



## Financial Directorate of the Slovak Republic

6/DPH/2023/IM

### Information on refunding VAT to a foreign person from a third country

This information is intended for foreign persons not established in the territory of the European Union, i.e. foreign person not having registered seat, place of business, fixed establishment, domicile or habitual residence within the territory of the European Union (hereinafter referred to as a "foreign person from a third country") and who wish to apply for a VAT refund from Slovakia.

#### **Conditions that must be met for a refund**

The conditions for the refund of tax to a foreign person from a third country are governed by the provisions of Section 56 to Section 58 of [Act No. 222/2004 Coll. on Value Added Tax, as amended](#) (hereinafter referred to as the "VAT Act").

According to the above-mentioned provisions, a foreign person from a third country is entitled to refund of VAT:

- on movable tangible property and services supplied by a VAT payer within the territory of the country,
- on importation of goods.

**Note:** It is not possible to claim a refund of VAT on immovable property claimed by a foreign person from a third country from a VAT payer within the territory of the country.

Pursuant to Section 56(2) of the VAT Act, a foreign person from a third country shall be entitled to tax refund provided that

- the foreign person from a third country is identified for the purposes of such tax or a similar general tax on consumption in the country where he has a seat, place of business, fixed establishment, domicile or habitual residence;
- during the period in respect of which application for tax refund has been filed, the foreign person from a third country did not have a seat, place of business, fixed establishment, domicile or habitual residence within the territory of the European Union;
- during the period in respect of which application for tax refund has been filed, the foreign person from a third country did not supply goods or services within the territory of the country with the exception of the supplies referred to in Section 56(2c) (1) to (5) of the VAT Act (*such an exception is e.g. the supply of goods or services within the territory of the country with the transfer of tax liability to a Slovak taxable person pursuant to Section 69(2) of the VAT Act*).

A foreign person from a third country **is entitled to the refund of VAT that is deductible under Section 49 of the VAT Act.**

**A foreign person from a third country shall not be entitled to VAT refund:**

- of a tax which the supplier has not claimed in accordance with the VAT Act and

- of a tax claimed in respect of the goods, the supply of which is or may be exempt from tax pursuant to §43 or §47(2) (supply of goods to another Member State) or pursuant to Section 47(2) of the VAT Act (export of goods to a third country),
- applied to goods and services used by the foreign person for the purposes of treat and entertainment,
- applied to goods and services purchased by the foreign person on behalf and for the account of another person (so-called suspense items pursuant to Section 22(3) of the VAT Act),
- applied to goods and services used by a foreign person for the purpose of carrying out transactions exempt from the tax pursuant to Sections 28 to 42 of the VAT Act, except where they are used for the purpose of carrying out insurance services and financial services for the benefit of another foreign person from a third country, or where they are used for the purpose of carrying out insurance services and financial services which are directly connected with the export of goods to a third country,
- if the country in which this foreign person has a seat, place of business, fixed establishment, or domicile does not refund to the taxable persons who are taxpayers under the VAT Act.

#### **Form and method of claiming a tax refund:**

A foreign person from a third country shall claim the refund of tax by filling an application for tax refund by post with the [Tax Office Bratislava](#) or in person at the [Tax Office Bratislava - client zone](#), Radlinského 37, 811 07 Bratislava. The model form of the tax refund application is presented in [Annex 2 of the VAT Act](#).

A foreign person from a third country who is registered as a VAT payer in the Slovak Republic pursuant to Section 5 of the VAT Act and claims a tax refund shall fill the application in electronic form.

**Note:** If a foreign person from a third country who is registered as a VAT payer in the Slovak Republic pursuant to Section 5 of the VAT Act meets the above-mentioned conditions, he/she claims a tax refund by filling an application and cannot claim a deduction of tax on goods and services through a VAT return.

The claim for tax refund shall be made for **a period of a calendar year**, and the amount of tax for which the refund is claimed is at least **EUR 50**. The tax refund application may be filed by a foreign person from a third country **also for the period of a calendar half-year** if the sum of the tax refund claimed by that person is **at least EUR 1,000** and if the application is filed for the first calendar half-year, the sum of the tax refund claimed for the second half-year is at least EUR 50.

The tax refund application for a period of one calendar year or of a calendar half-year shall be submitted no later than **by 30 June of the calendar year following the calendar year in respect of which the tax refund is claimed**.

Foreign person from a third country **shall attach** to his tax refund application:

a) **the original of an invoice issued by a VAT payer within the territory of the country, which states the amount of tax in euros and, in the case of importation of goods, the relevant importation document and a document confirming tax payment.** The invoice for the domestic supply of goods and services is regulated in the VAT Act in Section 71 of the VAT Act. The documents referred to in Section 74(3) of the VAT Act shall also be considered an invoice, the so-called simplified invoices - e.g. a document from an electronic cash register (*The Tax Office Bratislava shall return these documents to the foreign person from a third country within 60 days of their submission and, prior to returning them, may mark such invoices and importation documents*).

b) **a certificate issued by the tax authority of the state** in which the foreign person from a third country has a seat, place of business, fixed establishment, domicile or habitual residence, evidencing that **the foreign person from a third country is identified for the purposes of this tax or a similar general tax on consumption**; the

certificate may not be of an earlier date than a year ago. This certificate shall serve as proof that the applicant is the payer of VAT or a similar general tax on consumption within the state in which he/she has a seat, place of business, fixed establishment, domicile or habitual residence. The model form of the certificate is presented in [Annex 3](#).

The Tax Office Bratislava may also refund the VAT through **the representative** of a foreign person from a third country provided that the representative presents to the tax office a power of attorney authorising him to represent the foreign person from a third country for the purposes of VAT refund.

### **The time limit for refund:**

The Tax Office Bratislava, which is competent to deal with such applications, shall individually assess the essentials of the applications filled, including the details of the goods and services received, and shall **decide on the tax refund application within six months from its submission**. If the Tax Office Bratislava decides to refund the tax, it shall do so within the same time limit. Any decision to refuse a tax refund application, in whole or in part, must contain the grounds for refusal.

**Note:** A foreign person from a third country may appeal against a decision to refuse tax refund application

Where a tax has been refunded on the basis of untrue information or the tax refund has been obtained in a fraudulent way, a foreign person from a third country shall pay to the Tax Office Bratislava any such wrongly refunded tax plus a penalty. Unless the foreign person from a third country transfers back the wrongly refunded tax or pays the penalty, the Tax Office Bratislava shall have the right to refuse other applications for tax refund during two calendar years following the filing of the tax refund application based on untrue information.

If, following the submission of the tax refund application, the taxable amount and the tax for the supply of goods or services decreases, the foreign person from a third country is obliged to return the sum of the tax the refund of which the foreign person from a third country claimed. The foreign person from a third country is obliged to notify the Tax Office Bratislava, by electronic means, that it has received the document concerning the taxable amount and tax correction, namely not later than within 60 days following the day when it received the document. Together with the notification, the foreign person from a third country shall submit the document concerning the taxable amount and tax correction. The Tax Office Bratislava shall issue the foreign person from a third country with a decision on the return of the tax refund. The foreign person from a third country is obliged to return the tax within 30 days following the delivery of the decision.

### **Questions:**

#### **Question 1 – Importation of goods into the territory and VAT refund**

A Norwegian company has concluded a contract with a Slovak VAT payer for the supply of a production line including its assembly. Subsequently, the Norwegian company imported individual parts of the production line into Slovakia, which were released for free circulation in Slovakia, and import tax was levied and paid by the Norwegian company. The Norwegian company assembled the individual parts into a production line in the country and handed it over to the VAT payer on the basis of an acceptance protocol after testing and training of the operating personnel. (As a result, the Slovak VAT payer became liable to pay the tax - "self-taxation" under Section 69(2)(b) of the VAT Act). Is the Norwegian company entitled to a refund of the VAT paid on the importation of the goods in the country?

#### **Answer**

Yes, the Norwegian company is entitled to a refund of the VAT paid on the importation of the goods.

**Question 2 - Incorrectly applied VAT**

A Slovak VAT payer (supplier) sold goods - production materials to a Japanese entrepreneur. These goods were transported from Slovakia to Japan on the customer's behalf. The customs authorities confirmed the exit of the goods from the territory of the European Union. The Slovak supplier has a customs declaration as well as proof of transport of the goods (Article 47(3) of the VAT Act). Nevertheless, the Slovak VAT payer invoiced the supply of these goods with Slovak VAT. Is the Japanese entrepreneur entitled to a VAT refund?

**Answer**

No. The Slovak VAT payer did not apply VAT under the VAT Act. The supply should have been exempted from tax under Section 47(2) of the VAT Act.

**Question 3 - Application for tax refund for the second calendar half-year**

A Swiss company claimed the tax refund for the first calendar half-year of 2023. Later, the company found out that two invoices relating to supplies for March 2023 were not included in the refund application, while the total amount of VAT on both invoices was EUR 75. Is the Swiss company entitled to claim VAT on these invoices in the application for the second calendar half-year of 2023?

**Answer**

Yes. The tax refund application for the second calendar half-year of 2023 may also apply to invoices or import documents which were not included in the tax refund application for the first calendar half-year of 2023 and which relate to the transactions made during the period of the year 2023.

The model form of the application for the VAT refund to a foreign person pursuant to Articles 56 to 58 of the VAT Act can also be found on the portal of the Financial Administration ([www.financnasprava.sk](http://www.financnasprava.sk)), together with instructions on how to fill in the application, in the section *části* [Formuláře/ Vzory tlačív vydaných FR SR, MF SR a orgánmi EÚ/Iné vzory tlačív](#).

*Financial Directorate of the Slovak Republic  
Tax Support Centre  
October 2023*