

GUIDELINES REGARDING VAT REFUNDS TO OVERSEAS TRADERS

What is a refund to an overseas trader?

A taxable person not established and not registered for VAT in Malta but established in another country inside or outside EU territory may claim input VAT incurred in Malta on business-related expenditure, provided that he does not perform any trading activities in Malta.

What are the conditions for such refund?

A person is entitled to claim such refund if he does not have in Malta:

- a) his place of his economic activity; or
- b) a fixed establishment from which business transactions are effected; or
- c) his domicile; or
- d) his normal place of residence; or
- e) a valid VAT registration number issued by the Maltese VAT Department.

Also, during the same period he should not have supplied or deemed to have supplied, any goods or services in Malta.

However, for this purpose, the following services are not considered as services supplied or deemed to have been supplied in Malta:

- Transport and ancillary services thereto that are exempt and that are part of the full taxable value, as specified under certain conditions; and
- Services and goods supplied by such taxable person not established in Malta in cases where tax is liable to be paid solely by the persons to whom they are supplied.

Moreover, this refund scheme does not apply to the supply of goods which are exported from Malta by persons not established in Malta.

What kind of expenditure is eligible?

Maltese VAT incurred by a foreign trader in Malta, on services received or goods purchased and which is related to his economic activity abroad is eligible for refund under the same conditions as those that govern the right of a taxable person registered for VAT in Malta to deduct input VAT. Thus tax which in terms of VAT legislation is blocked may not be refunded.

Among the beneficiaries entitled for VAT refunds are foreign traders who organize ‘business-related’ conferences, seminars, conventions, fora, meetings or sales events.

These persons are entitled to VAT refunds on the following expenses:

- Accommodation (including meals and drinks falling under the definition of “accommodation”) – incurred for the benefit of the taxable person’s economic activity, such as a sales event, conference etc. However, in the case of staff awarded a holiday by their employer or for hospitality purposes, such claim cannot be accepted;
- Room hiring costs relating to the meeting/syndicate rooms;
- Hiring of audio-visual or technical equipment (and related technician services) related to the conference element of the programme – provided it is used for business related activities but excludes expenses for entertainment functions, receptions etc.;
- Expenditure on coaches or minivan transfers to/from the airport, between the hotels and conference venue – except where it is in connection with entertainment travel and on transfers utilized by Overseas Professional Conference Organisers/or outbound agent staff;
- Conference security and assistance staff charges;
- Coffee breaks and mineral water;
- Meals (working lunches) and drinks – except where these do not form part of the event e.g. dinners. Alcoholic beverages may be only be allowed in exceptional circumstances at the discretion of the Commissioner of VAT;
- Gifts and room drops – with a value not exceeding Lm20 per delegate for the duration of the event at the discretion of the Commissioner of VAT;
- Electricity supplies – provided it is connected with the lighting of the venues;
- Telephony and internet services;
- Day delegate packages – if integrated in one package consisting of items mentioned above but excluding non-refundable items such as dinners;
- Expenditure consisting of entertainment, receptions, hospitality, food and beverage relating to hotel banqueting, outside catering, dinners, Gala evenings, transfers to activities, tours, guides etc is considered as ineligible for a VAT refund.

Incentive programmes are not considered to be 'business expenses' and are viewed more as 'entertainment'. Therefore potentially eligible items referred to above (such as accommodation) would not receive a refund.

It is recommended that where a person has doubts on whether or not any VAT incurred is refundable, the VAT Department should be consulted to obtain further clarification.

How can one apply?

A recipient of an invoice who has paid the amount in full, qualifying for any of the above-mentioned refund may apply with the VAT Department for that refund on Form 008/2004. The form and guidance notes are available on the Department's internet. An application may be made via email (vat@gov.mt).

It should be noted that prior to any refund issued, the VAT Department would request to inspect the invoice and may request any supporting documents relating to the event in question. Other VAT documentation in respect of any sub-contractors used may also be requested. Any irregularities in the documentation that is presented may render the refund ineligible. The VAT Department may only affect refunds once it is satisfied that such VAT has been incurred, recorded and collected.

Further information may also be obtained from the booklet entitled "Special Refund Scheme" which may be obtained from the VAT Department, or an electronic copy of which may also be found in this website.

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