
CROSS-BORDER VAT CHANGES 2010: VAT REFUND PROCEDURE

Who is likely to be affected?

1. UK businesses that incur VAT in other EU countries. Businesses established in other EU countries that incur VAT in the UK.

General description of the measure

2. A new electronic VAT Refund procedure is being introduced across the EU from 1 January 2010 to replace the current paper-based system. From 1 January 2010 businesses established in the UK will submit claims for overseas VAT electronically on a standardised form to HM Revenue & Customs (HMRC) rather than direct to the Member State of Refund.
3. The main changes from the paper-based system are:
 - businesses will be able to submit claims up to nine months from the end of the calendar year in which the VAT was incurred, rather than six months as at present;
 - tax authorities will have four months, rather than six months, to make repayments, unless further information is requested in which case the deadline extends up to a maximum of eight months;
 - the Member State of Refund will pay interest in cases where the business meets all its obligations but deadlines are not met by the tax authorities; and
 - all EU Member States will be required to afford a right of appeal against non-payment in accordance with the procedures of the Member State of Refund.
4. Similarly, overseas businesses will make their claims for UK VAT through the electronic interface in the EU Member State where their business is established.
5. This forms part of a package of changes to simplify and modernise the VAT system for cross-border trading and to counter fraud that will come into effect from 1 January 2010 across the EU. The package includes:
 - new place of supply rules for services (BN74);
 - new time of supply for cross-border services (BN75); and

- European Sales List (ESL) reporting for supplies of cross-border services and changes to ESL reporting for goods (BN76).

Operative date

6. The measure will have effect for claims made on or after 1 January 2010.

Current law and proposed revisions

7. Section 39 of the VAT Act 1994 (VATA) provides the authority for the Commissioners for HM Revenue & Customs to set out the detail of the current refund procedure. The secondary legislation is currently set out at Regulations 173 to 184 of the VAT Regulations 1995. Section 39 of VATA will be amended to provide the authority for the new procedure and the existing secondary legislation will also be revised.
8. Section 83 of VATA will be amended to give overseas businesses the right of appeal against non-payment of a claim.

Further advice

9. A discussion note, Impact Assessment and draft legislation will be issued on 1 May 2009. Further information and guidance on Cross-Border VAT Changes 2010 will be available through a Revenue & Customs Brief from 1 May 2009. All documents will be published on the HMRC website.
10. If you have any questions about this change, please contact the National Advice Service on 0845 010 9000. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk