Belgium

13th 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?
   N/A

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

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

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

6. If your country has no reciprocity agreements, do you still allow refunds?
   Yes (see below)

II. TAX REPRESENTATIVES – Article 2(3)

7. Does your country require the appointment of a tax representative?
   Under the 13th Directive, no tax representative is required for the procedures for the refund of tax paid by foreign taxpayers in Belgium.
   The designation of a representative (tax representative) is in principle required only where the non-established taxpayer performs operations subject to Belgian VAT in Belgium. There are however cases of discharge or dispensation from the obligation to designate a representative.
   For further developments regarding the obligation to designate a representative or cases of discharge or dispensation we refer to points 114 et seq. of Administrative Circular No 4/2003 of 4 March 2003 on VAT rules governing taxpayers not established in Belgium:

8. What conditions are imposed when appointing a tax representative?
   N/A
III. REFUND ARRANGEMENTS – Article 3(1)

9. What are the time limits that are applied for making a claim?
Within five years from the date on which the right to deduct took effect where the invoices attesting to these amounts have never been the subject of a refund application.

10. What periods are eligible for a refund?
Only one refund application may be submitted per calendar quarter.
The application may concern invoices or import documents which have not been the subject of previous applications, on condition that it is submitted in the five years from the date on which the right to deduct took effect and provided that the refund has not been refused previously.

11. Where must the applications be made?
Refund applications must be presented to SPF Finances - Centre étrangers - Team 6 - Finto - boulevard du Jardin Botanique 50, boîte 3429, 1000 Bruxelles BELGIQUE.

12. What is the minimum amount of VAT that can be refunded?
The minimum refundable amount is €200 except where the application is presented during the first calendar quarter, in which case the minimum refundable amount is € 25.

13. How can the applicant receive an application form?
The application form is available on request only from the Central Office for Foreign Taxpayers (BCAE).

14. What languages may be used for completion of the form?
The application form may only be completed in one of the national languages of Belgium, i.e. in either Dutch, French or German. Attestations to the applicant’s status as a taxpayer made out in a language other than Dutch, French or German must be accompanied by a certified translation.

15. What information is requested on the application form? Please could you provide a copy of the form or a website link.
See annex for copies of forms and explanatory notes.

16. Is any information optional? If yes, what information??
No

17. Who is authorised to sign the application form?
In principle the entitled taxpayer.
Where the entitled person is a natural person, the application is signed by the person who, by virtue of the Articles of Association or the powers conferred on him, has that capacity.
Where the entitled person has designated a third party as an agent with the power to sign an application, a power of attorney must be presented to the BCAE.

18. What evidence is required to support an application?
Then applicant is obliged to include proof that he is a taxpayer in accordance with the terms of the VAT Code. Such proof may take the form of an attestation from the administrative authorities of the country of residence.

The application must also be accompanied by the original invoices and credit notes received from suppliers as well as, where appropriate, the import documents.

As regards applications justified by the performance of the operations subject to taxation in Belgium or exempt by virtue of the VAT Code, the application must also be accompanied by:

- duplicates of the outgoing invoices and credit notes issued;
- proof of payment of the tax mentioned on these duplicates or the documents establishing exemption from the tax;
- if necessary, receipt 258 issued by the customs to the foreign carrier where the international carriage of persons is involved.

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

Notification of the refund decision is issued within six months of the date on which the application accompanied by all the documents prescribed by this Circular as necessary for processing the application is presented at the relevant office, and on condition that all the necessary information has been provided.

IV. ELIGIBILITY – ARTICLE 4(2)

20. Are there any other conditions applicable?

No

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

Refund is granted insofar as the right to deduct is available under the VAT Code.

By virtue of Article 45(3) of the VAT Code, no deduction may be made for VAT paid on:

- intra-Community supplies and acquisitions of manufactured tobacco;
- intra-Community supplies and acquisitions of spirit drinks other than those intended for resale or to be supplied in performance of a service;
- costs of accommodation and, with the exception of that placed on display, of food and drink to be consumed on the spot:
  a) by staff responsible for carrying out a supply of goods or performing a service outside the firm;
  b) by taxpayers who, in turn, provide the same services against consideration;
- entertainment costs.

Travel agencies which do not themselves directly provide the traveller, via their own means, with transport, accommodation, food and drink to be consumed on the spot and entertainment may not make
a deduction for the VAT charged on the said services, invoices for which are made out to them in their own name, nor for the VAT charged on the payment made to another travel agency involved in the supply of the same services (Article 45(4) of the VAT Code).

As regards the supply, importation and intra-Community acquisition of motor vehicles to be used for the carriage by road of persons and/or goods, and the goods and services pertaining to those vehicles, Article 45(2) of the VAT Code stipulates deduction may in no circumstances exceed 50% of the taxes paid.

However, this provision does not apply to the following motor vehicles:

a) vehicles with an authorised maximum weight greater than 3 500 kg;

b) vehicles used for the carriage of persons comprising more than eight seats in addition to the driver's seat;

c) vehicles specially equipped for the carriage of sick or injured persons or of prisoners or for mortuary transports;

d) vehicles which, by reason of their technical characteristics, cannot be recorded in the register of the Directorate for Vehicle Registration;

e) vehicles specially equipped for camping;

f) vehicles referred to in Article 4(2) of the Code of Taxes with equivalent effect to income taxes;

g) motorcycles and mopeds;

h) vehicles intended for sale by a taxpayer whose economic activity consists in the sale of motor vehicles;

i) vehicles intended to be offered for rental by a taxpayer whose economic activity consists in the offer of motor vehicles for rental by any individual;

j) vehicles intended to be used exclusively for the carriage of persons against consideration;

k) new vehicles within the meaning of Article 8a(2), 2nd subparagraph 1st indent, of the VAT Code, other than those referred to under h), i) and j), which are the object of a delivery exempt under Article 39a of the VAT Code. However, in this case, the deduction may not exceed the amount of the tax payable were there no deduction under the aforesaid Article 39a.

Any decision not to grant repayment is accompanied by the grounds for that decision.

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 formalities, supporting documents or attestations are the same as for tax refunds under the 13th Directive.

By contrast, the refund application must relate to invoiced purchases of goods or services or imports made during a period of not less than three months and not more than a calendar year (whereas under the 13th Directive the application may relate to taxes covering a period of five years from the date on which the right to deduct took effect where the invoices attesting to these amounts have never been the subject of a refund application). The application may however relate to a period of less than three months where that period represents the remainder of a calendar year.

Applications may also relate to invoices or import documents which have not been the subject of previous applications and which concern operations performed during the calendar year in question (as opposed to five years under the 13th Directive).

- The application must be presented within the six months following the end of the calendar year during which the tax became payable (the 13th Directive lays down no time limit other than the aforesaid five-year period).

- Where the refund application falls within the scope of the 8th Directive, notification of the decision taken concerning this application must be issued by the administration and the refund made within a period of six months from the date on which the application accompanied by all the documents required was lodged with the BCAE (identical rule for the 13th Directive).

As from the expiry of the said six-month period, interest will be payable at a rate of 0.8 % per month on amounts to be refunded pursuant to Article 91(3) of the VAT Code. However, this period may be suspended where the administration requests the taxpayer for additional information needed to assess the validity of the refund application (no similar provision exists under the 13th 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.

No
**MWST-ERstattungsantrag**

(s. Erklärungen Nr. 7)

Is das Ihr erster Antrag? ☐

Wohngemeinde, Landkreis, Postleitzahl/PLZ

<table>
<thead>
<tr>
<th>Nr.</th>
<th>Empfangsdatum</th>
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Art der Tätigkeit des Erstattungsbevollmächtigten, auf die der Antrag sich bezieht (s. Erklärungen Nr. 8)

<table>
<thead>
<tr>
<th>Name und Vorname des Erstattungsbevollmächtigten</th>
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Zeitraum, auf den die Antrag sich bezieht (s. Erklärungen Nr. 9)

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Gesamtsumme in Euro - das beanspruchte Erstattung (s. Erklärungen Nr. 10)

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<tr>
<th>Art der Leistung</th>
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Der Erstattungsbevollmächtigte beantragt die Erstattung dem in Fach 1 angegebenen Betrag gemäß den Anmerkungen des Fach 6

<table>
<thead>
<tr>
<th>Fach 6</th>
<th>Anmerkungen</th>
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Zahlung ermiteln auf (*)

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<tr>
<th>Kontaktadresse</th>
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Name und Vorname der Person mit Recht

<table>
<thead>
<tr>
<th>Name und Vorname</th>
<th>Adresse</th>
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Aufschlüsseln in verschiedene Entnahmen, Gutschriften, Einnahmen, Beiträge, sonstige

<table>
<thead>
<tr>
<th>Entnahmen</th>
<th>Gutschriften</th>
<th>Einnahmen</th>
<th>Beiträge</th>
<th>sonstige</th>
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Der Erstattungsbevollmächtigte erklärt:

a) dass die im Fach 9 erwähnten aufgeführten Güter oder Dienstleistungen, die in den Zweck der Mehrwertsteuerrechnung verwendet wurden, gemäß Erklärung Nr. 7:

<table>
<thead>
<tr>
<th>Länder</th>
<th>Dienstleistungen</th>
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</table>

1) durch Aufnahme von Steuererklärung (*)
2) durch den Betreiber (*)

und dem Zahlungsbeleg beigesellt ist:

- von Lieferungen von Gütern oder Dienstleistungen in Belgien, die laut Artikel 39 Abs. 2 des MwST-Verordnung, steuerfrei sind und für die das Bedingung der Steuererklärung erforderlich
- von Lieferungen, die im Ausland stattgefunden haben (*)

(*) entsprechendes Fach ankreuzen.

Nr. 801 - 2000 R.
b) in Belgium in dem Zeitraum, auf den vorliegende Antrag sich bezieht, die Gliederung unter eins nicht bezeichneten Handlungen getaktet zu haben.

Die Gesamterhebung, die wir nicht eingehalten, errichten

2) keine Gliederung erhalten zu haben, in Eingang auf

Eingänge. Die den der Erstattung von Zahlungen widert

in vorheriger Stufe Erstattungsgewähr vermerkte Eingänge, denen Gliederung nach nicht in einem Erstattungsgewähr

aufgefunden werden.

3) dass die Angaben in vorliegender Antrag nach fremdem Wissen und Gewissen gemacht hat.

Der Zertätigungsrechtlige verpflichtet sich, jeden unredensflig empfundenen Bürg nicht zu kranken

(Zeichen, Vornamen und)

Eigenschaft des Unterzeichneten (Unterschrift)

(Als Erklärungen Nr. III) 

(*) Zurückweisend Fehlereinhalten.
# E-BRINGEN GESTÜTZTE AUFWENDUNGEN

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<thead>
<tr>
<th>Buchungsart</th>
<th>Datum</th>
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<td>2. Zeile</td>
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<td>67.89</td>
<td>XYZ AG</td>
<td>Materialkosten</td>
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<td>3. Zeile</td>
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<td>90.12</td>
<td>ACME KG</td>
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**ZUORDNUNG**

<table>
<thead>
<tr>
<th>Artikel 1</th>
<th>Artikel 2</th>
<th>Artikel 3</th>
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**Der Verwaltung vorbehaltene Rahmen**

<table>
<thead>
<tr>
<th>Euro/Tagung</th>
<th>Euro/Führungsbesprechung</th>
<th>Euro/Meeting</th>
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<tbody>
<tr>
<td>100</td>
<td>200</td>
<td>300</td>
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**Von Erstattungsverordnung maßgeblichen Rahmen**

<table>
<thead>
<tr>
<th>Steuergutschräte</th>
<th>Buchungsschacht</th>
<th>Euro/Tagung</th>
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<tr>
<td>1</td>
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<td>100</td>
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**Abbildungen**

1. Schematische Darstellung der gesamten Unternehmensstruktur
2. Grafische Darstellung der operativen Verfahrensabläufe
3. Tabellarische Übersicht der wichtigsten Kennzahlen

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**Anmerkungen**

2. Die Verwaltungsbereichsteilnehmer haben die benötigten Daten in einem gemeinsamen Projektteam erstellt.

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**Quellenverzeichnis**

1. [Verwaltungsblatt] (2023), "Operative Verfahren", S. 123
2. [Unternehmensbericht] (2022), S. 456

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**Korrespondenz**

1. Die Verwaltung der Aufsichtsratsmitglieder hat sich bereits mit dem Vorstand über die neuen Verfahrensabläufe geäussert.
2. Die Berichterstattung der Geschäftsführung wird in regelmäßigen Abständen durchgeführt.
3. Die Kontrollabteilung prüft regelmäßig die Einnahmen und Ausgaben der gesamten Organisation.