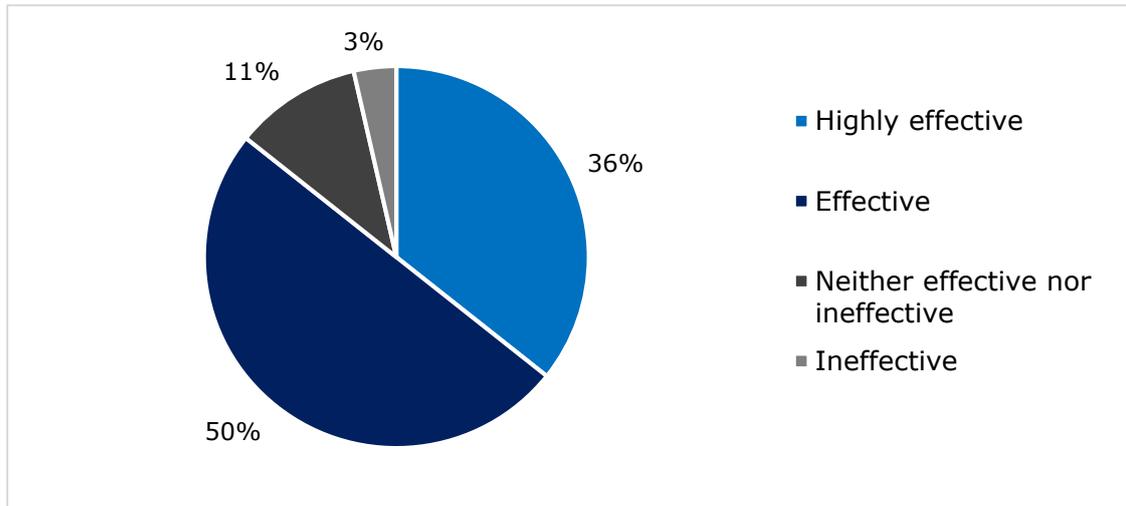
Source: PwC analysis

### 5.9.3 Effectiveness of specific contact points

Businesses were also asked about the effectiveness of these contact points in addressing queries. Figure 54 illustrates how businesses rated the effectiveness of contact points. 50% of the businesses surveyed rated the contact points to be effective and 36% of respondents deemed them to be highly effective. Only 4% of the businesses surveyed rated contact points as being highly ineffective.

A breakdown of how contact points in each Member State of Refund were rated by respondents to the business survey can be found in Figure 54. Most businesses surveyed were aware of contact points in place in Austria, Belgium, France and the United Kingdom, and these contact points were considered to be effective in answering queries. Furthermore, most of the businesses surveyed were not aware of contact points in place in Slovenia. Moreover, the few businesses surveyed that were able to comment on the effectiveness of the contact points in Slovenia rated them to be ineffective. Contact points for three Member State of Refund (Latvia, Lithuania and Romania) were considered to be neither effective nor ineffective.

**Figure 54: Effectiveness of contact points established by tax administrations**



Source: PwC analysis

**Table 5: Effectiveness of contact points in the EU-28**

Highly effective	Effective	Neither effective nor ineffective	Ineffective
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Bulgaria Croatia Czech Republic Finland Germany Hungary Ireland Luxembourg Malta Poland	Austria Belgium Cyprus Denmark Estonia France Greece Italy Netherlands Portugal Slovakia Spain Sweden	Lithuania Latvia Romania	Slovenia
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Source: PwC analysis

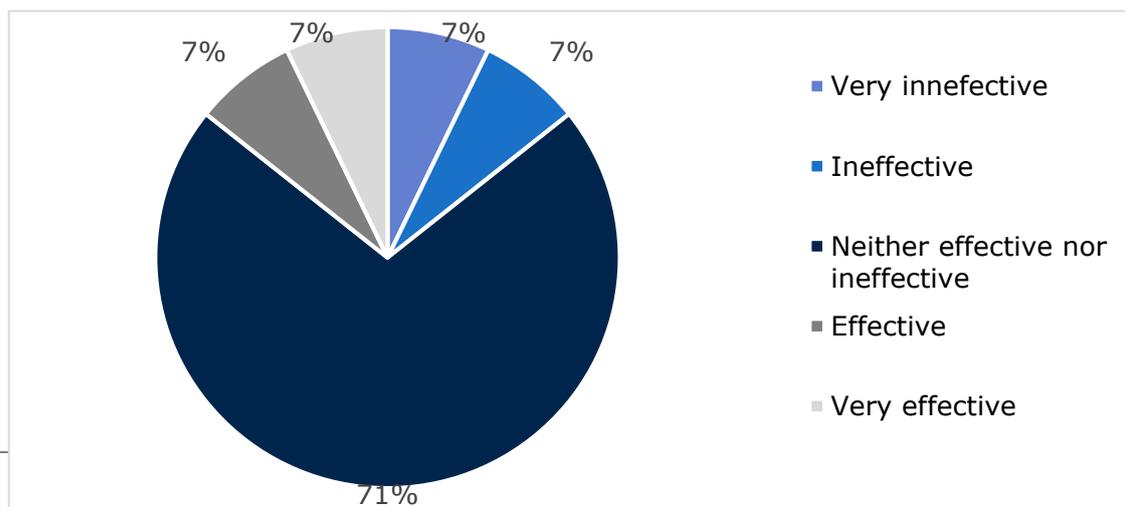
#### 5.9.4 Communication between tax administrations

Tax administrations in the Member State of Refund and Member State of Establishment may communicate and share information for a number of reasons. These may include verification of pro rata calculations, notification of suspected fraudulent claims or to assist with the recovery of taxes under Directive 2010/24/EU.

Exchange of information to support the verification of pro rata calculations is one of the most common justifications for communication between tax administrations in a VAT refunds context. The purpose of this is to check that, in accordance with Article 6 of Directive 2008/9/EC, the claimant has correctly claimed the proportion of refundable VAT entitled to them under the domestic legislation of the Member State of Establishment implementing Article 173 of Directive 2006/112/EC. In practice, the tax administrations of the Member State of Refund requests confirmation that the pro rata calculation has been correctly applied from the tax administrations in the Member State of Establishment.

Of the fourteen, EU-28 tax administrations that commented on the effectiveness of the exchange of information on pro rata calculations, a large proportion were of the opinion that the process was 'neither effective nor ineffective'. This suggests that the current arrangements for the exchange of information on pro rata calculations are adequate, but that there may be some scope for improvement.

**Figure 55: Effectiveness of the exchange of information on pro-rata calculations within the EU-14 in 2016**





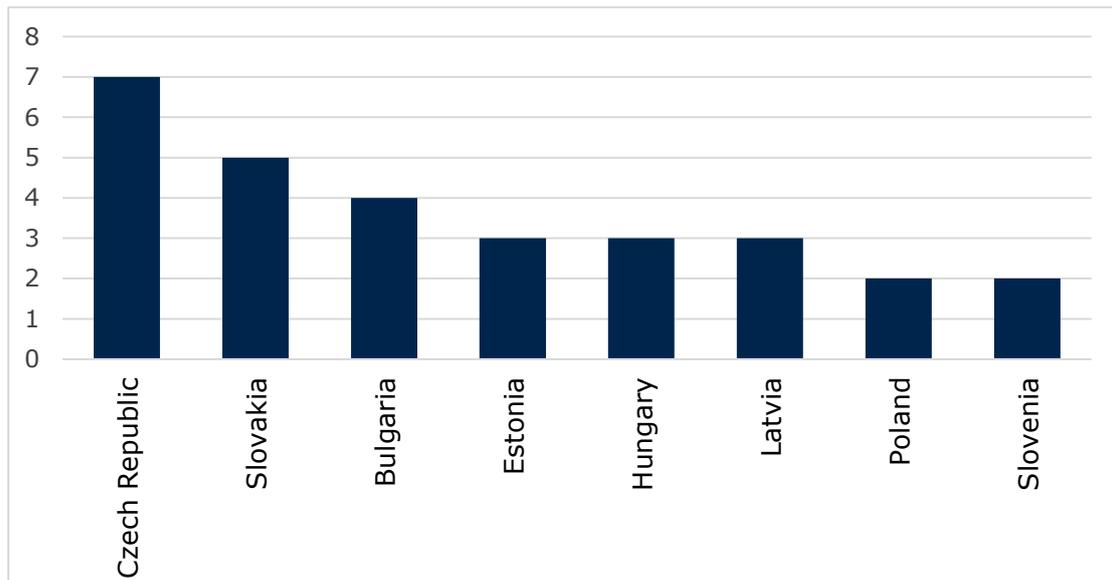
*Source: Tax administration data, PwC analysis*

Tax administrations will also communicate to support the recovery of taxes and duties under Directive 2010/24/EU. The Directive establishes a framework for mutual assistance for the recovery of levies, taxes, duties and other certain measures. In a VAT refunds context, a Member State of Establishment may communicate with the tax administration in a Member State of Refund to request that payment of a refund claim be offset against the claimant's unpaid tax liabilities.

Despite the existence of this framework for mutual assistance, the tax administrations surveyed as part of this study indicated that it is not widely used. The tax administrations stated that they only occasionally receive requests for assistance under Directive 2010/24/EU.

However, based on the responses from 19 tax administrations it would appear that such requests originate from a small number of Member States of Establishment. Bulgaria, Czech Republic and Slovakia were commonly cited by Member States of Refund as having lodged requests for assistance under Directive 2010/24/EU.

**Figure 56: Common Member States of Establishment that requested for assistance under Directive 2010/24/EU in 2016**



Source: Tax administration data, PwC analysis

### 5.9.5 Information provided by the European Commission

To complement the support and information provided to taxpayers by EU-28 tax administrations, the European Commission provides country-by-country guides (Vademecums) to claiming VAT refunds and a list of specific contact points in the competent national administrations on their external website.

When asked to assess the effectiveness of the information provided to taxpayers by the European Commission, a large proportion of tax administrations stated it is sufficient for increasing the accuracy and efficiency of refund claims.

However, when asked for ways to improve effectiveness, a number of tax administrations stated that the information provided by the Commission should be updated more frequently and should be easier for taxpayers to find.

#### **Engagement with tax administrations:**

##### **Information provided by the tax administration in one language**

In interview, it was found that information provided by tax administrations to support taxpayers in preparing and submitting claims is not always available in multiple languages. In the case of the Czech tax administration, information for businesses established outside the Czech Republic claiming a VAT refund is available in Czech with only some limited information available in English.

### 5.9.6 Summary

Most tax administrations were of the opinion that the exchange of information on pro rata calculations was 'neither effective nor ineffective'.

Responses from the businesses surveyed showed that, where businesses are aware of contact points in a Member State, 86% of businesses deemed these contact points to be highly effective or effective.



However, despite this, respondents to the business and VAT refunds agent survey raised issues around communicating with tax administrations. Businesses experienced language problems where tax administrations only communicated in national languages rather than widely used business language such as English. VAT refund agents, on the other hand, reported problems communicating with tax administrations more generally.

## **5.10 The impacts of technology on the VAT refund process**

The purpose of this section of the report is to understand the extent to which technology helps or hinders the VAT refund process for both taxpayers and tax administrations. Developing an understanding of this is crucial given that Directive 2008/9/EC mandates an electronic claim submission process specifically to overcome the shortcomings of the earlier paper-based system.

Due to limitations in the data collected during the course of the study, different combinations of Member States have been used to generate the statistics discussed in this section. EU-20 refers to Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Romania, Slovakia, Slovenia, Spain and Sweden.

### **5.10.1 Impact of technology on claim preparation**

Businesses can use technology to shorten the length of time taken to prepare and submit a VAT refund claim. Of the 217 businesses surveyed that process claims in-house, 60% of respondents noted that they have IT systems in place to support the preparation of VAT refund claims.

#### **Engagement with tax administrations: Potential impact of eIDAS**

In interview, the Swedish tax administration discussed the potential impacts of eIDAS on VAT refund claims. The Electronic Identification, Authentication and Trust Services (eIDAS) regulation created a standard for electronic signatures, qualified digital certificates, electronic seals, timestamps and other proof for authentication mechanisms to enable electronic transactions. It was discussed that standardisation of electronic documentation introduced by eIDAS could lower the costs faced by taxpayers in responding to additional information requests by Member States of Refund, while simultaneously making it easier for tax administrations to verify claims.

### **5.10.2 Impact of technology on claim submission**

Article 7 of Directive 2008/9/EC states that claimants shall submit an electronic refund application to the Member State of Refund through an online portal operated by the Member State of Establishment. As such, the functionality and operation of the online claim submission portal is of central importance to the smoothness of the VAT refund process for both taxpayers and tax administrations.



From the perspective of the VAT refund agents surveyed as part of this study, the technology available to facilitate the refund process plays an important role in the efficiency of dealing with refund claims.

Some issues that have been highlighted by VAT refund agents are:

- Issues with transferability of claims between Member State of Establishment (MSOE) and Member State of Refund (MSREF). The Irish Portal (ROS) has been identified as an example where additional effort is required in order to ensure that the application has been received by the MSREF.
- Attachment size limits of 4MB for some Member States and 5MB for others where agents have to separately email the remaining files that are over the limit.
- Unclear guidance on the storage of invoices and other supporting documentation.

However, of the EU-28 tax administrations surveyed, a substantial number stated that they had encountered significant issues in their capacity as Member State of Refund with the online portal operated by other Member States. This indicates room for improvement in the functionality and operational consistency of online portals.

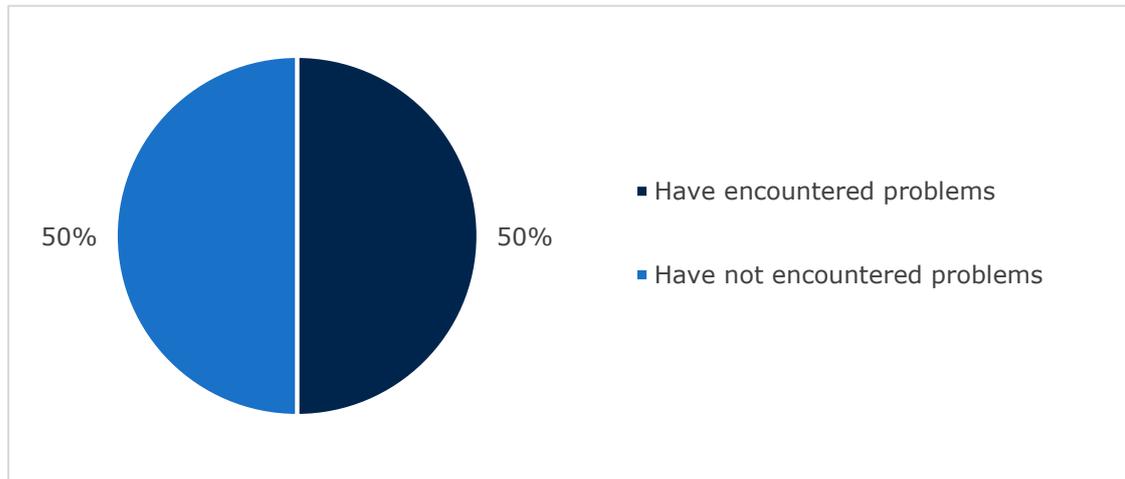
Of the issues encountered with online portals by Member States of Refund, some problems mentioned include:

- Outages (for prolonged periods of time in some instances) of the Member State of Establishment online portal.
- Attachment size limits which can result in artificial division of a claim into multiple applications.
- Problems attaching supporting documentation which can result in more additional information requests.

**Engagement with tax administrations:  
Overcoming claim submission portal outages**

A number of tax administrations indicated that they experienced significant issues with the online claim submission portal operated by other Member States of Establishment. In interview, the UK tax administration indicated that, although technological problems occur, there is an established protocol between Member States to deal with them. Where the online submission portal of a Member State of Establishment is inoperable, the claim identification numbers are shared with their competency in the Member State of Refund to ensure that the claims in question are processed on the assumption that they were received on time.

**Figure 57: Proportion of the EU-20 that have experienced significant issues with the online portal of Member States of Establishment in 2016**



Source: Tax administration data, PwC analysis

### 5.10.3 Impact of technology on claim processing

Technology can also be applied by tax administrations to improve the processing of VAT refund claims.

A number of EU tax administrations highlighted that they either operate, or are in the process of implementing, IT systems to automate the risk profiling of VAT refund claims. This potentially contributes to more efficient processing of claims and supports the identification of fraudulent or erroneous claims.

### 5.10.4 Summary

Businesses use technology to help with the preparation and submission of VAT refund claims. Indeed, 71% of the 217 businesses surveyed that process claims in-house noted that they have IT systems in place to support the preparation of cross-border VAT refund claims. In comparison, large business respondents indicated they have not purchased IT systems dedicated to the preparation of VAT refund claims.

Directive 2008/9/EC requires an electronic claim submission process to be implemented in Member States to overcome the issues faced by the earlier paper-based system. The use of technology has allowed for more efficient claim preparation, submission and processing for both taxpayers and tax administrations, including the introduction of IT systems to automate the risk profiling of VAT refund claims.

However, a significant amount of Member States encounter issues in operating the Member State of Establishment portals where problems such as outages and problems when attaching supporting documentation arose while using the system.

VAT refund agents surveyed as a part of this study stated that the technology available to facilitate the refund process plays an important role in the efficiency of dealing with refund claims. However, issues around attachment size limits for some Member States and unclear guidance on the storage of invoices and other supporting documentation were identified.



## 6. Conclusions

The core objective of the Directive 2008/9/EC, as set out in its opening remarks, is to improve harmonisation of the laws of the Member States relating to turnover taxes and amending issues which arose following the implementation of Directive 79/1072/EEC in 1979.

This study found evidence of multiple successes in achieving this. Nevertheless, a decade on from the passing of the Directive, evidence from tax administrations, businesses and VAT refund agents suggests there is still significant room for improvement. A number of suggestions for improvement are presented below for consideration by Member States and the European Commission.

The means by which these suggestions are implemented will vary. It may be sufficient to implement changes through best practice circulars or changes to administrative guidance and practice. However, if deemed necessary, it is conceivable that some of the suggestions could be realised through changes to EU and/or the corresponding national legislation.

### 6.21 Coordination between departments in tax administrations

#### 6.1.1 Overview of challenge

##### ***Limited follow up between departments within tax administrations***

The analysis contained in this report identifies that one of the most common reasons for rejections of VAT refund claims is that the claimant should have a local VAT registration. Follow up interviews with nine tax administrations revealed that tax administrations generally provide guidance and support to claimants on how to obtain a local VAT registration. However, despite this and due to the prevalence of the issue, it does not appear that businesses are fully aware of the circumstances under which they should become a VAT-registered foreign trader.

Moreover, the interviews showed that tax administrations only have limited processes in place internally to refer to or follow up on such cases with the relevant departments. This may mean that tax administrations may be restricted in their ability to establish robust and sustainable processes ensuring that all taxable activity in their Member State is taxed appropriately. In addition, tax administrations may encounter difficulties in identifying and reducing instances of non-compliant behaviour from taxpayers.

#### 6.1.2 Suggestions for improvement

##### ***Improved follow up processes between departments within tax administrations***

Appropriate communication with businesses, as well as regular follow ups, is particularly important to ensure that businesses action the information and support they receive from tax administrations. Moreover, this is essential to support taxpayers in obtaining VAT registration so that tax administrations can check that all taxable



activity within the Member State is taxed according to national and EU law. This also limits any potential for non-compliant behaviour by taxpayers.

An example of best practice is how one tax administration offers courses for taxpayers to provide assistance and information on any changes in the VAT refunds and reimbursement process. These courses can be face-to-face or online, and targeted at specific groups of taxpayers or for a wider audience.

Finally, tax administrations are advised to establish internal processes that ensure regular communication between departments responsible for VAT refunds and VAT reimbursements. This allows tax administrations to refer VAT refund claims where taxpayers need a local VAT registration to the competent department for VAT registered foreign traders. Such processes would allow tax administrations to follow up on the claimant in question with the relevant department.

## **6.2 Late payment interest**

### **6.2.1 Overview of challenge**

#### ***Difficulties in receiving late payment interest***

As outlined in Article 26 of Directive 2008/9/EC, taxpayers have the right to receive late payment interest if the tax administration does not process and pay the VAT refund within the timeframes stipulated by the Directive.

Despite clearly defined and established rules, respondents to the business survey noted that they struggled to receive late payment interest. Of the businesses responding, approximately one-third of businesses reported that they received interest for fewer than half of the VAT refund claims for which they were entitled to late payment interest.

### **6.2.2 Suggestions for improvement**

#### ***Increasing adherence of Member States to Directive 2008/9/EC to ensure late payment interest for taxpayers***

In light of the clear provision included in Directive 2008/9/EC on interest payments for VAT refund claims that are paid outside deadlines, the Commission may wish to investigate this issue further to ensure EU VAT law is adhered to at a national level by Member States.

## **6.3 Awareness of Member State rules**

### **6.3.1 Overview of challenge**

#### ***Lack of awareness of rules in place in Member States***

Although attempts have been made to harmonise rules for VAT refunds, differences between Member State rules remain. Significant differences were noted for VAT incurred on hotel and accommodation expenses, entertainment expenditure,



expenditure on food and drinks, and travel expenses (most notably on costs for taxis and public transport).

VAT refund claimants need to ensure that they are aware of the specific rules in place in the respective Member State of Refund. However, businesses dealing with a number of Member States of Refund may not be aware of the differences the rules in place in each Member States. One of the most common reasons for a VAT refund claim to be rejected is that the underlying expenditure is non-refundable in the Member State of Refund in question.

Indeed, claimants often struggle to obtain information about rules in place in specific Member States as noted by half of the respondents in the business survey. This is aggravated by the fact that one-third of respondents were not aware of any points of contact for information and clarification in the respective Member States. As highlighted in results of the business survey, such points of contact provide valuable support to businesses.

### **6.3.2 Suggestions for improvement**

#### ***Awareness of Member State of Refund rules and requirements***

To address this issue both the accessibility and quality of information for businesses should be improved. To do this, the European Commission should consider putting measures in place to raise taxpayer awareness of the existence of, and improve the accessibility to, vademecums as the central point of information.

Moreover, the European Commission may wish to find ways to promote the use of the specific contact points in place in the respective Member States of Refund to receive more information or support on certain which they encounter in the VAT refund process. Responses to the business survey indicated low levels of awareness of points of contact in Member States.

In the absence of harmonised rules two potential improvements can be made to the VAT refund process in this respect:

- **Option 1:** One of the most important and straightforward recommendations is to map the rules for each Member State and establish a process for updating these rules on a regular basis. Vademecums should feature all relevant rules in the respective Member States and responsibility should be placed on Member States to update them regularly. Moreover, vademecums should be made easily accessible for taxpayer with a link to the relevant information placed in the online portal of each Member State.

Additionally, Member States of Refund should be urged to clearly reference the points of contact for claimants to reach out to should they have any queries.

- **Option 2:** Technological solutions could be used to prevent taxpayers from making claims for non-refundable expenses. Member States of Establishment could build in rules reflecting the eligibility for refund in Member States of



Refund to their online portals. For example, these rules could make it impossible for the taxpayers to submit claims in respect of certain expenses that are not refundable in the specific Member State of Refund.

## **6.4 Verification of pro-rata calculations**

### **6.4.1 Overview of challenge**

#### ***No clear responsibilities for verification of pro-rata calculations***

Article 6 of Directive 2008/9/EC states that taxpayers who carry out transactions giving rise to a right of deduction and transactions not giving rise to a right of deduction can only claim a VAT refund from the respective Member State of Refund for the transactions that meet the requirement for a VAT refund as outlined in Article 5 of Directive 2008/9/EC. To do so, taxpayers should claim the respective proportion of VAT using the rules in place in their respective Member State of Establishment.

Results from the tax administration questionnaire and interviews show that the responsibilities for checking the accuracy and completeness of pro-rata calculations submitted by claimants are not clearly defined. This could lead to neither the Member State of Establishment nor the Member State of Refund verifying the pro-rata calculations submitted by claimants.

Additionally, nearly 10% of respondents to the business survey reported that, in their experience, the interpretation and performance of pro-rata calculations was a common reason for a VAT refund claim to be refused.

The absence of clear verification procedures in place across tax administrations, in combination with the claimants' lack of clarity around VAT refund rules in place in each Member State, may lead to businesses claiming and tax administrations refunding incorrect amounts.

### **6.4.2 Suggestions for improvement**

#### ***Verification of pro-rata calculations***

The European Commission should consider issuing official guidance for Member States with regard to the responsibilities of claimants, Member State of Refund and Member States of Establishment in the pro-rata verification process.

Additionally, depending on the rules and responsibilities, the Commission should urge the Member State of Refund to request evidence for the pro-rata calculations made in a VAT refunds claim from the claimant before approving it. Alternatively, if the responsibility for ensuring the accuracy of pro-rata calculations lies with the Member State in which a claimant is established, improvements to the online portal may support Member States of Establishment in checking calculations.

Such improvements could be achieved by adding a function for businesses to upload supporting evidence for any pro-rata calculation to the claim before being able to submit it. However, it is important to recognise that tax administrations may aim to



make portals as user-friendly as possible to ensure claimants have a positive experience when submitting a VAT refund claim. Additional functionality to the portal, such as the one proposed, may increase the administrative burden imposed on claimants, which may lead to lower levels of compliance by taxpayers. Therefore, it is important to implement such an IT solution in a way that allows tax administrations to balance the impact of this on taxpayer compliance burdens.

## **6.5 Recovery of incorrectly charged VAT**

### **6.5.1 Overview of challenge**

#### ***Issues with rules around incorrectly charged VAT***

Nearly one-quarter of the businesses surveyed experienced issues with VAT not being refunded by tax administrations as VAT had been incorrectly charged by the vendor in the first place. This issue was also noted as a commonly recurring problem by all four VAT refund agents surveyed.

VAT being charged incorrectly may occur in good faith as the vendor is not aware of rules regarding VAT exemptions, which can be complex. However, it was noted that in some cases charging VAT is also used as a safety measure by vendors to mitigate any risk of not charging VAT, by incorrectly exempting the supply. This overly prudent approach pushes the risk and financial burden to the customer. Additionally, the department responsible for VAT refunds and reimbursements, which is often a separate department within the tax administration, may assert that VAT should not have been charged, while at the same time, the policy department or local office of the same tax administration asserts that VAT has been correctly charged. This leads to businesses potentially being stuck between conflicting views.

This issue has also been addressed in CJEU ruling C-218/10 *ADV Allround Vermittlungs AG*, which concluded that EU VAT law does not require Member States to amend their domestic procedural rules to ensure a consistent approach is adopted regarding a VAT liability. Instead, the CJEU confirmed that Member States should adopt the measures that are necessary to ensure that VAT is collected accurately and that the principle of fiscal neutrality is observed. However, in practice, it seems that many Member States have, by and large, not addressed this issue. Therefore, in these situations it is common for the customer to experience ongoing difficulties in recovering the VAT incurred since it is unclear for the supplier what the correct course of action should be. It is not uncommon in these circumstances for businesses to forgo the recovery of such VAT given the complexities involved for both supplier and customer.

### **6.5.2 Suggestions for improvement**

#### ***Recovery of incorrectly charged VAT***

As mentioned in section 6.1, businesses as well as tax administrations reported that a common reason for the rejection of VAT refund claims is the fact that VAT was charged incorrectly by the vendor or that taxpayers suffer from a difference in views between tax administration departments as to the correct VAT treatment of the relevant supply.



Standard procedure in such cases is for tax administrations to reject the claim and refer claimants back to the vendors to recover the VAT. However, in some cases, businesses stated that the recovery of VAT from vendors has proven difficult due to confusion and disagreement between tax administrations and businesses with regard to who is liable for the refund of this VAT.

The European Commission may want to conduct further research into this topic to find a solution for businesses facing such a situation since mechanisms such as the Cross Border Ruling request process would not seem to apply in such circumstances. It may be difficult for the Commission to influence administrative practice in cases where two different departments of the same tax administration disagree on the appropriate VAT treatment. However, this area may be a useful topic of conversation for the EU VAT Forum.

## **6.6 Requests for additional information**

### **6.6.1 Overview of challenge**

#### ***Disproportionate number of additional information requests***

According to tax administrations across the EU, only a small number of claims attract additional information requests (approximately 9% in 2016). However, this appears to be different to the experience of businesses. Approximately 70% of respondents to the business survey noted that they receive requests for additional information from tax administrations frequently, very frequently or almost always. Therefore, there appears to be a gap between the views of tax administrations and the perceptions of businesses.

Moreover, the process of requesting information appears to be increasingly formalistic. A wide range of documentation is requested including original invoices, copies of invoices, evidence of the business purpose for the underlying expenditure, and further non-invoice related information.

### **6.6.2 Suggestions for improvement**

#### ***Better targeted requests for additional information***

To reduce the administrative and compliance burdens on businesses and promote the willingness of the taxpayers to submit VAT refund claims, the following three options of improvement should be considered:

- **Option 1:** The Commission should review the reasonableness and proportionality of additional information requests. As part of this review, the Commission is advised to urge tax administrations to refrain from requesting an inadequate level of documentation and to also accept alternative evidence from businesses. Moreover, this should include a thorough review of the time limits set out in Directive 2008/9/EC for providing such documentation, as they may be too short for businesses to comply with especially in cases where additional documentation is needed to be translated.



- **Option 2:** The Commission should encourage national tax administrations to provide businesses with guidance on what information and documentation can be submitted upfront as best practice. This will give businesses the opportunity to submit relevant information straight away and tax administrations will be able to process claims in a timely fashion in line with deadlines stipulated by Directive 2008/9/EC.
- **Option 3:** The Commission should urge tax administrations to record business related information appropriately to avoid repeated requests of similar or identical information from businesses. This includes having appropriate systems in place to ensure a business is risk profiled and recorded appropriately.

## 6.7 Language barriers

### 6.7.1 Overview of challenge

#### *Taxpayers face language barriers*

Analysis of how Directive 2008/9/EC showed that five Member States (Czech Republic, Poland, Romania, Slovenia and Spain) only accept applications for VAT refunds, including additional information, in their respective national languages. Moreover, two Member States (Austria and France) noted that, in general, all communication and documentation should be in their national language but English and may be used if necessary. Finally, one Member State (Malta) did not outline which languages are to be used in the VAT refund process.

Businesses reported having experienced issues in some Member States of Refund when communicating and providing documentation for VAT refund claims in languages other than the respective national languages. This can have a variety of negative impacts for businesses. For example, they may not be able to comply with additional information requests within the deadlines stipulated by Directive 2008/9/EC. Moreover, language problems experienced by businesses can ultimately lead to businesses refraining from exercising their right to a VAT refund.

In addition, VAT refund agents stated that translation costs can make a claim uneconomic. However, this has to be considered in light of VAT refund agents operating on a commission basis, and therefore having to work with tight margins. Therefore, even small additional costs could make submitting a claim uneconomic for them.

### 6.7.2 Suggestions for improvement

#### *Use of established business languages in the VAT refund process*

The Commission should urge tax administrations to accept certain documentation required in the VAT refund process in languages other than the respective national languages. This may include the publication of guidance around what documents should be accepted in other languages, for example "base" information for a claim such as the actual VAT refund claim and invoices to support expenditure. Such guidance may also include a list of documents that tax administrations may want to



request in the national language due to then containing more complex information, for example a detailed description of the nature of the business to ensure the tax administration can be satisfied as to the details of the business and eligibility to a VAT refund.

Moreover, the Commission may consider advising Member States to review which Member States of Establishment they receive the majority of VAT refund claims from. This will allow Member States to tailor their language requirements according to the needs of their claimants and support tax administrations in the use of languages other than their national language.

Finally, it is worth noting that the Commission has commenced testing private ruling requests relating to cross-border situations with a number of Member States. Participating Member States have accepted that cross-border requests can be submitted either in their official language(s) or English. The Commission may consider extending this program to all Member States, and including more languages based on the specific requirements of each individual Member State.



## Appendix 1: Detailed summary of insights into the VAT refund process in Germany

Data on businesses surveyed that made claims to the German tax administration as a Member State of Refund was not identifiable from the business survey results.

The German tax administration does not provide data on VAT refunds to the Standing Committee on Administrative Cooperation. In addition, they declined to participate in the part of survey dealing with VAT refunds administered to tax administrations as part of this study. As such, the European Commission recommended the preparation of a detailed summary of the results relating to Germany as a Member State of Refund gathered from other components of the study.

Accordingly, this summary of the insights into the VAT refund process in Germany draws on:

- **Legislative analysis:** The analysis of domestic legislation implementing Directive 2008/9/EC yielded a number of findings on the degree of compliance of German legislation and administrative practice with the provisions of the Directive.
- **VAT refund agent survey:** Phase 1 of the VAT refund agent collected quantitative data on the duration of a VAT refund claim in specific Member States of Refund. Phase 2 of the VAT refund agent survey gave agents the option to answer in respect of a specific Member State of Refund or on a pan-EU basis. One VAT refund agent answered specifically in respect of Germany and a number provided comments relating to the process in Germany compared to other Member States of Refund.
- **Business survey:** The business survey asked businesses to indicate issues they experienced with particular Member States of Refund. Although the business survey collected much more detailed responses from businesses, it was administered on a Member State of Establishment basis and did not require businesses to respond in respect of a specific Member State of Refund.

### Overview of domestic legislation implementing Directive 2008/9/EC

The analysis of domestic legislation and administrative practice highlighted that Germany is non-compliant with Directive 2008/9/EC. The following issues have been identified:

- **Article 13:** Article 13 has not been implemented in domestic legislation. This article concerns the process to allowing claimants to make a correction to the amount in a refund application. However, there is a general provision in the German Fiscal Code that allows applicants to correct errors in their application.
- **Article 25:** Article 25 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of refund to take into account as a decrease or increase of the amount of the refund any correction made concerning a previous refund application in accordance to Article 13. However, in practice, the authorities take into account a decrease or increase of the amount of the refund when any corrections are made to the application.



- **Article 16:** Article 16 has not been implemented in domestic legislation. This article concerns the duration of the refund period. However, the tax administration practice is in line with Article 16.
- **Article 19:** Article 19 has not been implemented in domestic legislation. This article concerns the requirement for the Member State of Refund to notify the applicant of the decision. However, in practice, the German tax administration does provide electronic confirmation of receipt of an application.
- **Article 20:** Article 20 has not been completely implemented in German domestic legislation. This article concerns how the Member State of Refund can request additional information. The tax administration practice is also non-compliant, as some refund claims are automatically rejected by the tax administration if they are considered not to have adequate information, without a request for supporting information being made.
- **Article 21:** Article 21 has not been implemented in domestic law. This article concerns deadlines for the Member State of Refund to process claims where additional information is requested. However, the requirements under Article 21 can be implied from the VAT Implementing Regulation regarding when interest is payable.
- **Article 22:** Similarly, Article 22(1) has not been implemented in domestic legislation. This article concerns the deadline for the Member State of refund to pay when an application has been approved. However, this is implied from VAT Implementing Regulation. Article 22(2) has not been implemented in domestic legislation. This article concerns the requirement for the refund to be paid in the Member State of refund, or upon the applicant's request, in any other Member State.
- **Article 23:** Article 23 has not been implemented in domestic legislation. This concerns the requirement for Member State of refund to provide the grounds of refusal to applicants. However, according to General Fiscal Rules, every administrative act/official decision of the tax administration with respect to tax matters should be substantiated to ensure that the taxpayer can properly understand it.
- **Article 24:** Article 24 has not been implemented in domestic legislation. This article concerns the recovery of amounts refunded incorrectly or through claims that were deemed to be fraudulent.

In addition, it is noted that the European Commission has commenced infringement proceedings against Germany in respect of its non-compliance with Article 20 (see the press release dated 24 January 2019: IP/19/472).

### **Claim preparation and submission**

Data on businesses that specifically made claims to the German tax administration is not identifiable from the business survey results.

However, where businesses make use of the service of a VAT refund agent, it was found that the process of appointing an agent appears to be particularly quick in



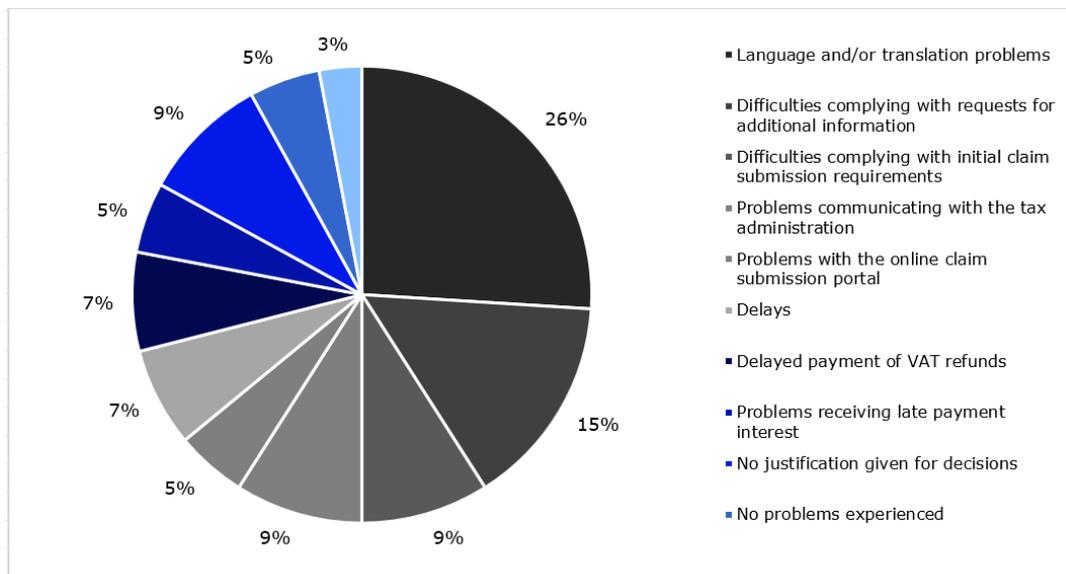
Germany. This was highlighted by two agents: one in a response covering the whole of the EU and the other in a Germany specific response. The fact that an electronic copy of a Power of Attorney (PoA) can be used may explain this.

### Issues encountered when submitting a VAT refund claim to the German tax administration

Out of 217 businesses surveyed that process claims in-house, 129 businesses provided a response on the most common issues faced when submitting a VAT refunds claims and the Member State of Refund with which they faced these issues. Germany (17%) was ranked as the most common Member State of Refund where businesses had experienced issues. Belgium (9%), Bulgaria (9%) and France (7%) were other Member States of Refund where businesses recorded that they had encountered difficulties. The fact that most businesses face problems in Germany, Belgium and France may be due to high volume of claims businesses submit to these Member States of Refund.

In particular, where the business surveyed encountered problems with VAT refund claims to the German tax administration language issues and difficulties complying with additional information requests were among the most common.

**Figure 58: Issues encountered by businesses when claiming VAT refunds from the German tax administration**



Source: PwC analysis

Responses from two of the four VAT refund agents surveyed (one in a response covering all Member State and one in a Germany specific response) highlighted Germany as having particularly significant issues with additional information.

They reported that the German tax administration is no longer making requests for additional information, but is instead completely rejecting applications, even in cases where there are missing scans of invoices or low resolution scans (information which it is likely the taxpayer could provide if it were requested).



Given the approach followed by the German tax administration, in practice, the only way for the agents or taxpayers to pursue a claim after it has been rejected is to file an appeal. This, in turn, delays the refund process and makes it harder for taxpayers to comply with the rules, in what could have been a much simpler process if the tax administration had issued additional information requests as foreseen by the paragraph 1 of Article 20 of Directive 2008/9/EC.

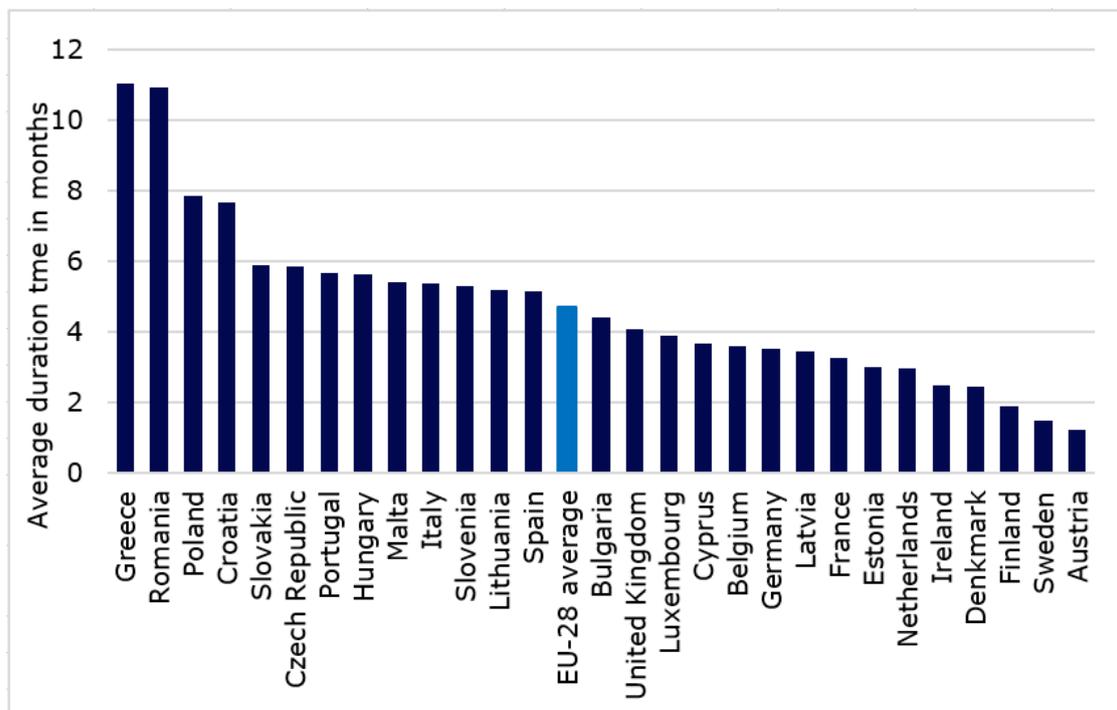
The experience of VAT refund agents in respect of complying with additional information requests is consistent with that of the businesses surveyed and is borne out by the European Commission's recent decision to commence infringement proceedings against Germany in respect of its non-compliance with Article 20 (see the press release dated 24 January 2019: IP/19/472).

### Claim duration

Based on data collected from two of the six VAT refund agents surveyed, it was possible to analyse the average duration (i.e. length of time taken from submission of a claim until receipt of a decision) of a VAT refund claim in the EU-28.

On average, EU-28 tax administrations took just over 4.7 months to process VAT refund claims submitted by agents. Claims submitted to the German tax administration took slightly shorter to process than the EU-28 average (approximately 3.5 months). It should also be noted that tax administrations in other Member States of Refund took significantly longer to process a claim than the EU-28 average (e.g. Greece and Romania).

**Figure 59: Average claim duration in months across the EU-28**



Source: VAT refund agent data

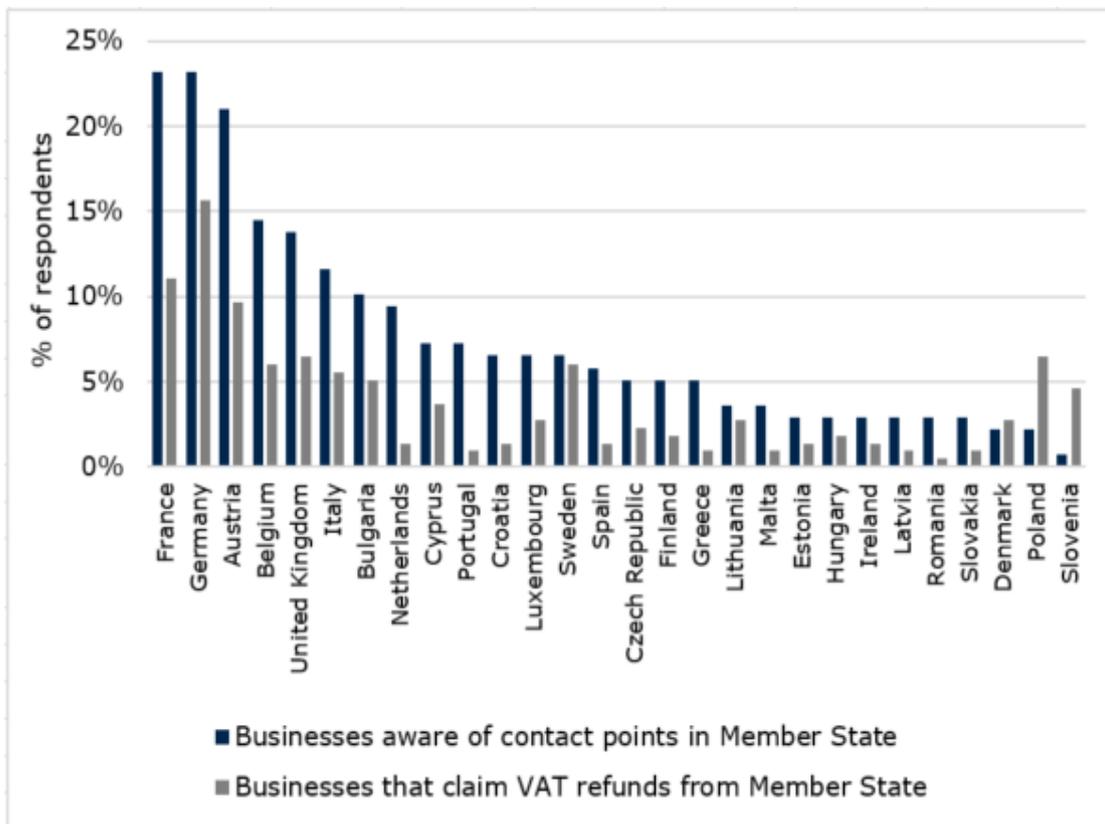
### Effectiveness of tax administration communication and support

As can be seen from Figure 60, overall a significant proportion of the businesses surveyed are aware of the contact points established by the German tax administration.

Moreover, all of the businesses surveyed that submit VAT refund claims to the German tax administration are aware of the specific contact point. This compares against outliers, such as Poland and Slovenia, where only a proportion of the businesses surveyed that make VAT refund claims to these Member States were aware of the contact points established by the tax administration in question.

On average, the businesses surveyed aware of the specific contact point established by the German tax administration ranked it as highly effective.

**Figure 60: Awareness of contact points established by tax administrations**



Source: PwC analysis