

Spain

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

I. RECIPROCITY AGREEMENTS – ARTICLE 2(2)

1. Does your country have any reciprocity agreements?

Yes

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

Canada, Monaco, Japan, Norway, Switzerland and Israel.

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

Canada: GST (Goods and Services Tax)

Monaco: VAT

Japan: VAT

Norway: VAT

Switzerland: VAT

Israel: VAT

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

Canada: Reciprocity exclusively for repairs, accommodation and supplies of spare parts that are used in the course of the business activities for exempt supplies or those with a right to refund from GST in Canada.

Monaco: Total reciprocity except for services in the hotel trade, restoration, travel, performing arts, receptions and similar events.

Japan: Total reciprocity.

Norway: Total reciprocity except acquisition of works of art or antiquities, restaurant expenditure, performing arts and entertainment services, gifts or transport of people, including the use, fuel expenditure, maintenance, etc, of passenger vehicles. Also excluded is the acquisition or importation of goods that are then sold in Norway. Goods and services used only partially for a business activity are allowable only to the extent of the business use of those goods. The activities of renting of immovable goods, including rooms in hotels, as well as the transport of passengers, legal services, financial services, insurance or administrative or organizational consultancy are not subject to VAT and therefore taxable persons who carry out those activities do not have a right of deduction on their acquisitions.

Switzerland: Total reciprocity except luxury and entertainment expenditure and 50% of expenditure on food and drinks.

Israel: Exclusively for the operations described in Art. 30 of the VAT Law of Israel.

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

See answer to question 4

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

No.

II. TAX REPRESENTATIVES – ARTICLE 2(3)

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

Yes. The applicants outside the EU, except those established in the Canaries, Ceuta and Melilla, must act through a resident legal tax representative in Spain, whose duty is the completion of the formal or procedural obligations. They will be jointly and severally liable in cases of an inaccurate refund.

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

The tax representative must be accredited by a public document, a private document with a legal signature or a proxy granted "apud acta" (personally).

III. REFUND ARRANGEMENTS – ARTICLE 3(1)

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

The submission of a claim is valid until six months following the calendar year to which the amounts paid relate.

10. What periods are eligible for a refund?

The claim can only refer to the amounts paid during a calendar quarter or a calendar year. However, they can relate to a period less than a quarter when they represent the entirety of the transactions effected in the calendar year.

11. Where shall the applications be made?

The request must be addressed to the Oficina Nacional de Gestión Tributaria. Servicio de Recepción de Documentos de la Delegación Especial de Madrid. C/ Guzmán el Bueno 137.28077 Madrid

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

EUR 200 if the reference period is the calendar quarter or EUR 25 if it is the calendar year.

13. How can the applicant receive an application form?

On the page Web of the Tax Agency and then click on "Modelo 361".

http://www.agenciatributaria.es/wps/portal/DetalleTributo?channel=a209e65a357ce010VgnVCM100004ef01e0a___&ver=L&site=56d8237c0bc1ff00VgnVCM100000d7005a80___&idioma=es_ES&menu=0&img=0

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

The claim must be submitted in one of the languages of the country from where the refund takes place.

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

See reply to question 13.

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

All the boxes must be completed. However, if the request is presented on paper, the applicant sometimes does not fill in all the boxes and sends it with incomplete data.

17. Who is authorised to sign the application form?

The claimant or his tax representative.

18. What evidence is required to support an application?

The original certificate issued by the Administration from where the taxable person is established confirming his status as a taxable person for VAT or a similar tax in that country.

Proxy delivered to the tax representative attested by a public document, a private document with a legal signature or a proxy "apud acta". If the payment is made to the tax representative then the document granted by the public notary must authorise the tax representative especially for that purpose.

It is not necessary to supply the original invoices with the claim. They should be at the disposal of the Tax Administration which may require them in which case they will need to be supplied within the given time period.

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

Six months following the date of submitting the claim. If after that period the payment has not been made for reasons attributable to the Administration then interest for late payment is due to the applicant.

IV. ELIGIBILITY– ARTICLE 4(2)

20. Are there any other conditions applicable?

No.

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

According to section four of the VAT Law in Spain (Law 37/1992, of 28 December), the right to deduct is based on the current rules in the country where the claimant is established and on the rules set out in this Law.

In practice, it is necessary to refer to the rules applicable in each country and in Articles 95 and 96 of the VAT Law in Spain to know the limitations, exclusions and restrictions of the right to deduct.

See also the answer to question 4.

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 requirement of a tax representative to deal with the Tax Administration and the existence of a reciprocity agreement.

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.

See reply to question 4.