

## Malta

### 13<sup>th</sup> Directive (86/560/EEC) VAT refunds

#### **I. RECIPROCITY AGREEMENTS – Article 2(2)**

1. Does your country have any reciprocity agreements?

No.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Yes.

#### **II. TAX REPRESENTATIVES – Article 2(3)**

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

No.

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

It requires the power of attorney which must be endorsed by a notary if payment is to be effected.

#### **III. REFUND ARRANGEMENTS – Article 3(1)**

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

The claim has to be submitted to the VAT Department within 6 months from the end of the calendar year in which the tax becomes chargeable.

10. What periods are eligible for a refund?

The application for refund shall relate to the invoiced purchases of goods / services / imports made during a period of not less than three months and not more than one calendar year.

11. Where shall the applications be made?

Applications are to be addressed to:

The Commissioner of VAT,

VAT Department,  
16 ta' Paris Road,  
Birkirkara CMR 02,  
Malta.

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

If the application relates to a period of less than one calendar year but not less than three months, the amount for which the application is made may not be less than Lm80. If the application relates to a period of one calendar year or the remainder of a calendar year, the amount may not be less than Lm10.

**13.** How can the applicant receive an application form?

The form may be downloaded from the Department's website: [www.vat.gov.mt](http://www.vat.gov.mt).

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

Maltese or English.

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

It may be viewed at [www.vat.gov.mt](http://www.vat.gov.mt).

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

Certificate of status/invoices.

**17.** Who is authorised to sign the application form?

The taxpayer or the representative.

**18.** What evidence is required to support an application?

Certificate of status / invoices / complete application.

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

Six months.

#### **IV. ELIGIBILITY– ARTICLE 4(2)**

**20.** Are there any other conditions applicable?

Those in Articles 22 and 23 of the VAT Act (Cap. 406). A copy is being attached in [Annex I](#) for ease of reference.

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

Expenditure that is found in the 10<sup>th</sup> Schedule of the VAT Act (Cap. 406), input VAT which is not to be treated as Input Tax. A copy of the 10<sup>th</sup> Schedule of the VAT Act (Cap. 406) is being attached in [Annex II](#) for ease of reference.

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

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

None.

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

No.

**CAP. 406.]***VALUE ADDED TAX*

- Output tax, input tax and credit for input tax.
- Substituted by:*
- X. 2003.10.*
- 22.** (1) The output tax of a person registered under article 10 is the tax on supplies and on intra-community acquisitions that becomes chargeable during that period and for which that person is liable in terms of article 20(1) and (2).
- (2) The input tax of a taxable person is the tax that becomes chargeable on -
- (a) supplies made to him,
  - (b) intra-community acquisitions made by him, and
  - (c) importations made by him, to the extent that the supplies so made and the goods so acquired or imported have been or are intended to be wholly used by him in the course or furtherance of his economic activity.
- (3) Subject to subarticle (5) -
- (a) the input tax credit for a tax period of a person registered under article 10 is an amount equivalent to so much of the input tax of that person that becomes chargeable during that period as is attributable to supplies made or intended to be made by him, being supplies to which subarticle (4) applies;
  - (b) the input tax credit for the last tax period of a person whose registration under article 10 has been cancelled is an amount equivalent to so much of the input tax of that person that becomes chargeable during that period as is attributable to supplies made by him up to the end of that period, being supplies to which subarticle (4) applies.
- (4) This subarticle applies to:
- (a) taxable supplies;
  - (b) exempt with credit supplies;
  - (c) supplies which take place outside Malta which would, if made in Malta, be treated under the provisions of this Act as taxable supplies or as exempt with credit supplies;

(d) operations exempt from VAT, relating to:

Cap. 403.

(i) supplies by persons licensed under the Insurance Business Act or the

Cap. 404.

Insurance Brokers and other Intermediaries Act, of insurance and reinsurance services, including related transactions, in respect of which they are so licensed;

(ii) the granting and negotiation of credit and the management of credit by the person granting it;

(iii) the negotiation of or any dealings in credit guarantees or any other security for money and the management of credit guarantees by the person who is granting the credit;

(iv) transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collecting and factoring;

(v) transactions, including negotiation, concerning currency, bank notes and coins normally used as legal tender;

(vi) transactions, including negotiation, excluding management and safekeeping, in shares, interest in companies or associations, debentures and other securities, excluding documents establishing title to goods, when the customer is established outside the Community or when those operations are directly linked with goods to be exported to a country outside the Community.

(5) The right to an input tax credit, the amount of the credit and the manner in which input tax is attributable to supplies are subject to the conditions, limitations, revisions and adjustments set out in the Tenth Schedule.

Deductions.

**23.** Every person registered under article 10 who furnishes a tax return for a tax

*Substituted by:*

period shall have the right to deduct from the output tax for that period -

X. 2003.10.

(a) the input tax credit for that period;

(b) any other deductions to which he may be entitled for that period in accordance with the Tenth Schedule.

**CAP. 406.]****VALUE ADDED TAX**

*Substituted by:* TENTH SCHEDULE

X. 2003.47. [Articles 22 and 23]

**Deductions***Eligibility for credit for input tax*

1. Except as the Commissioner may otherwise allow no credit for input tax for a tax period shall be allowed to a person unless a claim is made in accordance with any relevant provision of this Act.

*Evidence of input tax*

2. (1) No amount shall be treated as input tax of a person unless that person proves that the tax was chargeable on supplies of goods and services or intracommunity acquisitions or importations of goods which have been or which will be used by him in the course or furtherance of his economic activity.

- (2) Except as the Commissioner may otherwise allow, no amount shall be treated as input tax of a person

unless:

(a) it is supported by -

(i) a tax invoice in respect of the tax relating to goods or services supplied to him; or

(ii) a tax invoice in respect of the tax relating to goods acquired by him under an intra-community acquisition; or

(iii) a document of importation indicating him as the importer in respect of the tax on an importation;

and

(b) with respect to any tax on a supply which in terms of this Act is payable by that person or on an intra-community acquisition, he has reported that tax as due by him in his tax return; and

(c) the document referred to in paragraph (a) is held by that person and produced, if requested, to the Commissioner; and

(d) the amount of the tax is properly accounted for in the records held by that person to the extent required for the purposes of the Act.

*Tax which is not to be treated as input tax*

3. (1) Subject to paragraph (2) of this item, no amount shall be treated as input tax of a person to the extent to which it represents tax chargeable on:

(a) the supply to that person or the intra-community acquisition or importation by that person of:

(i) tobacco or tobacco products;

(ii) alcoholic beverages;

(iii) works of art, collectors' items and antiques;

(iv) motor vehicles, vessels or aircraft including the supply thereof for hire or leasing arrangements;

(v) goods and services for the purpose of repairing, maintaining, fuelling and keeping any item to which item (iv) of this subparagraph applies;

(b) the supply of any goods and services or the intra-community acquisition or importation of any goods used in the provision by that person of receptions, entertainment or hospitality except where the said provision is made for consideration in the normal course of that person's economic activity;

(c) the supply of any goods and services or the intra-community acquisition or importation of any goods used in the provision by that person to his employees or, in the case of a body of persons, to its officers or employees, of transport or entertainment: provided that this provision shall not apply to transport provided by that person to his employees on vehicles with a seating capacity of not less than seven.

(2) The provisions of sub-paragraphs (i) to (iv) of paragraph (1)(a) shall not apply to:

(a) goods supplied to or acquired under an intra-community acquisition or imported by a person for the purpose of resale, whether in the state in which they were acquired or imported or after treatment or processing or inclusion in other goods supplied by that person, in the normal course

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of that person's economic activity;

(b) motor vehicles, vessels or aircraft supplied to or acquired under an intra-community acquisition or imported by a person and used by him for the purpose of the carriage of goods or passengers for a consideration;

(c) vessels and aircraft supplied to or acquired under an intra-community acquisition or imported by a person for the purpose of being provided by him under a charter or hire agreement;

(d) motor vehicles supplied to or acquired under an intra-community acquisition or imported by a person for the purpose of being provided by him for hire with a driver or for self-drive hire (excluding fuelling for such self-drive vehicles), or of being used for driving instructions, provided they are so used, in each case, in the normal course of that person's economic activity;

(e) motor vehicles designed and manufactured for the carriage of goods and so designed and manufactured with seating accommodation normally adjacent to the driver or with seating accommodation for nine persons or more.

(3) In this item, "works of art, collectors items and antiques" shall have the meaning assigned to it by Part B of the Fourteenth Schedule.

(4) Tax paid or payable on any supply to or on any intra-community acquisition or importation by a person in the name and for the account of another person in respect of disbursements that, in terms of the Seventh Schedule, do not form part of the taxable value of supplies made to that other person shall not be treated as input tax of the first mentioned person.

#### *Tax partially treated as input tax*

4. Where any goods or services are or will be used but not wholly used in the course or furtherance of an economic activity there shall be treated as input tax such proportion of the tax chargeable on the supplies, intra-community acquisitions or importations in question, taking into account the proportion of the use of those goods or services in the course or furtherance of the economic activity to their total use.

#### *Attribution of input tax*

5. (1) Any input tax of a person registered under article 10 for a tax period which is exclusively attributable to supplies to which article 22(4) applies shall be allowed as a credit for that period.

(2) Any input tax which is exclusively attributable to supplies other than those referred to in paragraph

(1) shall not be allowed as a credit.

(3) Any input tax for a tax period which is attributable both to supplies to which article 22(4) applies and also to other supplies shall be partially allowed as a credit for that tax period, which portion shall be determined in accordance with item 6 or 8.

#### *Partial attribution*

6. (1) The portion of input tax allowable as a credit to a person in terms of item 5(3) shall be calculated as follows:

(a) the total value of supplies to which article 22(4) applies made by that person during all the tax periods ending during a calendar year is divided by the total value of supplies made by that person during those tax periods;

- (b) the result obtained under paragraph (a) shall be the definitive ratio for the year referred to in that paragraph and the provisional ratio for the following year;
- (c) the input tax credit of that person for each tax period ending during a calendar year shall be calculated provisionally by multiplying the value of the input tax of that person for that tax period by the provisional ratio for that year;
- (d) the total input tax credit of that person for all the tax periods ending during a calendar year shall be calculated definitively by multiplying the total input tax for those periods by the definitive ratio for that year;
- (e) the difference between the total input tax for the tax periods ending during a year calculated provisionally under paragraph (c) and the definitive calculation for that year under paragraph (d) shall represent tax due by that person or a deduction allowable to that person, as the case may be, which tax or deduction shall be accounted for in the tax return for the first tax period that ends in the year following that for which the provisional calculation was made: provided that the

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tax or deduction in respect of a year during which the registration of a person under article 10 is cancelled shall be accounted for in his last tax period.

(2) For the purposes of paragraph (1):

- (a) the value of supplies not subject to tax under this Act shall be determined in the manner applicable for the determination of the taxable value of taxable supplies;
- (b) there shall be excluded from the value of the supplies made by that person -
  - (i) the value of any supply of capital goods used in his economic activity;
  - (ii) the value of self-supplies;
  - (iii) the value of any supply which is not made by a taxable person acting as such.

### *Adjustment relating to input tax on the acquisition of capital goods*

7. (1) Where the input tax credit of a person ("the owner") for any tax period during a calendar year ("the year of acquisition") includes tax on the supply to that person or the intra-community acquisition or importation by that person of capital goods, an adjustment should be made to the input tax already allowed, if the input tax for any year during an adjustment period is allowable at a rate which is higher or lower than that already allowed in the year of acquisition.

(2) The Minister may by regulations:

- (a) define the capital goods to which this item applies;
- (b) define the period or periods of adjustment applicable to capital goods;
- (c) prescribe the method in which the adjustment shall be calculated and the manner in which it shall be effected.

### *Alternative methods of partial attribution*

8. Where it appears that the method of attributing input tax laid down in item 6 does not give a fair and reasonable result, the Commissioner may by notice in writing to a registered person direct that the said method shall not apply to the attribution of input tax to the supplies of that person and where such a direction has been given, that person shall adopt such other method of partial attribution as the Minister may by regulations prescribe.

#### *Rounding up*

9. (1) A fraction resulting from any computation made in accordance with this Schedule shall be rounded up to the nearest lira.

(2) Where the amount of input tax which results to be not allowable as a credit for a tax period pursuant to an apportionment made in accordance with items 6 or 8 is less than Lm10 multiplied by the number of months or part thereof included in that tax period that amount shall, notwithstanding the said provisions, be treated as allowable as a credit for input tax.

#### *Bad debt relief*

10. (1) Where a person registered under article 10 of this Act shows to the satisfaction of the Commissioner that an amount due to him as consideration for a supply made to another person has, during a tax period, become a bad debt and that output tax has been paid or is payable by the said person in respect of that supply, that person may claim the amount of the output tax corresponding to the bad debt to be allowed as a deduction by way of a bad debt relief in addition to any other deduction allowable to him as an input tax credit in accordance with the other provisions of this Schedule for that tax period or for such subsequent tax period as the Commissioner may allow.

(2) A claim for a deduction by way of a bad debt relief shall be subject to such directives as the Commissioner may give as to the circumstances in which it may be made and the documents or other evidence that should be produced.

(3) The recovery of a bad debt in respect of which a deduction has been allowed in terms of this item or of a part of such a debt shall, to the extent of the amount recovered, be treated as a taxable supply taking place at the time when the said debt or part thereof is recovered and shall be accounted for accordingly by the person to whom the deduction had been so allowed.

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#### *Deductions on account of a reduction in the taxable value of supplies or intracommunity acquisitions*

11. (1) Where, in terms of the Seventh Schedule, the taxable value of a supply or an intra-community acquisition is reduced after that supply or acquisition takes place any output tax corresponding to that reduction shall be allowable as a deduction to the person by whom that output tax was paid or is payable for the tax period during which the cause for the reduction occurs.

(2) The deduction allowable under this item is subject to the condition that the person claiming it has properly accounted for the output tax on the taxable value in question before the reduction.

(3) A claim for a deduction under this item shall be subject to such directives as the Commissioner may give as to the documents or other evidence that should be produced.

*Saving provision*

12. The provisions of this Schedule are without prejudice to the provisions of the Fourteenth Schedule and, in particular, to the limitations provided for in that Schedule to the right of input tax credit allowable in the case of supplies subject to a margin scheme.