

Luxembourg

13th Directive (86/560/EEC) VAT refunds

I. RECIPROCITY AGREEMENTS – Article 2(2)

1. Does your country have any reciprocity agreements?

According to Paragraph 7 of Article 10bis, inserted into the Grand Ducal Regulation of 23 May 1980 laying down conditions and procedures for the refunding of value added tax to taxable persons established abroad (Mémorial A 1980, p.817) by the Grand Ducal Regulation of 25 September 1984 (Mémorial A 1984, p.1483), "Value added tax shall be refunded in accordance with this Regulation to taxable persons established in countries which are not Member States of the European Communities only on condition that taxable persons established in Luxembourg are entitled to a refund of input VAT or similar advantages in the country in question." For the purposes of implementing this measure, the relevant Luxembourg authorities were responsible for examining refund claims from non-member countries as they came in and deciding whether the reciprocity criterion was met.

The reciprocity criterion proved too stringent in a number of respects and was abolished with effect from 1 January 1999 by Article 1(5)(b) of the Grand Ducal Regulation of 18 December 1998 (Mémorial A 1998, p.3383).

2. If yes, what countries are included in the reciprocity agreements?

See reply to Q1.

3. What is the equivalent third country tax to which the reciprocity agreements relate?

See reply to Q1.

4. What goods and services are allowable under the reciprocity agreements?

See reply to Q1.

5. Are there any specific or additional rules applicable in relation to the reciprocity agreements?

See reply to Q1.

6. If your country has no reciprocity agreements, do you still allow refunds?

See reply to Q1.

II. TAX REPRESENTATIVES – Article 2(3)

7. Does your country require the appointment of a tax representative?

There is no provision for a tax representative.

8. What conditions are imposed when appointing a tax representative?

See reply to Q7.

III. REFUND ARRANGEMENTS – Article 3(1)

9. What are the time limits that are applied for making a claim?

Claims for refunds must be submitted to the VAT administration within six months of the end of the calendar year in which the tax on goods and services supplied to the taxable person or on goods imported by the taxable person became chargeable.

10. What periods are eligible for a refund?

Claims must be for a whole calendar year and must cover purchases of goods and services invoiced and goods imported in that year.

11. Where shall the applications be made?

Claims for VAT refunds must be sent or delivered in person to the Refunds and Reliefs department of the Registration and State Property Administration at the following address:

Administration de l'Enregistrement et des Domaines

Bureau d'imposition XI

Remboursements et Franchises

B.P. 31 – 67, rue Verte

L-2010 Luxembourg

12. What is the minimum amount of VAT that can be refunded?

The refund must be at least €250 for the calendar year.

13. How can the applicant receive an application form?

The form can be ordered or collected in person from the Luxembourg administration (see reply to Q11 for the address), or downloaded from its website at:

<http://www.aed.public.lu/formulaires/index.html>

14. What languages may be used for completion of the form?

The form must be completed in French or German.

15. What information is requested on the application form? Please could you provide a copy of the form or a website link?

The refund claim can be downloaded, with explanatory notes, from the site referred to in the reply to Q11:

<http://www.aed.public.lu/formulaires/index.html>

16. Is any information optional? If yes, what information?

No.

17. Who is authorised to sign the application form?

Only the claimant may sign the form, since it is the claimant who promises to repay any sums refunded incorrectly.

18. What evidence is required to support an application?

To qualify for a refund of input VAT, claimants must submit the following with the claim:

- the originals of proper invoices from domestic suppliers and service providers, or import documents, proving that the tax has been paid;
- a certificate from the relevant authority in the country in which they are established to the effect that they are registered for VAT or an equivalent tax or, failing that, that they habitually and independently carry out transactions which form part of an economic activity;
- a written statement to the effect that within the country they have not supplied any goods, provided any services or performed any transactions other than those referred to at points (a), (b) or (c) in the second paragraph of the amended Article 1 of the Grand Ducal Regulation of 23 May 1980 (see point 9b of the form);
- a written commitment to pay any sum incorrectly refunded back to the registration administration (see point 9c of the form).

In certain cases, claimants must, at the administration's request, also provide any additional information of relevance in assessing whether or not the claim is justified.

19. What time-limits does your country apply to making a refund?

Tax is refunded within six months of the date on which the claim is submitted to the administration (see reply to Q11), either in Luxembourg or in the country in which the claimant is established, as the claimant wishes. In the latter case, bank charges are payable by the claimant.

IV. ELIGIBILITY– ARTICLE 4(2)

20. Are there any other conditions applicable?

No.

21. Are certain types of expenditure excluded and if so which?

VAT on expenditure that is not strictly professional, e.g. on luxuries, entertainment or representation, is not deductible (see Article 55 of the VAT Act, which corresponds to Article 17(6) of the Sixth VAT Directive). This category of expenditure includes expenditure on luxury furnishings, certain vehicles and representation and travelling expenses.

V. MAJOR DIFFERENCES BETWEEN REFUNDS UNDER THE 13TH AND THE 8TH (79/1072/EEC) DIRECTIVE

22. What are the main procedural differences between applying for a VAT refund based on the 8th Directive and a refund based on the 13th Directive?

The main differences are as follows.

- Since not all non-member countries charge VAT or another form of turnover tax, there would be little point in a blanket rule requiring certification to demonstrate that traders were subject to it. Thus, where such taxes do not exist, the claimant must exercise an activity corresponding to an activity exercised by those subject to VAT, as defined by Article 4 of the VAT Act.
- Claims must be for a whole calendar year and must cover purchases of goods and services invoiced and goods imported in that year. There is no provision for periods of less than one year.
- The refund must be at least €250 for the calendar year (€200 for the 8th Directive).

23. Do certain types of expenditure give rise to refund under the 8th Directive but not under the 13th Directive? If yes, please specify the types of expenditure.

The types of expenditure giving rise to refund are the same under the 13th Directives as under the 8th.