



Andersen in Poland

Guide

VAT REFUND PROCEDURE

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Introduction

The purpose of this guide is to present the essential information regarding a refund of VAT paid abroad under the VAT REFUND procedure (hereinafter: "VAT-REF" or "VAT-REFUND").

Polish entrepreneurs often purchase goods in other EU Member States to be used in their business activity. Goods and services purchased outside Poland are subject to local VAT, which companies pay along with the price of the goods or services. Entrepreneurs that are not registered for VAT in the country of purchase cannot deduct this tax. The input VAT on such purchases is also not deductible in Poland.

However, this does not mean that VAT paid abroad cannot be recovered. An entrepreneur who meets certain requirements can apply for a VAT-REFUND under a dedicated procedure.

With the VAT-REFUND procedure, VAT paid abroad can be recovered and foreign taxpayers that are not registered for VAT in Poland can also apply for refunds on purchases made in Poland.

With the VAT-REFUND procedure, VAT on purchases made outside Poland can be recovered, with no need to register for VAT in the country where the purchase was made. This solution is definitely advantageous for all taxpayers whose business activities reach beyond Poland, but due to the nature of these activities, there is no obligation to register for VAT in other countries.

Example:

Fuel purchases, motorway toll, travel expenses or accommodation costs in other countries incurred in connection with employees' business trips outside Poland.

Contact

Elżbieta Lis

Partner · Andersen in Poland
elzbieta.lis@pl.andersen.com

Adam Książek

Manager · Andersen in Poland
adam.ksiazek@pl.andersen.com

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Who can apply for a refund?

The VAT-REFUND procedure can be used by eligible entities from a given EU Member State and from some third countries.

Eligible entities include: i) individuals, ii) legal persons (corporations), iii) unincorporated entities (having no legal personality),

- that have the seat of their economic activity within the EU,

- that, during the period for which they apply for the refund, in the territory of the country of refund, do not have:

- the seat of their economic activity,
- a fixed establishment from which business transactions were effected,
- their domicile or normal place of residence.

Thus, the following requirements must be met for a Polish entrepreneur to be entitled to file a refund application:

- The taxpayer is an active VAT payer;
- The taxpayer does not have a seat, fixed establishment, domicile or normal place of residence in the EU country of purchase;
- The taxpayer has not supplied any goods or services in the Member State of refund, with the exception of certain strictly defined transactions;
- The taxpayer does not make only VAT-exempt sales, and does not benefit from the exemption under Article 113 of the VAT Law.

Important:

The VAT-REFUND procedure can also be used with respect to countries that are not Member States of the European Union. However, for such countries, a refund is subject to the so-called principle of reciprocity.

In practice, therefore, it is possible that VAT cannot be recovered by a Polish taxpayer on purchases made in a third country.

Which goods are subject to a refund?

Article 9 of Council Directive 2008/9/EC sets out a list of goods and services on which a refund can be obtained:

- fuel,
- hiring of means of transport,
- expenditure relating to means of transport (other than the goods and services referred to under codes 1 and 2),
- road tolls and road user charge;
- travel expenses, such as taxi fares, public transport fares;
- accommodation,
- food, drink and restaurant services;
- admissions to fairs and exhibitions;
- expenditure on luxuries, amusements and entertainment;
- other (if this code is used, the nature of the goods and services supplied should be indicated).

It is noteworthy that the Member State of refund may require additional information from the applicant with regard to the purchased goods and services in the form of additional electronic coded information (sub-codes) as regards each main code in the list presented above.

A VAT-REFUND shall not apply to amounts of the tax:

- which, according to the legislation of the Member State of refund, have been incorrectly invoiced,
- which have been invoiced in respect of supplies of goods the supply of which is, or may be, exempt under Article 138 or Article 146(1)(b) of Directive 2006/112/EC.



The minimum amounts of refund:

The amount of VAT-REFUND applied for may not be less than the equivalent of:

- 400 EUR – if the refund application relates to a refund period of less than one tax year but not less than 3 months;
- 50 EUR - if the refund application relates to the whole tax year or a period of less than the last 3 months of the year

Requirement for copies of invoices

For invoices:

- for which the taxable base is equal or higher than the equivalent of EUR 1000 in PLN,
- documenting the purchase of fuel where the taxable base is equal or higher than the equivalent of EUR 250 in PLN, their copies need to be submitted with the refund application.

The conversion is made at the average exchange rate of EUR published by the National Bank of Poland for the last business day before the date of invoicing.

Practical tip:

A number of jurisdictions require that taxpayers applying for a refund submit an electronic or hard copy of all documents referred to in their application.

It is not infrequent that additional explanations or contracts with counterparties are required.



Date and manner of submitting the application:

The refund application shall be submitted at the latest on 30 September of the year following the tax year concerned.

The refund application should relate to purchases made over a period not shorter than 3 months (except for a situation where the application is submitted for the last 3 months of the tax year) and not longer than a tax year.

In practice, this means that a taxpayer may submit more than one refund application subject to the rule that one application should cover the period of not less than three months.

The refund application within the European Union may only be made electronically through the teleinformatic system provided by the Polish Ministry of Finance "e-Deklaracje".

The application should be addressed to the tax authority competent for the taxpayer, which subsequently forwards the application to the competent tax authority in the country of refund.

Example:

A refund application relating to purchases made in 2023 needs to be submitted by 30 September 2024.

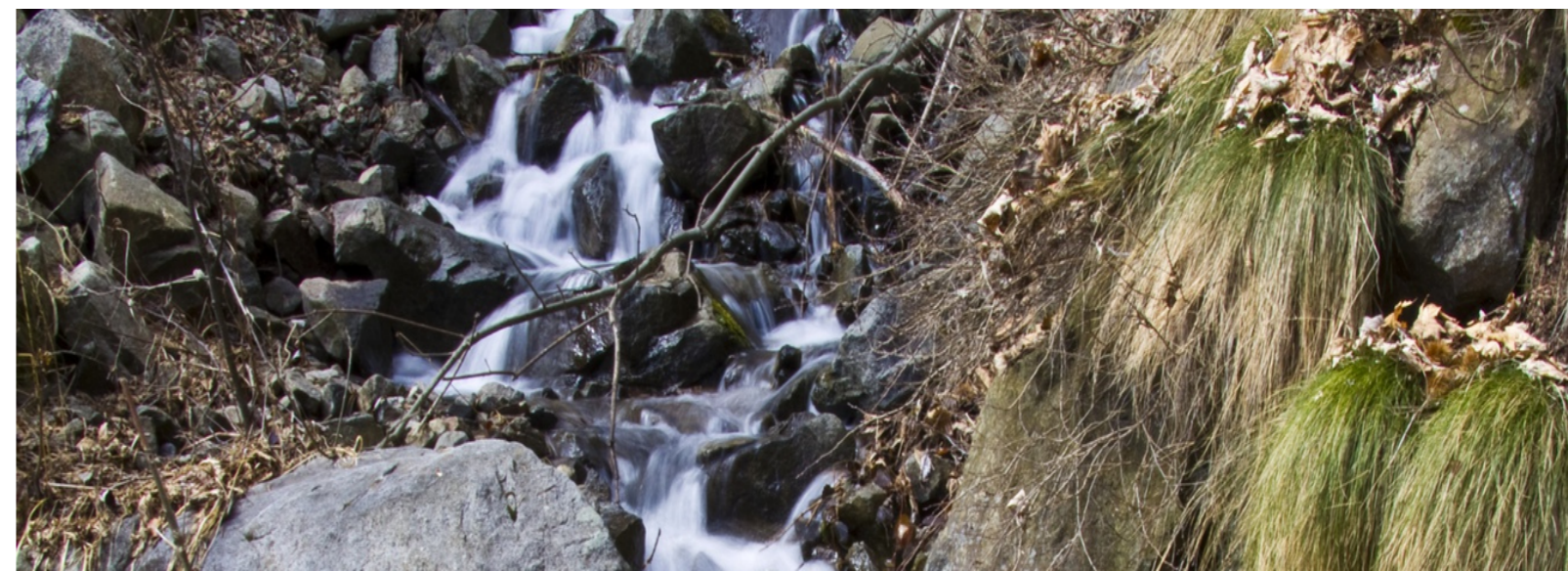
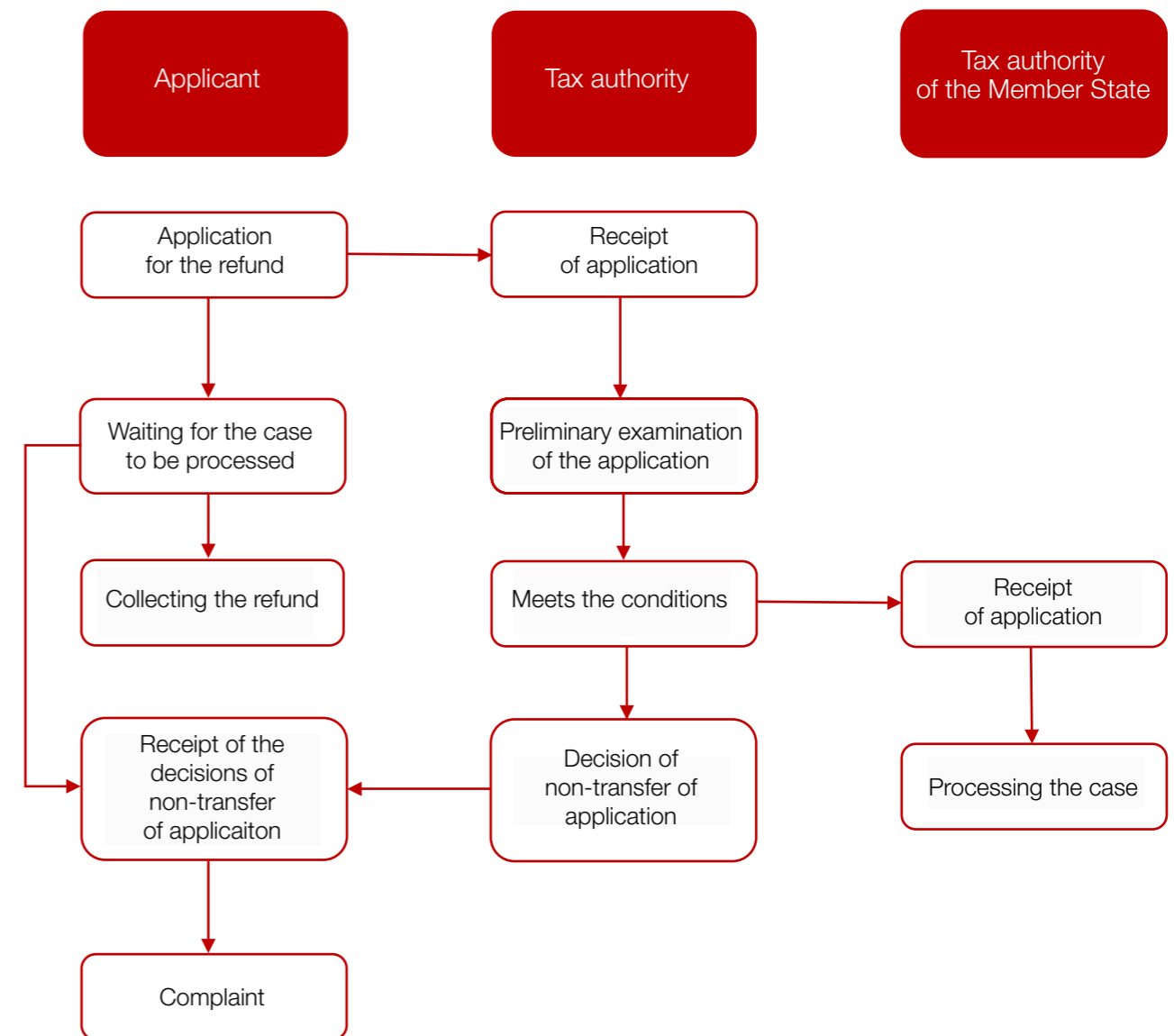
This deadline is not extendable and cannot be reinstated.

Attorney services

A taxpayer who wants to get a refund of VAT paid abroad may submit a refund application through an attorney. A power of attorney (general or specific) should be filed with the tax authority competent to receive the refund application, using the appropriate form (PPS-1).

Importantly, the administration of the country of refund may request that the PoA be submitted in the manner required by the laws of this country.

Application processing chart



Application processing time

A decision on the amount of VAT-REFUND admitted is issued within 4 months of receipt of the application with all the required documents.

Where the authority does not have all the relevant information on which to make a decision in respect of the refund, it may request additional information; if the information supplied in response to the authority's request is insufficient and the authority is not in a position to take the decision, further additional information may be requested.

The information requested should be provided within 1 month of the date on which the request is received.

Where the taxpayer has provided additional information, the tax authority shall notify the applicant of its decision regarding the amount of the VAT-REFUND within:

- 1) 2 months of receiving the requested additional information but no later than within 8 months of receiving the application;
- 2) if it has not received additional information - within 2 months of expiry of the monthly time limit for provision of additional information, but no later than
 - a. within 6 months of receipt of the application if additional information is requested
 - or
 - b. within 8 months of receipt of the application if further additional information is requested.

Refunds of the approved amount are paid by the tax authority at the latest within 10 working days of issuance of the decision.

Useful links

Below you will find some useful links:

- VAT refund to foreign entities - <https://www.podatki.gov.pl/en/value-added-tax/vat-refunds/>

Out support

Complex VAT-REF support



Analysis of expenses in terms of possible refund in a given country



Preparation and dispatch of refund applications



Contact with the tax administration of the country of refund

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Andersen in Poland

KATOWICE

ul. Chorzowska 150
41-101 Katowice

T: +48 32 731 68 50
E: katowice@pl.andersen.com

TORUŃ

ul. Polna 7B/22
87-100 Toruń

T: +48 571 270 080
E: torun@pl.andersen.com

POZNAŃ

ul. Wodna 15/4
61-782 Poznań

T: +48 22 690 08 88
E: poznan@pl.Andersen.com

WARSZAWA

ul. Puławska 2, wejście C
02-566 Warszawa

T: +48 22 690 08 88
E: warsaw@pl.andersen.com

RADOM

ul. Szewska 28/9
26-610 Radom

T: +48 22 690 08 88
E: radom@pl.andersen.com



pl.Andersen.com



Andersen In Poland



@AndersenPoland

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