


VAT REFUND CLAIM FOR NON-EU ESTABLISHED VAT OPERATORS

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INTRODUCTION

1. REGULATION

- ✓ Council Thirteenth Directive 86/560/ECC, of November 17th, 2013.
- ✓ EU Directive 112/2006/EC, related to the VAT.
- ✓ Spanish VAT Act 37/1992, of December 28th (article 119.bis)
- ✓ Spanish Royal Decree 1624/1992, of December 29th (article 31.bis)

2. GENERAL CONSIDERATIONS

- ✓ Special VAT refund claim procedure for non-EU operators which are **not established for VAT purposes in the EU VAT territory**.
- ✓ The VAT refund claim shall cover a calendar quarter or a calendar year.
- ✓ Definitive deadline: **September 30th** of the year following to the one the VAT quotas refer to.
- ✓ Minimum amount: 400 € if quarterly claim or 50 € if yearly claims.

CONDITIONS FOR CLAIMING THE VAT

Who can claim the VAT?

- Taxable persons not established for VAT purposes within the EU territory
- Established in a non-EU country with reciprocity agreement in place with Spain*
- Which do not become VAT taxpayer in Spain as consequence of supplies of goods and/or services

*Countries with reciprocity agreement in place at present:

- Switzerland
- Norway
- Canada
- Japan
- Israel
- Monaco

What VAT can be claimed?

- Input VAT quotas borne in the acquisition of goods and/or services in the Spanish VAT territory and import VAT
- Limitations for recovery for specific goods and services, such as jewellery, food, beverages, tobacco, entertainment shows and any goods or service do not related to a business activity

When can the VAT be claimed?

- As from the end of each calendar quarter or end of each calendar year
- Definitive deadline is on September 30th, of the following year to which the VAT quotas refer to.

PROCEDURE FOR RECOVERY

- ✓ The refund claim **must be filed by electronic means**, using the official Form 361 provided for such purposes through the Spanish Tax Authorities' website.
- ✓ The claim can refer to a calendar quarter or the full year.
- ✓ A Spanish resident **must be appointed mandatorily as tax representative**, who must comply with the corresponding requirements and procedure established. The tax representative is the one in charge of e-filing the application Form 361.
- ✓ Together with the application Form must be enclosed:
 - Complete data of the company applying for the VAT refund (legal name, address, VAT/tax id. Number, e-mail address, etc)
 - A statement certifying that the company has not carried out transactions within the Spanish VAT territory by which it becomes VAT taxpayer
 - Certification issued by the Tax Authorities of the country of establishment evidencing that the company carries out a business activity subject to VAT in said country
 - **Copies of invoices and import documents** supporting the input VAT quotas. Original documents must be held by the Company in case they are requested by the Tax Authorities
- ✓ The Tax Authorities have 4 months in order to solve the claim. After such period, delay interests are accrued.

DILIGENS PROPOSAL

- ✓ 2013 input VAT can be claimed before next **September 30th, 2014**. Considering the tight deadline and the time required in order to prepare the claim it is advisable to start the process as soon as possible.
- ✓ **Diligens**, as VAT specialist, does offer its customers a **full and experienced service** related to the VAT refund claim through the special procedure for non-EU established operators, according to the requirements of the European Directive and the Spanish VAT Act.
- ✓ The scope of service offered by **Diligens** is:
 - Analysis of customer's transactions carried out in the Spanish VAT territory in order to determine the right to recover through the special procedure.
 - Review of the input VAT invoices and import documents in order to comply with formal and invoicing requirements for VAT deduction.
 - Appointment of **Diligens** as Tax representative.
 - Use of **Diligens** domicile and e-mail for notification purposes.
 - Preparation and e-filing of the VAT refund claim before the Spanish Tax Authorities.
 - To monitor, on a regular basis, the status of the VAT refund claim before the Tax Authorities.

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