

## **PROCEDURE REGARDING REFUND CLAIMS BY PERSONS REGISTERED FOR VAT IN MALTA AND PERSONS CLAIMING REFUNDS UNDER THE 8TH AND 13TH DIRECTIVES**

### **Taxable persons registered for VAT in Malta**

Taxable persons who are registered for VAT in Malta under article 10 of the VAT Act claim their refund on input VAT in their VAT return. The VAT return shall contain correct and complete information and submitted within the established due date. The VAT department refunds an excess credit, provided the taxable person has no outstanding taxes due.

The VAT department sends the VAT return to the taxable person to be completed and submitted by the due date. The VAT Return may also be filed on-line. To file the return on-line the taxable person needs the e-ID. The e-ID is obtained by applying with the Identity Management Office (IDMO). The e-ID enables the taxable person to authorise a Tax Practitioner to submit the VAT Return on their behalf.

The department usually verifies the amount of refund claimed and where it disagrees with such claim, a provisional assessment is issued to the registered person and the tax is deducted from the amount of refund claimed. The person could request a review of such provisional assessment. After the expiration of a period of not less than thirty days and not more than six months from the service of a provisional assessment in respect of a tax period, the Commissioner may either confirm, amend or cancel the provisional assessment.

Where the registered person does not agree with the confirmed assessment, he has the right to appeal before the [Administrative Review Tribunal](#) within 30 days from the date of the service of the notice of assessment. Any of the parties to an appeal or a reference to the Tribunal who feels aggrieved by the decision of that Tribunal may, by means of an application to be filed within thirty days from the date on which the decision appealed from is notified to him, appeal against that decision on a question of law only.

Link to a sample of the VAT Return:-

[https://cfr.gov.mt/en/vat/general\\_information/Documents/24.%20New\\_vat\\_return\\_form\\_english.pdf](https://cfr.gov.mt/en/vat/general_information/Documents/24.%20New_vat_return_form_english.pdf)

Link to the VAT Return guide:-

[https://cfr.gov.mt/en/vat/general\\_information/Pages/Instructions-on-submission-of-forms.aspx](https://cfr.gov.mt/en/vat/general_information/Pages/Instructions-on-submission-of-forms.aspx)

Link to the IDMO website:-

[https://mygov.mt/PORTAL/\(g4f51k55nnytf255lqs2bt55\)/webforms/Home.aspx](https://mygov.mt/PORTAL/(g4f51k55nnytf255lqs2bt55)/webforms/Home.aspx)

## **Taxable persons not established in the EU Member State of Refund but established in another EU Member State**

A claim for a refund under the 8<sup>th</sup> Directive is made by a taxable person not established in the Member State of VAT refund but established in another Member State, through the website of the tax administration of the Member State where he is established. Such claim is subject to the conditions of Council Directive 2008/9/EC.

The refund application shall be submitted to the Member State of establishment at the latest on 30 September of the calendar year following the refund period. The applicant is immediately informed, by electronic means, of the date on which the application is received by the local tax authorities. The tax authorities will notify the applicant of the decision to approve or refuse the refund application within four months from the date of its receipt.

Where additional information is requested, the decision to approve or refuse the refund application will be notified to the applicant within two months of receiving the requested information or, if no reply to such request is received, within two months of expiry of the time limit laid down in regulation 20 of the above Legal Notice.

However, the period available for the decision in respect of the whole or part of the refund application shall always be at least six months from the date of receipt of the application by the Commissioner. Where further additional information is requested, the applicant will be notified of the decision in respect of the whole or part of the refund application within eight months of receipt of the application.

Approved refunds will be paid at the latest within 10 working days of the expiry of the above mentioned applicable deadline.

The rules below are intended for taxable person established in any Member State other than Malta as per Legal notice 357 of 2009.

The applicant will be notified of the decision by an email and online. Where no decision is taken within the established time limits, the application is deemed to have been rejected.

Appeals against decisions to refuse a refund application may be made by the applicant to the [Administrative Review Tribunal](#) (established by article 5 of the Administrative Justice Act) in terms of article 44 and the Ninth Schedule to the Act.

Any of the parties to an appeal or a reference to the Tribunal who feels aggrieved by the decision of that Tribunal may, by means of an application to be filed within thirty days from the date on which the decision appealed from is notified to him, appeal against that decision on a question of law only.

Link to the rules for VAT refund under 8<sup>th</sup> Directive:-

[https://cfr.gov.mt/en/vat/guidelines\\_to\\_certain\\_VAT\\_Procedures/Documents/09.%20Guidelines%208thDirective%20130911.pdf](https://cfr.gov.mt/en/vat/guidelines_to_certain_VAT_Procedures/Documents/09.%20Guidelines%208thDirective%20130911.pdf)

Link to the on-line application guide intended for taxable persons established in Malta and registered under article 10 of the VAT Act to assist them to submit the application to the Member State of Refund:-

[https://cfr.gov.mt/en/vat/general\\_information/Documents/18.%20VAT%20Refund%20Guide.pdf](https://cfr.gov.mt/en/vat/general_information/Documents/18.%20VAT%20Refund%20Guide.pdf)

Link to the Council Directive 2008/9/EC:-

[https://cfr.gov.mt/en/vat/legislation-and-LNs/Documents/14.%20EC2008-9\(EURefund-MS\).pdf](https://cfr.gov.mt/en/vat/legislation-and-LNs/Documents/14.%20EC2008-9(EURefund-MS).pdf)

Link to the Legal Notice 357 of 2009:-

[https://cfr.gov.mt/en/vat/legislation-and-LNs/Documents/18.%20LN2009%20357\(EURefund-MS\).pdf](https://cfr.gov.mt/en/vat/legislation-and-LNs/Documents/18.%20LN2009%20357(EURefund-MS).pdf)

### **Taxable persons not registered in the territory of the EU Community**

A claim for a refund under the 13<sup>th</sup> Directive is made by a taxable person established outside the European Community, and not registered for VAT in Malta, on the prescribed form, which includes notes on how to complete the application. Such claim is subject to the conditions of Legal Notice 220 of 2004. The claim shall be submitted to the VAT department in Malta, within six months from the end of the calendar year in which the tax became chargeable.

Decisions concerning applications for refund shall be given within six months from the date when the applications, accompanied by all the necessary documents required under these regulations for the examination of the application, are received by the Maltese tax authorities.

Where the refund application is refused in whole or in part, the applicant will be notified of the decision in writing. Where no decision is taken within the established time limits, the application is deemed to have been rejected.

Appeals against decisions to refuse a refund application may be made by the applicant to the Administrative Review Tribunal (established by article 5 of the Administrative Justice Act) in terms of article 44 and the Ninth Schedule to the Act.

Any of the parties to an appeal or a reference to the Tribunal who feels aggrieved by the decision of that Tribunal may, by means of an application to be filed within thirty days from the date on which the decision appealed from is notified to him, appeal against that decision on a question of law only.

Link to the rules for VAT refund under 13<sup>th</sup> Directive:-

[https://cfr.gov.mt/en/vat/guidelines\\_to\\_certain\\_VAT\\_Procedures/Documents/10.%20Guidelines%2013thDirective%20130912.pdf](https://cfr.gov.mt/en/vat/guidelines_to_certain_VAT_Procedures/Documents/10.%20Guidelines%2013thDirective%20130912.pdf)

Link to the application form:-

[https://cfrcms.gov.mt/en/eServices/Documents/Vatform\\_008\\_request\\_refund\\_by\\_foreign\\_tp.pdf](https://cfrcms.gov.mt/en/eServices/Documents/Vatform_008_request_refund_by_foreign_tp.pdf)

Link to the Legal Notice 220 of 2004:-

<https://cfr.gov.mt/en/vat/legislation-and-LNs/Documents/05.%20LN2004%20220%20VAT%20Refund.pdf>

## **Taxable persons /Tax Practitioners not holding a Maltese Identity Card**

A taxable person who has not been issued with a Maltese Identity Card may apply with the VAT Department as follows:

Application to submit on line services (including VAT Return, Application for refund from another Member State

<https://cfr.gov.mt/en/eServices/Pages/VAT-Online-Form-1.aspx>

A taxable person may also authorise a Tax Practitioner to submit VAT Return and Application for refund from another Member State on their behalf

<https://cfr.gov.mt/en/eServices/Pages/VAT-Online-Form-2.aspx>

A Tax Practitioner who cannot be issued an e-ID by the Government of Malta, then the practitioner may apply with the VAT Department for on line services using this form

<https://cfr.gov.mt/en/eServices/Pages/VAT-Online-Form-3.aspx>

Full guidelines on these application forms may be found here

<https://cfr.gov.mt/en/eServices/Pages/Non-Maltese-Id-Card-Holders.aspx>

17<sup>th</sup> September 2013

### **DISCLAIMER**

Please be aware that the above notes are published for information purposes and as guidance for further exploration. Utmost care has been taken to ensure that the information given is correct. This notwithstanding it is to be pointed out that they are not legally binding and should not serve as a legal document providing legally binding rulings. If you require further information you are advised to either refer to the legal text or contact the VAT Department.