

**HELLENIC REPUBLIC
MINISTRY OF FINANCE
GENERAL SECRETARIAT OF
TAX AND CUSTOMS ISSUES
DIRECTORATE GENERAL OF
TAXATION
14th DIRECTORATE OF VAT
DIVISION C'**

Subject:: VAT refund to enterprises that incur expenditures in another Member State than that of its establishment, according to the provisions of article 34, par. 2 to 9 of VAT Code.

DECISION

THE MINISTRY OF FINANCE,

Having regard to:

1. The provisions of:
 - a) Article 22, paragraph 3, L. 3763/2009 about the < integration of Directives 2006/98/EC, 2008/8/EC and 2007/74/EC, integration of provisions of directives 2006/112/EC and 2006/69/EC, the provisions of income taxation, capital taxation, VAT and other taxations as well as other provisions> (O.J. A'80), by which a new paragraph 11 is added to the article 34 of VAT Code (L.2859/2000),
 - b) Council Regulation (EC) No 1798/2003 as amended by Regulation (EC) No 143/2008 <as regards the introduction of administrative cooperation and the exchange of information concerning the rules relating to the place of supply of services, the special schemes and the refund procedure for value added tax > ,
 - c) Council Directive 2008/9/EC <laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the member state of refund but established in another Member State,
 - d) presidential decree 150/2001 (O.J.) <adaptation to Council Directive 99/93/ on a Community framework for electronic signatures>.
- 2) The need to lay down new arrangements for the refund of VAT in accordance with the Council Directive 2008/9/EC to those taxable persons who incur expenditure in another Member State than that of their establishment.
- 3) The fact that this decision does not create a burden for the state budget

WE DECIDE

ARTICLE 1

PURPOSE

The purpose of this decision is to lay down the terms and conditions and the arrangements for the refund of value added tax, to taxable persons not established in the Member State of refund but established in another Member State, in accordance with paragraphs 2 to 9 of Article 34 of VAT Code (Law 2859 /2000) as amended and be in force in order to comply with the Council Directive 2008/9/EC.

ARTICLE 2

DEFINITIONS

For the purposes of this decision:

- a) A taxable person established in another member state means any taxable person to VAT within the meaning of article 9, paragraph 1 of Directive 2006/112/EC, who is not established in Greece,
- b) A taxable person established in Greece means any taxable to VAT person, within the meaning of article 3 paragraph 1 of VAT code (Law. 2859/2000),
- c) Member State of establishment means the Member State in which the taxable person has the seat of his economic activity, or a fixed establishment from which business transactions were effected, or, if no such seat or fixed establishment were existed, his domicile or normal place of residence,
- d) Member State of refund means the Member State in which the taxable person incurred the expenditures for which claims the refund of VAT,
- e) The applicant means the taxable person that submits the refund application,
- f) Refund application means the electronic form used by the applicant to claim the VAT refund,
- g) Competent authority of the member state of establishment means the tax authority which is designated as responsible to receive the applications,

- h) Competent authority of the member state of refund means the tax authority which is designated as responsible to refund the VAT,
- i) Date of the receipt of the application means the date on which the Member State of refund received the application by the Member State of establishment,

ARTICLE 3

TAXABLE PERSONS ELIGIBLE FOR REFUND

1. Taxable persons established in Greece are eligible for refund, from another member state of European Union, of any tax charged in respect of goods or services supplied to him by other taxable persons in that Member State of European Union as well as in respect of the importation of goods in that Member state.
2. Taxable persons established in another member state of European Union Greece are eligible for refund, from Greece, of any tax charged in respect of goods or services supplied to him by other taxable persons in the territory of the country as well as in respect of the importation of goods in that Member state.

ARTICLE 4

TERMS AND CONDITIONS OF REFUND

1. The applicant has to meet, during the refund period covered by the application, the following requirements:
 - a) has had in the member state of refund neither the seat of his economic activity, nor a fixed establishment from which business transactions were effected, or, if no such seat or fixed establishment were existed, his domicile or normal place of residence,
 - b) has supplied no goods or services, for which the place of taxation is in the Member state of refund, with the exception of the following transactions:
 - aa) The supply of transport services and services ancillary thereto that are carried out in the member state of refund and which are exempted from value added tax as related to the import or export of goods or the international transports.

bb) The supply of goods or services to a person who is liable for payment of VAT in accordance with the legislation of the member state of refund.

c) Goods and services supplied to him are used for taxable transactions subject to value added tax in the member state of his establishment and for which would have a right of tax deduction, if they were carried out in the member state of refund or were used for the aforementioned transactions in bb above.

2. No right for refund is granted:

a) In the case that in the member state of his establishment the applicant,

aa) is not a taxable person for VAT purposes,

bb) carries out only supplies of goods or of services which are exempt of VAT without deductibility of input tax,

cc) Is covered by the exemption for small enterprises,

dd) Is covered by the common flat-rate scheme for farmers.

b) For amounts of VAT due ,

aa) on supplies of goods that are exempted or should be exempted as intra-Community acquisitions or as exports (supplies of goods out of the Community),

bb) on goods or services for which no right of deduction is granted in the member state of refund

cc) expenditures that are not related to the economic activity of the applicant.

c) For amounts of VAT which have been incorrectly invoiced.

3) VAT is refunded to the extent that goods and services are used by the applicant for taxable transactions subject to value added tax or transactions that are entitled to input tax deduction in the member state of his establishment. In the case that the applicant uses the goods and services for transactions giving rise to a right of deduction and transactions not giving rise to a right of deduction in the member state of his establishment , only such proportion of VAT may be refunded as is attributable to transactions giving rise to a right of deduction.

Article 5

Refund application

1. Mode of submission

a) The taxable person who is established in Greece submits the application only via the electronic network TAXISnet, by using the passwords that he/she has received for another application related to electronic returns. If the person has not received such passwords, he/she must submit an application for the issue of passwords to the electronic network TAXISnet prior to the refund application.

b) The taxable person who is established in another member-state submits the application via the electronic portal set up by the member-state of establishment, which forwards it to Greece (member-state of refund).

2. Period covered by the application

The refund period covered by the application must not exceed one calendar year or be less than three calendar months, unless the application relates to a period corresponding to the remainder of the calendar year, which is considered as one calendar year in this case.

3. Ceiling for the requested amount

If the application relates to a refund period of one calendar year, the requested refund amount cannot be less than 50 euro and if the application relates to a period of less than one calendar year but not less than three months, the requested refund amount cannot be less than 400 euro.

4. Type and content

The type of the refund application shows up as an electronic form and contains the following information:

a) name of the applicant, address of his/her business activity and address for contact by electronic means,

b) tax identification number (AFM) in the member-state of establishment for the purposes of VAT,

c) code number for the business activity of the applicant (KAD) and the description thereof,

d) period covered by the refund application,

e) member-state of refund

f) bank account details including the IBAN and BIC codes,

g) declaration by the applicant that he/she has not supplied any goods and services within the member-state of refund which are deemed to have been supplied within that member-state, except for the supply of transport services and services ancillary thereto which are exempted from tax, as well as the supply of goods and services to a person who is liable for payment of the VAT.

h) details of the representative (in case there is one)

5. Expenditure documents

In addition to the information specified in paragraph 4, the refund application includes the following details for each invoice or importation document, per member-state of refund:

a) name and full address of the supplier,

b) tax identification number (AFM) of the supplier in the member-state of refund for the purposes of VAT,

c) number and date of the document,

- d) amount of VAT expressed in the currency of the member-state of refund,
- e) amount of deductible VAT which has been identified based on the deductible proportion,
- f) percentage of the deductible proportion (pro-rata percentage),
- g) description of the type of goods or services and classification based on special codes used by the member-state of refund, which can be found in the webpage for the submission of the application.

Article 6

Deadline for the submission of the application

The refund application is submitted to the member-state of establishment at the latest on 30 September of the calendar year following the refund period.

Article 7

Electronic forwarding of the application

1. The member-state of establishment forwards the application to the member-state of refund by electronic means, within 15 days from its receipt.
2. The member-state of refund notifies the applicant by electronic means, either directly or through the member-state of establishment, of the date on which it received the application.
3. If the application is not forwarded by the member-state of establishment to the member-state of refund, the member-state of establishment notifies the applicant of its decision by electronic means.

Article 8

Additional information

1. The member-state of refund may request additional information from the applicant or the competent authorities of the member-state of establishment, by electronic means, in order to proceed to the issuance of the decision on the refund.
2. Besides the applicant or the competent authorities of the member-state of establishment, the member-state of refund may request additional information from other persons as well, by electronic means, if such means are available to them.
3. If deemed necessary, the member-state of refund may request further additional information.
4. All the above information must be received within one month from the date on which the request for the provision of additional information reaches the person to whom it is addressed.
5. The submission of the original invoice or a copy thereof is included in the additional information.

Article 9

Amended – additional applications

1. An additional application may be submitted concerning invoices which were not included in previous applications. The additional application is submitted in the same way as the initial application and there can be only one for each calendar year.
2. An amended application may be submitted, if certain details in the applications already submitted change.
3. If the deductible proportion (pro-rata) is readjusted subsequent to the submission of the application, the applicant makes the respective correction. The correction is made by submitting a separate declaration as it is provided

for by the member-state of establishment in the electronic system for the submission of the application.

Article 10

Deadline for the issuance of the decision

1. The member-state of refund examines the application and issues a decision within 4 months from the date on which it receives the application by the member-state of establishment.
2. In case that the member-state of refund has requested additional information:
 - aa) if it receives this information, it issues a decision within 2 months from its receipt,
 - bb) if it does not receive this information, it issues a decision within 3 months from the date on which the request for the provision of additional information reaches the person to whom it is addressed.In these cases, the period available for the issuance of the decision on the refund is always at least 6 months from the date of receipt of the application.
3. In case that the member-state of refund has requested further additional information, the decision on the refund is issued at the latest within 8 months from the date of receipt of the application.

Article 11

Decision on the refund

The member-state of refund issues a decision by which it approves on the whole or in part the requested amount to be refunded and it notifies it to the applicant. In case that the requested amount is refused on the whole or in part, the member-state of refund notifies the applicant of the decision together with the grounds for refusal.

Article 12

Refund of the tax

1. The refund of the approved amount is paid by the member-state of refund at the latest within 10 working days from the expiry of the deadline for the issuance of the decision, as mentioned in article 10 of the present decision. This refund is paid to a bank account either in the member-state of refund or in any other member-state. In the latter case, the member-state of refund deducts any bank charges for the transfer of the amount.
2. The member-state of refund pays interest to the applicant on the amount of the refund due, if the refund is paid after the above-mentioned deadline for payment. The interest is calculated from the day following the deadline for payment until the day the refund is actually paid. No interest is paid if additional information has been requested from the applicant and it has not been submitted within the deadline provided for by paragraph 4, article 8 of the present decision.

ARTICLE NO. 13
COMPETENT AUTHORITY IN GREECE

The Competent Authority in Greece for the implementation of this decision set out the following:

MINISTRY OF FINANCE
GENERAL SECRETARIAT OF TAX AND CUSTOMS ISSUES
DIRECTORATE GENERAL OF TAXATION
14TH DIRECTORATE VAT
DEPARTMENT C

Postal address: 2-4 Sina Street
Postal Code: 106 72 Athens
Telephone Numbers: 210-3644960 & 990
Fax Number: 210-3645413
E-mail: d14-ctm@otenet.gr

ARTICLE NO. 14
GREECE AS THE MEMBER STATE OF ESTABLISHMENT

1. The Directorate VAT receives, through the electronic network TAXISnet, the applications of taxable persons established in Greece in order to send them to the Member State of refund and issue to the applicant electronic receipt of delivery. If the Member State of refund requires that, the applicant receives with the application an electronic file of maximum capacity 5 Mb (Megabytes). This file contains scanned electronic copies of documents with a lower limit of taxable value of costs the 250 euros for fuels and the 1000 euros for other cases.
2. The application is printed in Greek language. The elements of the application required by the applicant to provide information or other additional information are completed in the language or languages to be specified by the Member State of refund. The list of required languages of every Member State of refund is available during the completion of the application.
3. The Directorate VAT sends the application through electronic networks to the Member State of refund within 15 days of its receipt. The Directorate VAT does not send the application to the Member State of refund if the applicant:
 - a) is not subject to VAT in Greece
 - b) makes merely the delivery of goods or services exempt from the tax without the right of tax credit of its inputs
 - c) is under the exemption status for small businesses
 - d) is under the special regime for farmersIf the application is not transmitted to the Member State of refund, the Head of the Directorate VAT issues a decision which is notified to the applicant by electronic means.

4. The Directorate VAT receives queries from the Member States of refund with respect to taxable persons established in Greece. These answers should be given within one month after the arrival of the query.

ARTICLE NO. 15

GREECE AS THE MEMBER STATE OF REFUND

1. The Directorate VAT receives, via the electronic network from the competent authority of the Member State of establishment, the applications of taxable persons established in other European Union Member States. It is required by the applicant, an electronic file of maximum capacity 5 Mb attached to the application. This file contains scanned electronic copies of documents with a lower limit of taxable value of costs the 250 euros for fuels and the 1000 euros for other cases which is received with the applications by the competent authority of the member state of establishment. It shall promptly inform the applicant by electronic means the date on which it received the application from the member state of establishment.
2. The languages that may be used by the applicant to provide information on the application or other additional information concerning this is Greek and English.
3. The Directorate VAT, in order to go over the application, may apply by electronic means by the applicant or by the competent authorities of the member state of establishment further or additional information. Furthermore, it may ask information by any person or competent authority deems it necessary, by using electronic means, provided they have such means.
4. The tax refund on goods and services, which are not tax credited in Greece, is not entitled , in accordance with the provisions of paragraph 4 of article 30 of the VAT Code (law 2859/2000) as applied every time.
5. The Head of the Directorate VAT issues a decision on the approval of the requested amount which is notified to the applicant by electronic means.

The non-issuance of decision within the period specified in Article 10 of this decision is considered as a refusal.

The decisions, by which the applications are rejected totally or partially, are served in accordance with the provisions of the Administrative Legal Procedure Code as applied every time.

It can be appealed against those decisions in accordance with the provisions of the same code as applied every time.

6. The Directorate VAT relying on return decisions creates an electronic file and issues two types of concentrative catalogues. The one catalogue includes the account holders for whom the deposit of amount is paid in domestic banks and the other includes the account holders for whom the deposit of amount is paid in foreign banks. Every concentrative catalogue is signed by the Head of the Directorate VAT and is sent by a route slip to the 24th Directorate of the General Accounting Office of the State.

The Head of the 24th Directorate of the General Accounting Office of the State or his legal alternate is authorized by right of this decision to issue a special mandate to the Bank of Greece in order for the latter to charge the public account "Concentration of Receipts and Payments 200/1" so as to return the amounts to the account holders.

The Bank of Greece credits the rebates in a temporary account and charging this account, the accounts of the account holders or the accounts of general agents are credited in a domestic bank and the rebates are remitted in an account of the account holders or in accounts of the general agents of a foreign bank. In the last case, the Bank of Greece cuts any bank charges in order to transfer the amount. The relevant notices of the debits of the account of Public "Concentration of Receipts and Payments 200/1" for the tax rebate are sent by the Bank of Greece to the 24th Directorate of the General Accounting Office of the State in order to be appeared in the public transaction in the same account which will be opened by a new decision and the account activity will be set.

The settlement of tax refunds, as a deduction of revenue, is done by the Local Tax Office (DOY) which is competent for the settlement of refunds to the corresponding code numbers of revenues (KAE).

If they do not find any account or account error, the amounts are refunded to the account of Public "Concentration of Receipts and Payments 200/1" and the Bank of Greece sends the relevant credit notices to the 24th Directorate of the General Accounting Office of the State.

The payment of the amount may be made to a bank account by a general agent of the applicant but in this case a copy of the relevant proxy document is demanded. This copy should be certified by the local Greek consular authority where the applicant is established or by the Authority that has been designated for certification according to Hague Convention.

The payment procedure in the accounts of the account holders is completed within the period defined by paragraph 1 of article 12 of this decision.

In case of payment of interest, it is calculated according to the provisions in force as they are applied to the subject taxes within the country.

7. The Head of the 14th Directorate VAT may cancel or amend a decision that has been issued if proven that this was based on an accounting error, on incorrect or false information, or generally on lack of terms

and assumptions that are required to tax refunding, in compliance with the provisions about statute.

Any amounts paid by chance are being explored or are setting off.

The certificate title is written by the 14th Directorate VAT.

The competent office for the collection of the amounts in question is designated the Local Tax Office A' of Athens (DOY A' Athens).

ARTICLE NO. 16

This decision has been applied since 1st January 2010 for the refund applications that are submitted after that date. The provisions of Ministerial Decision POL. 1390/31-12-2001 go on applying to taxable persons that are established in Norway and in Switzerland only on the way of submitting the applications. As to the other, the provisions of this decision are applied.

ARTICLE NO.17

This Decision shall be published in the Official Gazette.

THE MINISTER OF FINANCE
G. PAPAKONSTANTINO

Exact Copy
The Head of the Secretariat