

Poland

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

I. RECIPROCITY AGREEMENTS – Article 2(2)

1) Does your country have any reciprocity agreements?

Poland does not use any formalized procedures for agreements concerning the rule of reciprocity.

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

On this matter all kinds of forms are accepted including diplomatic notes.

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

The equivalent tax on goods and services refunded to businesses from third countries on the territory of Poland is value added tax or another tax of similar character refunded to Polish businesses not registered as taxpayers for that tax in those third countries.

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

Refunds are possible only in those cases in which it would be possible for Polish taxpayers to receive a refund.

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

Specific or additional rules are not applied.

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

The tax on goods and services is not refunded if the rule of reciprocity does not exist.

II. TAX REPRESENTATIVES – Article 2(3)

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

There is no need to appoint a tax representative as far as the refund for foreign businesses is concerned.

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

There is no need to appoint a tax representative.

III. REFUND ARRANGEMENTS – Article 3(1)

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

The application has to be submitted no later than the 30th of June of the year following the one concerned in the application.

10) What periods are eligible for a refund?

The foreign business may apply for the refund of the tax imposed on acquisition of goods and services and on import of goods realised during a period no shorter than 3 months and no longer than one tax year.

11) Where shall the applications be made?

Applications for the refund of the tax on goods and services have to be sent to one tax authority – The Head of the Second Tax Office Warszawa – Śródmieście.

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

The minimum amount of the refund cannot be lower than the equivalent sum of:

200 Euro – in the case when the application concerns a period shorter than 1 tax year but not shorter than 3 months,

25 Euro – in the case when the application concerns the whole tax year or a period shorter than the last 3 months of this year.

13) How can the applicant receive an application form?

The application form - annex number 1 to the regulation of the Ministry of Finance of 23 April 2004 on the refund of tax on goods and services for certain businesses (O.J. No. 89, position 851) – is available on the webpage of Ministry of Finance (www.mf.gov.pl)

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

The application for the refund should be completed in Polish.

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

Look at the answer to number 13.

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

The business is obliged to fill in the whole application.

17) Who is authorised to sign the application form?

The business may sign the application for the refund of the tax paid on the territory of Poland.

18) What evidence is required to support an application?

The application for the refund should be accompanied by:

- the original invoice and customs documentation, for the amounts of tax to be refunded,
- the original certificate (the required form is in annex 2 of the above mentioned regulation) showing that the business is a taxpayer of value added tax or a tax of a similar kind in the country where his business is established, has his place of residence or from where he carries out his economic activity,
- the document proving that the business is identified for value added tax on the territory of a Member State different than Poland if the refund concerns goods and services acquired exclusively

in connection with supplying electronic services by the business and the foreign business is not identified in Poland for supplying this kind of services.

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

The tax authority makes the refund within 6 months counting from the day when the application was submitted with accompanying documentation. If the right to the refund needs to be checked further the Head of the tax office may prolong that term until the end of the review.

IV. ELIGIBILITY– ARTICLE 4(2)

20) Are there any other conditions applicable?

No.

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

Foreign businesses only receive the refund of the tax on goods and services if Polish taxpayers have the right to the refund or to deduct from output tax in accordance with Polish legislation.

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 Rules and conditions for the refund are the same for businesses from the EU and from third countries. The difference is that refunds for the businesses from outside the EU are based on the reciprocity rule.

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.

Provisions on the refund of the tax on goods and services in respect to the catalogue of types of expenditure apply both to EU and non-EU businesses.