

Guidelines regarding VAT refunds to taxable person not established in the territory of the EU Community and not registered for VAT in Malta

What is a refund under these rules?

A taxable person not established in the territory of the EU Community and not registered for VAT in Malta may claim input VAT incurred in Malta on business-related expenditure, provided that he does not perform any trading activities in Malta.

What are the conditions for such refund?

A person is entitled to claim such refund if he does not have in Malta:

- a) his place of his economic activity; or
- b) a fixed establishment from which business transactions are effected; or
- c) his domicile; or
- d) his normal place of residence; or
- e) a valid VAT registration number issued by the Maltese VAT Department.

Also, during the same period he should not have supplied or deemed to have supplied, any goods or services in Malta.

However, for this purpose, the following services are not considered as services supplied or deemed to have been supplied in Malta:

- Transport and ancillary services thereto that are exempt and that are part of the full taxable value, as specified under certain conditions; and
- Services and goods supplied by such taxable person not established in Malta in cases where tax is liable to be paid solely by the persons to whom they are supplied.

Moreover, this refund scheme does not apply to the supply of goods which are exported from Malta by persons not established in Malta.

How can one apply?

A recipient of an invoice who has paid the amount in full, qualifying for any of the above-mentioned refund may apply with the VAT Department for that refund on Form 008/2004. The form and guidance notes are available on the Department's website.

It should be noted that prior to any refund issued, the VAT Department may request further information and supporting documents in relation to the claim. Any irregularities in the documentation that is presented may render the refund ineligible.

Is there a time limit for the submission of a refund application?

An application is only valid if it is submitted to the VAT department in Malta, within six months from the end of the calendar year in which the tax became chargeable. Moreover, the application shall be considered submitted, only if you have filled in all the information required.

Is there a threshold for amounts to be claimed as refund?

Where 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 €200.

However, 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 €25.

What information am I required to give in the refund application?

In your refund application you are required to give the following information:

- your name and full address
- an address for contact by electronic means
- a description of your business activity for which the goods and services are acquired
- the refund period covered by the application
- a declaration that you have supplied no goods and services deemed to have been supplied in Malta during the refund period, apart from the exceptions allowed
- particulars of the tax office and the VAT identification number or tax reference number in the country in which you are established or domiciled or have your normal place of residence
- your bank account details including IBAN and BIC codes

Furthermore, the refund application shall set out, for each invoice or importation document, the following details:

- name and full address of the supplier
- except in the case of importation, the VAT identification number of the supplier, as allocated by the Commissioner in accordance with the provisions of article 10 of the Act
- date and number of the invoice or importation document
- taxable amount and amount of VAT expressed in the currency euro
- the amount of deductible VAT expressed in euro

What happens when my application is received by the VAT Department?

The VAT Department shall notify you with the decision to approve or refuse the refund application 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.

What if my application is refused?

You shall be notified by the VAT Department with the decision including the grounds for refusal where the refund application is refused in whole or in part.

You may appeal against a decision by the VAT Department to refuse a refund application. The appeal shall be made to the Administrative Review Tribunal in terms of article 44 and the Ninth Schedule to the Act.

Where the VAT Department fails to take a decision on a refund application within the prescribed time limits it shall mean that the application is deemed to have been rejected.

What if my application is accepted?

If after processing your refund application the VAT Department is satisfied that the refund claim is in conformity with the regulations you will be issued with a refund of the VAT claimed in your refund application.

What if the application is to be submitted by a representative/agent's and/or the refund to be deposited into the representative/agent's bank account?

An original notarised Power of Attorney is to be submitted to the VAT department by post. The said document should state that the representative/agent is authorised to apply and/or to receive the refund amount in its bank account and to continue to act on behalf of the client unless the Maltese VAT department is otherwise informed. Therefore the original notarised Power of Attorney would stand for future claims unless the Maltese VAT department is informed by the taxpayer that the said representative/agent is no longer authorised by the client.

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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.