

HELLENIC REPUBLIC Athens, 15/1/2010  
MINISTRY OF FINANCE POL.: 1003  
GENERAL SECRETARIAT FOR Government Gazette: 99/B/3-2-2010  
TAX & CUSTOMS ISSUES  
D. G. of TAXATION  
14<sup>th</sup> DIRECTORATE of VAT  
DEPARTMENT C´

**Subject: VAT refund to enterprises which incur expenditure in a member-state other than the one in which they are established, according to the provisions of paragraphs 2 to 9, article 34 of the VAT Code (Law No. 2859/2000).**

## DECISION

### THE MINISTER OF ECONOMY AND FINANCE

Having regard to:

1. The provisions of:

a) paragraph 3, article 22 of Law No. 3763/2009 on “incorporation of Directives 2006/98/EC, 2008/8/EC and 2007/74/EC, provisions of Directives 2006/112/EC and 2006/69/EC, provisions of income taxation, property taxation, VAT and other taxations, as well as other provisions” (Government Gazette A´ 80), by which a new paragraph 11 is added to article 34 of the VAT Code (Law No. 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 No. 150/2001 (Government Gazette 125 A´) on “Adaptation to Council Directive 99/93/EC on a Community framework for electronic signatures”.

2. The need to define a new procedure for the refund of VAT according to Directive 2008/9/EC, in cases of taxable persons who incur expenditure in a member-state other than the one in which they are established.

3. The fact that this Decision does not entail expenditure charged to the state budget.

## WE DECIDE

### ARTICLE 1

#### PURPOSE

The purpose of this decision is to define the terms and conditions, as well as the procedure for the refund of VAT to taxable persons not established in the member-state of refund but established in another member-state, according to paragraphs 2 to 9, article 34 of the VAT Code (Law No. 2859/2000), as amended and currently in force, in line with Council Directive 2008/9/EC.

### ARTICLE 2

#### DEFINITIONS

For the purposes of this decision:

- a) Taxable person established in another member-state means any person subject to VAT, within the meaning of article 9, paragraph 1 of Directive 2006/112/EC, who is not established in Greece,
- b) Taxable person established in Greece means any person subject to VAT, within the meaning of article 3, paragraph 1 of the VAT Code (Law No. 2859/2000),
- c) Member-state of establishment means the state in which the taxable person for VAT purposes has his principal place of business or a permanent establishment from which business transactions are carried out, or, in the absence of such a place of business or permanent establishment, his domicile or place of usual residence,
- d) Member-state of refund means the state in which the taxable person incurred the expenditure for which he claims a VAT refund,
- e) Applicant means the taxable person for VAT purposes who 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 has been designated as competent for the receipt of applications,
- h) Competent authority of the member-state of refund means the tax authority which has been designated as competent for the VAT refund,
- i) Date of receipt of the application means the date on which the member-state of refund received the application from the member-state of establishment.

### ARTICLE 3

#### TAXABLE PERSONS ELIGIBLE FOR REFUND

1. A taxable person established in Greece is eligible for the refund, from another member-state of the European Union, of the VAT charged on goods and services supplied to him by other taxable persons in that member-state of the European Union, as well as on importation of goods into that member-state.
2. A taxable person established in another member-state of the European Union is eligible for the refund, from Greece, of the VAT charged on goods and services

supplied to him by other taxable persons within the country, as well as on importation of goods into Greece.

#### ARTICLE 4

##### TERMS AND CONDITIONS FOR REFUND

1. During the refund period covered by the application, the applicant must meet the following requirements:

a) He must not have, in the member-state of refund, his principal place of business or a permanent establishment from which economic activities are carried out, or, in the absence of such a place of business or permanent establishment, his domicile or place of usual residence,

b) He must not supply 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 which are carried out in the member-state of refund and are exempted from VAT as being related to the importation or exportation of goods or the international transport.

bb) The supply of goods or services for which the recipient is liable for payment of VAT in accordance with the legislation of the member-state of refund.

c) Goods or services supplied to the applicant must have been used for taxable transactions subject to VAT in the member-state of establishment, for which he would be entitled to a tax deduction, if they were carried out in the member-state of refund or used for the above-mentioned transactions in sub-paragraph bb) of paragraph b).

2. No right to refund is granted:

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

aa) is not a taxable person for VAT purposes,

bb) supplies only goods or services which are exempted from VAT without deductibility of input tax,

cc) is covered by the exemption scheme for small enterprises,

dd) is covered by the special scheme for farmers.

b) For amounts of VAT charged

aa) on supplies of goods which are exempted or should be exempted as intra-Community supplies or exports (supplies of goods outside the Community),

bb) on goods and services for which no right to deduction is granted in the member-state of refund,

cc) in general, expenditure which is not related to the economic activity of the applicant.

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

3. VAT is refunded insofar as the goods and services are used by the applicant for transactions subject to VAT or transactions for which a right to input tax deduction is granted in the member-state of establishment. In case that the applicant uses the

goods and services for transactions, for some of which no right to deduction is granted in the member-state of establishment, the input VAT to be refunded is calculated as a percentage based on proportional deduction.

## ARTICLE 5

### REFUND APPLICATION

#### 1. Procedure for submission

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

b) A taxable person established in another member-state submits the application via the electronic portal created 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 on 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 refund application is a type of electronic form and contains the following information:

a) The applicant's name, business address and address for contact by electronic means,

b) the VAT registration number in the member-state of establishment,

c) the applicant's business activity code number (KAD) and the description thereof,

d) the period covered by the refund application,

e) the member-state of refund,

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

g) a declaration by the applicant that he has not supplied any goods or 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 VAT, as well as the supply of goods or services to a person who is liable for payment of VAT.

h) the details of the representative (if applicable).

## 5. Expenditure documents

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

- a) The supplier's name and full address,
- b) the supplier's VAT registration number in the member-state of refund,
- c) the document number and date,
- d) the VAT amount expressed in the currency of the member-state of refund,
- e) the deductible VAT amount which has been calculated based on proportional deduction,
- f) the percentage of proportional deduction (pro-rata percentage),
- g) a description of the type of goods or services and classification based on specific codes used by the member-state of refund, which are posted on the webpage for submission of the application.

## ARTICLE 6

### DEADLINE FOR SUBMISSION OF THE APPLICATION

The refund application must be submitted to the member-state of establishment at the latest by 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 of receipt thereof.
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 refund decision.
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 obtained within one month of the date on which the request for the provision of additional information is received by 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 – SUPPLEMENTARY APPLICATIONS

1. A supplementary application may be submitted concerning invoices which were not included in previous applications. The supplementary application is submitted in the same way as the initial application and only one can be submitted for each calendar year.

2. An amended application may be submitted if certain details change, concerning applications which have already been submitted.

3. If the proportional deduction (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 provided for by the member-state of establishment in the electronic system for submission of the application.

## ARTICLE 10

### DEADLINE FOR ISSUANCE OF THE DECISION

1. The member-state of refund examines the application and issues a decision within 4 months of the date on which it receives the application from the member-state of establishment.

2. In case that the member-state of refund has requested additional information:

a) If it receives this information, it issues a decision within 2 months of receipt thereof,

b) if it does not receive this information, it issues a decision within 3 months of the date on which the request for the provision of additional information is received by the person to whom it is addressed.

In these cases, the period available for the issuance of the refund decision 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 refund decision is issued at the latest within 8 months of the date on which the application is received.

## ARTICLE 11

### REFUND DECISION

The member-state of refund issues a decision by which it approves, wholly or partly, the requested amount to be refunded and notifies it to the applicant. In case that the requested amount is rejected, wholly or partly, the member-state of refund notifies the applicant of the decision along with the grounds for rejection.

## ARTICLE 12

### TAX REFUND

1. The refund of the approved amount is made by the member-state of refund at the latest within 10 working days of the expiry of the deadline for issuance of the decision, as mentioned in article 10 of this decision. This refund is deposited into 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 made after the above-mentioned deadline for payment. The interest is calculated from the day following the deadline for payment until the day of the actual payment of the refund. No interest is paid if additional information has been requested from the applicant and that information has not been sent within the deadline provided for in paragraph 4, article 8 of this decision.

## ARTICLE 13

### COMPETENT AUTHORITY IN GREECE

The designated competent authority in Greece for the implementation of this decision is as follows:

INDEPENDENT AUTHORITY FOR PUBLIC REVENUE

D.G. of TAX ADMINISTRATION

DIRECTORATE FOR THE IMPLEMENTATION OF INDIRECT TAXATION

DEPARTMENT C'

Postal address: 2-4 Sina str.

Postal code: 10672 Athens

Tel. No.: (+30) 210-3644960 and 210-3644990

Fax No.: (+30) 210-3645413

E-mail: [vatrefunds@aade.gr](mailto:vatrefunds@aade.gr)

## ARTICLE 14

### GREECE AS MEMBER-STATE OF ESTABLISHMENT

1. The Directorate for the Implementation of Indirect Taxation receives, via the electronic network TAXISnet, the applications of taxable persons established in Greece in order to send them to the member-state of refund and issues an electronic acknowledgement of receipt to the applicant. If the member-state of refund so requires, it receives an electronic file with a maximum capacity of 5Mb (Megabytes) along with the application. This file contains scanned electronic copies of documents in which the lowest limit on taxable value is 250 euro for fuel expenditure and 1000 euro for other cases.

2. The application is completed in the Greek language. The application details required from the applicant, for the provision of information or other additional information, are completed in the language or languages specified by the member-

state of refund. The list of the required languages per member-state of refund is available when completing the application.

3. The Directorate for the Implementation of Indirect Taxation sends the application to the member-state of refund, via an electronic network, within 15 days of receipt thereof. It does not send the application to the member-state of refund, if the applicant:

- a) is not a taxable person for VAT purposes in Greece,
- b) supplies only goods or services which are exempted from VAT without deductibility of input tax,
- c) is covered by the exemption scheme for small enterprises,
- d) is covered by the special scheme for farmers.

If the application is not forwarded to the member-state of refund, the Head of the Directorate for the Implementation of Indirect Taxation issues a decision which is notified to the applicant by electronic means.

4. The Directorate for the Implementation of Indirect Taxation receives inquiries from the member-states of refund regarding taxable persons established in Greece. The responses to these inquiries should be provided within one month of the date on which the inquiry is received.

## ARTICLE 15

### GREECE AS MEMBER-STATE OF REFUND

1. The Directorate for the Implementation of Indirect Taxation receives from the competent authority of the member-state of establishment, via the electronic portal, the applications of taxable persons established in other member-states of the European Union. It requires an electronic file with a maximum capacity of 5Mb (Megabytes) from the applicant, along with the application. This file contains scanned electronic copies of documents in which the lowest limit on taxable value is 250 euro for fuel expenditure and 1000 euro for other cases, which the Directorate receives from the competent authority of the member-state of establishment, along with the applications. It promptly notifies the applicant, by electronic means, of the date on which it received the application from the member-state of establishment.

2. The languages that can be used by the applicant for the provision of information or other additional information regarding the application are the Greek language and the English language.

3. In order to examine the application, the Directorate for the Implementation of Indirect Taxation may request additional information or further additional information from the applicant or the competent authorities of the member-state of establishment, by electronic means. Also, if deemed necessary, it may request information from any other person or competent authority, by electronic means, if such means are available to them.

4. No right to tax refund is granted for goods and services for which no right to deduction is granted in Greece, according to the provisions of paragraph 4, article 30 of the VAT Code (Law No. 2859/2000), as applicable.



5. The Head of the Directorate for the Implementation of Indirect Taxation issues a decision regarding the approval of the requested amount, which is notified to the applicant by electronic means.

The non-issuance of a decision within the deadline specified in article 10 of this decision is considered to be a rejection decision.

The decisions by which the applications are rejected, wholly or partly, are notified according to the applicable provisions of the Tax Procedure Code (Law No. 4174/2013). These decisions can be appealed, according to the provisions of article 63 of the Tax Procedure Code, as in force.

6. Based on the refund decisions, the Directorate for the Implementation of Indirect Taxation creates an electronic file and issues two kinds of comprehensive lists. The first list contains the beneficiaries for whom the amount is deposited into domestic banks and the second list contains the beneficiaries for whom the amount is deposited into foreign banks. Each comprehensive list is signed by the Head of the Directorate for the Implementation of Indirect Taxation and sent, along with a cover letter, to the Directorate of Accounts and Treasury in the State General Accounting Office.

The Head of the Directorate of Accounts and Treasury in the State General Accounting Office or his deputy is authorized under this decision to issue a special order to the Bank of Greece in order for the latter to charge the refund of the amounts to beneficiaries to the public account "Aggregate Receipts and Payments 200/1".

The Bank of Greece credits the amounts to be refunded to a temporary account and, by debiting that account, the refund amounts are either credited to the accounts of the beneficiaries or their authorized representatives in a domestic bank, or transferred to the accounts of the beneficiaries or their authorized representatives in a foreign bank. In the latter case, the Bank of Greece deducts any bank charges for the transfer of the amount.

The relevant notifications of charges to the public account "Aggregate Receipts and Payments 200/1" for the refund of taxes are sent by the Bank of Greece to the Directorate of Accounts and Treasury in the State General Accounting Office, in order to appear on an identical account which will be opened by a new decision in which the account activity will be determined.

The settlement of tax refunds, as a deduction from revenue, is made by the Athens Tax Office for S.A. Companies (F.A.E.) on the corresponding Detailed Revenue Accounts (A.L.E.). The Directorate of Accounts and Treasury in the State General Accounting Office informs the Athens Tax Office for S.A. Companies (F.A.E.) in writing about the amounts to be settled.

In case that the account is not found or there is an error in the account, the amounts are returned to the public account "Aggregate Receipts and Payments 200/1" and the Bank of Greece sends the relevant notifications of credits to the Directorate of Accounts and Treasury in the State General Accounting Office.

The payment of the amount may be made into a bank account of the applicant's authorized representative, but, in this case, a copy of the related power of attorney is required from the applicant. This copy must be certified by the Greek consular authority in the place where the applicant is established or by the Authority which has been designated for the certification according to the Hague Convention.

The process of payment into the accounts of the beneficiaries is completed within the deadline specified in paragraph 1, article 12 of this decision.

In case of interest payment, it is calculated according to the provisions applicable to taxable persons within the country.

7. The Head of the Directorate for the Implementation of Indirect Taxation may cancel or amend a decision which has been issued, if proven that it was based on an accounting error, inaccurate or false information, or, more generally, on a lack of the terms and conditions required for the tax refund, having regard to the statute of limitations. Any amounts paid shall be recovered or offset.

The designated competent authority for the assessment and collection of those amounts is the local tax office DOY A' of Athens.

#### ARTICLE 16

This decision shall enter into force on 1<sup>st</sup> January 2010 and shall apply to the refund applications submitted after that date. The provisions of this decision also apply to the refund applications submitted by taxable persons established outside the EU (third country). The granting of similar VAT benefits by third countries to taxable persons established in Greece is a prerequisite for the tax refund. The VAT refund application by a taxable person not established in a member-state of the EU is submitted manually. The type and content of the application is specified in the circular POL. 1230/14.12.2018 (Form 015 – VAT). Otherwise, the provisions of this decision shall apply.

#### ARTICLE 17

This decision shall be published in the Government Gazette.

THE MINISTER OF FINANCE

G. PAPACONSTANTINO

True copy

The Head of the Secretariat