

VAT REFUND FOR FOREIGN TAXABLE PERSONS

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This publication explains in which cases and what kind of foreign taxpayers can recover the VAT paid in Lithuania. The publication consists of two main parts. The first part is intended for foreign taxable persons established in other Member States. The second part is for those foreign taxable persons who are located outside the European Union.

I. VAT REFUND FOR TAXABLE PERSONS ESTABLISHED IN ANOTHER EU MEMBER STATE

1. Which legal acts apply with regard to VAT refund for foreign taxable persons?

- Provisions of the XII section of the Law on Value Added Tax of the Republic of Lithuania (hereinafter - Law on VAT);
- Resolution “Regarding the Return of Value Added Tax to Foreign Persons” of the Government of the Republic of Lithuania No. 899 of 13 June 2002;
- Order “Regarding approval of Requests for Refunds and Processing of VAT paid by Foreign Taxable Persons” of the Minister of Finance of the Republic of Lithuania No. 189 of 21 June 2002;
- Order “Regarding foreign taxable persons applications for repayment of value added tax paid in the Republic of Lithuania” of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania No. 339 of 25 November 2002;
- Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State;
- Council Regulation (EU) No. 904/2010 of 7 of October 2010 on administrative cooperation and combating fraud in the field of value added tax;
- Commission Implementing Regulation (EU) No. 79/2012 of 31 January 2012 laying down detailed rules for implementing certain provisions of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax.

2. Who can apply for VAT refund?

A foreign taxable person (legal or natural) established in another EU member state is entitled to get VAT refund paid in Lithuania for the goods or services purchased if the following conditions are satisfied:

- during the period for which a VAT refund is requested, the applicant did not have a fixed establishment in Lithuania (if the applicant is natural person - usual place of residence was not in Lithuania) from which economic activities were carried out, and
- the applicant did not carry out any activities in Lithuania that would be subject to VAT, except for:
 - the supply of transport services and ancillary services that would be subject to 0% rate; or
 - the supply of certain goods or services for which VAT should be applied by the purchaser under reverse charge mechanism provided in art. 95 (2)-(4) of the Law on VAT;
 - the supply of services under a special tax scheme for telecommunications, radio and television broadcasting and electronically supplied services (the applicant must be engaged only in telecommunications, radio and television broadcasting and electronically supplied services or in the provision of services for which VAT registration in Lithuania is not required).

3. What type of goods and services is eligible for VAT refund?

VAT can be refunded for:

- fuel;
- accommodation services;
- expenses for participation in exhibitions;
- other goods and services.

It should be noted that VAT generally is refunded in cases where the purchased goods or services were used for carrying out VAT taxable activities.

4. When VAT is refunded only partially?

VAT can be recovered only partially:

- on entertainment and representation expenses (goods and services); and
- in cases where the applicant carries out mixed activities (transactions giving a right of VAT deduction and transactions not giving a right of VAT deduction) and the purchased goods or services cannot be attributed directly to taxable activities (pro rata criteria is applicable in such case).

5. When VAT is not refunded at all?

VAT cannot be recovered in cases where the purchased goods or services were used for non-taxable activities, where VAT was paid on behalf of another person or where VAT was paid on:

- purchase or lease of a passenger car;
- transport of passengers by passenger cars (taxi services);
- supply of goods or services on which VAT is incorrectly calculated (e. g. exempt supplies taxed with standard rate);
- goods supplied to another EU member state if the supply of these goods would have been subject to the 0% rate; and
- goods exported from the EU if the supply of these goods would have been subject to the 0% rate.

6. What are the minimum time periods for which VAT refund applications can be submitted?

VAT refund application must cover a period of not less than three consecutive calendar months (e.g. from 1 January to 31 March) in one calendar year (unless the period represents the remainder of a calendar year (e. g. from 1 November to 31 December)) and not more than one calendar year.

7. How the VAT refund application should be submitted?

VAT refund application should be submitted via the electronic system provided by the tax authorities of the member state in which the taxable person is established (has usual place of residence, if the applicant is natural person).

8. Is it possible to submit the VAT refund application via representative?

Yes, it is possible. In such cases power of attorney should be submitted together with the application as well.

If the power of attorney is not in Lithuanian or in English language, the translation should be provided (the translation has to be signed by translator, approving that the translation is correct). The power of attorney has either to bear an apostille or be legalized if it is issued outside the EU.

9. Is it possible to transfer the VAT refund to the account of the representative?

Yes, it is. However such a request has to be indicated in the power of attorney.

10. What is the deadline for submitting VAT refund applications?

The application should be submitted not later than by September 30th of the year following the one in which the purchases were made.

11. How often VAT refund applications can be submitted?

There are no restrictions on the frequency however the period for which VAT refund application is submitted cannot be less than 3 calendar months of the same calendar year (with the exception if it is the end of the year) and cannot exceed the period of calendar year.

12. What are the minimum refundable amounts?

If the VAT refund application relates to a period of less than one calendar year but not less than three months, the minimal amount for which application is made may not be less than EUR 400. If the VAT refund application relates to a period of a calendar year or the remainder of a calendar year shorter than three calendar months, the minimal amount may not be less than EUR 50.

13. What kind of information should be indicated in the VAT refund?

There should be:

- general information about the taxable person (name, VAT identification code, address, e-mail, bank details etc.);
- if the representative is used than general information about the representative;
- goods and services which were bought (imported) in Lithuania by the taxable person;
- invoices.

14. How the goods and services should be described in the application of the VAT refund?

Information about goods and services bought in Lithuania in the VAT refund application has to be described by purchase (imported) goods and services codes. General codes are indicated in the Council Directive 2008/9/EC. Member states can choose to use more detailed codes provided in the Commission Implementing Regulation (EU) No. 79/2012.

Lithuania has chosen to require some, but not all detailed codes provided in the Commission Implementing Regulation (EU) No. 79/2012. The detailed codes chosen by Lithuania are mandatory in the refund application.

Title of the good or service	General code indicated in the Council Directive 2008/9/EC	Detailed code indicated in the Commission Implementing Regulation (EU) No. 79/2012 and chosen by Lithuania
Fuel	1	None
Hiring of means of transport	2	2.8 2.9
Expenditure relating to means of transport (other than the goods and services referred to under codes 1 and 2)	3	3.11 3.12
Road tolls and road user charge	4	None
Travel expenses, such as taxi fares, public transport fares;	5	5.1 5.2

Accommodation	6	All detailed codes provided in the Regulation
Food, drink and restaurant services	7	All detailed codes provided in the Regulation
Admissions to fairs and exhibitions	8	All detailed codes provided in the Regulation
Expenditure on luxuries, amusements and entertainments	9	All detailed codes provided in the Regulation
Other	10	Provide the description

Please note, that if you buy services under general codes 2, 3 and 5 then you should indicate the detailed code only if the purchase falls under the detailed code provided in the table. Otherwise just general code is used (e. g. if you hire passenger car of the M1 category, you indicate just general code - 2, however if you hire means of passenger transport with more than 9 spaces, then you have to use detailed code - 2.8).

15. Is it necessary to submit supporting documentation (VAT invoices or import documents) together with the VAT refund application?

The general threshold for the submission of an electronic copy of an invoice is where the taxable amount on the invoice or import document is at least EUR 1,000 (EUR 250 for invoices relating to fuel costs), i. e. in such cases where the threshold is reached copies of the invoices are mandatory.

If on purchase documents (invoices, including cash register receipts which are considered as invoices) is specified only specific purchase card number of applicant, Lithuanian tax authorities can request additional documents/information to identify for whom such card (number) is issued.

16. What type of files are allowed to be attached to the VAT refund application?

Documents attached to the VAT refund application should be in JPEG, TIFF, PDF or ZIP.

17. Is there a size limit for the files attached?

The files attached together with the VAT refund application cannot exceed the limit 5 MB. If the size of the files that should be attached exceeds the limit then the applicant should attach part of the documents. The other part of the documents will need to be submitted by e-mail, the address of which is the Lithuanian tax administrator to the taxable person of another Member State the person (the representative of this person) will indicate upon receipt of a request for VAT refund.

18. In which language the VAT refund application or additional information should be submitted?

It should be made either in Lithuanian or in English. If documents submitted as additional information are not in Lithuanian or English, the translation should be provided (the translation has to be signed by translator, approving that the translation is correct).

19. What is the time limit for the decision on the VAT refund application?

The Lithuanian tax authorities must issue a decision on a refund claim within four months of receipt of the claim:

- the authorities can satisfy the claim and inform the claimant via electronic means or regular mail (the latter, at the request of the claimant);
- the authorities can reject the claim (in whole or in part) and inform the claimant via electronic means or regular mail (regular mail, at the request of the claimant); or

- the authorities can request additional information and notify the claimant via electronic means.

If additional information was asked for then the decision should be made during 2 months from the date when the additional information was received. If the Lithuanian tax authorities has asked for additional information several times then the decision should be made not later than 8 months after the receipt of the application.

20. What is the time limit to provide additional data for Lithuanian tax administrator?

The applicant must provide requested information within one month of receipt of the request.

21. How soon VAT refund should be made after the decision to grant VAT refund was reached?

The amount of VAT refund should be transferred no later than 10 working days from the date on which the decision to grant VAT refund should have been made if there were requests for additional information. If no requests for additional information were made then VAT refund should be transferred no later than 10 working days after the deadline of 4 months. The VAT refund can be transferred to any bank account located in Lithuania or in another member state. If the VAT refund is transferred to the bank in another member state then it will be reduced by bank fees (including currency exchange costs).

22. Does the applicant have a right to request for interest if the VAT refund was not made on time?

Yes, the applicant has a right to the interest, however no additional request should be made. The system is organized in such a way that the interest is calculated automatically.

23. Is there an obligation for the taxable person who had obtained VAT refund to inform Lithuanian tax authorities about the adjustments to his proportional deduction which took place after the refund was made but refer to the period for which the refund was granted?

Yes, the taxable person has to adjust the amount of proportional deduction. The adjustment should be made via the electronic system provided by the tax authorities of the member state in which the taxable person is established.

II. VAT refund for taxable persons established outside the EU

1. Which legal acts apply with regard to VAT refund for foreign taxable persons established out of the territory of the EU?

- Provisions of the XIII section of the Law on VAT;
- Resolution “Regarding the Return of Value Added Tax to Foreign Persons” of the Government of the Republic of Lithuania No. 899 of 13 June 2002;
- Order “Regarding approval of Requests for Refunds and Processing of VAT paid by Foreign Taxable Persons” of the Minister of Finance of the Republic of Lithuania No. 189 of 21 June 2002;
- Order “Regarding foreign taxable persons applications for repayment of value added tax paid in the Republic of Lithuania” of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania No. 339 of 25 November 2002;
- 13th Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover tax arrangements for the refund of value-added tax to taxable persons not established in Community territory.

2. Who can apply for VAT refund?

A taxable person established outside the EU is entitled to ask for a refund in either of the following cases:

- foreign country in which the taxable person is established (natural person - usually resides) refunds VAT (or similar tax) to Lithuanian taxable persons (i.e. reciprocity principle is applied) or
- the taxable person provides electronic services to non-taxable persons in the EU and is registered as VAT payer under a special e-commerce scheme. In this case it does not matter whether the country where the taxable person is established refunds VAT for Lithuanian taxable persons or not. However such a person can get a VAT refund only for goods or services purchased for his activity in a special e-commerce scheme. If the goods or services purchased were intended for other activity then the refund can be granted only if there is a reciprocity with its country of establishment (or via VAT deduction if the full registration was needed for the activity carried out).

Currently VAT refund is granted to foreign taxable persons established in the following countries:

- Armenia;
- Canada;
- Iceland;
- Norway;
- Switzerland;
- Turkey (with some restrictions).

However even in cases where taxable persons are established in eligible countries some additional requirements in order to get a VAT refund must be carried out as well:

- the taxable person during the period for which VAT refund is asked should not have had a Lithuanian fixed establishment carrying out any economic activity,
- the taxable person during the period for which VAT refund is asked should not have carried out economic activity subject to Lithuanian VAT.

Those requirements are not applied in cases where a foreign taxable person carries out only exempted (taxed at 0% VAT rate) transport or additional transport services, supplies goods or services for which reverse charge is applied under art. 95 (2) - 95 (4) of the Law on VAT or supplies services under the special e-commerce scheme.

From the 1st of January 2018 taxable persons established in the countries which are members of OECD (Organization for Economic Co-operation and Development), in which there is no VAT (or a tax identical to it) are entitled to apply for VAT paid in Lithuania refund. However, this provision applies for VAT paid on purchases from 1 January 2018.

1. What type of goods and services is eligible for VAT refund?

VAT can be refunded for:

- fuel;
- accommodation services in hotels;
- expenses caused by participation in exhibitions;
- other goods and services which were bought by taxable person for activity subject to VAT (which would be subject to VAT if it were carried in Lithuania).

It should be noted that VAT generally is refunded in cases where the purchased goods or services were used for carrying out activities, that would be taxable with VAT if carried out in Lithuania.

2. When VAT is not refunded at all?

VAT cannot be recovered in cases where the purchased goods or services were used for non-taxable activities, where VAT was paid on behalf of another person or where VAT was paid on:

- purchase or lease of a passenger car;
- transport of passengers by passenger cars (taxi services);
- goods and services allocated for the entertainment and representation (i.e. food, organization of party, banquet, tickets to cultural events etc.) (valid for purchases made not later than 31 December, 2017).
 - supply of goods or services on which VAT is incorrectly calculated (e. g. exempt supplies taxed with standard rate);
 - goods supplied to another EU member state if the supply of these goods would have been subject to the 0% rate; and
 - goods exported from the EU if the supply of these goods would have been subject to the 0% rate.

3. When VAT is refunded partially?

VAT can be recovered only partially on entertainment and representation expenses (goods and services) if those expenses were incurred since 1 January 2018.

4. What are the minimum time periods for which VAT refund applications can be submitted?

The application must cover a period of not less than three consecutive calendar months (e. g. from 1 January to 31 March) in one calendar year, unless the period represents the remainder of a calendar year (e. g. from 1 November to 31 December) and not more than one calendar year.

5. How the VAT refund application should be submitted?

VAT refund application (special forms FR0445 must be used) can be submitted in the following ways:

- by electronic means through the State Tax Inspectorate portal e.VMI (the domain of authorized electronic services of the Tax Authorities of Lithuania);
- delivered directly to the Vilnius County State Tax Inspectorate;
- sent by regular mail to Vilnius County State Tax Inspectorate.

Address:

Vilnius Country State Tax Inspectorate
Ulonų Street 2
LT - 08245 Vilnius
Lithuania

6. Is it possible for the taxable person established in non EU country to present the application for the VAT refund via representative?

Yes, it is possible. In such cases power of attorney for the intermediary should be submitted together with the VAT refund application and appropriate documents. It is possible to have only one intermediary for one VAT refund application.

7. Is it possible to make a refund to the bank account of the representative?

Yes, it is possible if such clause is indicated in the power of attorney.

8. How often VAT refund applications can be submitted?

There are no restrictions on the frequency however the period for which VAT refund application is submitted cannot be less than 3 calendar months of the same calendar year (with the exception if it is the end of the year) and cannot exceed the period of calendar year.

9. What are the minimum refundable amounts?

If the application relates to a period of less than one calendar year but not less than three months, the amount for which application is made may not be less than EUR 400. If the application relates to a period of a calendar year or the remainder of a calendar year shorter than three calendar months, the amount may not be less than EUR 50.

10. What is the deadline for submitting a refund application?

The application must be submitted to the Lithuanian VAT authorities within six months of the end of the calendar year in which the tax became chargeable, i. e. by 30 June of the following year. The deadline will not be extended.

11. What kind of information should be indicated in the VAT refund application?

There should be:

- general information about the taxable person (name, VAT identification code, address, e-mail, bank details etc.);
- if the representative is used than general information about the intermediary;
- goods and services which were bought (imported) in Lithuania by the taxable person;
- invoices.

12. What kind of documents it is necessary to submit together with the VAT refund application?

It is necessary to submit originals or copies of VAT invoices or import declarations where the relevant VAT amounts have been paid in the Republic of Lithuania. In the case of fuel purchases, instead of VAT invoices, receipts of cash registers may be provided, if they include technical data identifying the fuel customer (taxpayer's name, code or specific fuel purchase card number), originals or copies. If the VAT invoices and cash register receipts identify the taxable person outside the EU only with a specific fuel purchase card number, the originals or copies of the documents for which the card is issued may be identified. If a foreign taxable person submits the originals of the documents indicated and wishes the originals to be returned to him, he must provide a copy of these documents.

A certificate (certificate) issued by a foreign state certifying that a foreign person is registered in the country or in the country in which he is acting through a permanent establishment as VAT or a taxpayer identical to him. The certificate is not needed where the application is submitted by taxable person established in the member of the OECD (Organization for Economic Cooperation and Development) which does not have VAT (or a tax identical to it). If the certificate (certificate) is issued in non-Lithuanian or English language, a translation of this document into the Lithuanian language, certified by the translator's signature, indicating that the translation is correct.

13. What types of files are allowed to be attached to the VAT refund application?

If the application is submitted by electronic means, documents attached to the VAT refund application should be in docx, xlsx, pptx, ppsx, odt, ods, odp, pdf, tif, tiff, jpg, jpeg, jfif, png, adoc.

14. Is there a size limit for the files attached?

The size of one file can not exceed 4 MB, but the amount of files provided is unlimited.

15. In which language the VAT refund application or additional information should be submitted?

It should be submitted in Lithuanian or in English.

In cases where the original documents are written neither in Lithuanian nor in English the translations should be submitted. The translations should be signed by the translator stating that the translation is correct.

16. What is the time limit for the decision on the VAT refund application?

In the cases where Lithuanian tax authorities do not ask for additional information the decision should be made during 4 months from the date when the VAT refund application was received.

If it was asked for additional information then the decision should be made during 2 months from the date when the additional information was received.

17. What is the time limit to provide additional data for Lithuanian tax administrator?

The tax authorities can request additional information and notify the claimant via electronic means. The claimant must provide all information within one month of receipt of the request. If the applicant has objective reasons why he cannot present additional information on time Vilnius Country State Tax Inspectorate can extend the term.

18. How soon the VAT refund should be made after the decision to grant VAT refund was reached?

After the decision to repay all or part of the amount of VAT, the amount to be refunded is within 10 working days of the decision being transferred to the account specified in the application. Transferable amount of money is reduced by the cost of banking services, including currency conversion costs.