

Instructions

for completing the application for refund of turnover tax

(Section 18, paragraph 9 Turnover Tax Law - UStG - in conjunction with Sections 59-61 of the Ordinance Regulating the Turnover Tax - UStDV -)

1. Nos 1 and 2 of the application

The applicant must be an **entrepreneur** who has neither within the Federal Republic of Germany (including the island of Helgoland) nor in one of the areas described in Section 1 para. 3 UStG a domicile, his corporate seat, his place of management or a branch office entered in the Commercial Register. Setting up a permanent establishment (other than a branch office entered in the Commercial Register) in the above mentioned areas does not exclude submitting an application.

An entrepreneur who is **not established in the Community territory** will have the input tax refunded **only if** in the country in which the entrepreneur has his corporate seat no turnover tax or similar tax is applied or, if it is applied, is refunded to entrepreneurs established in the Federal Republic of Germany (**reciprocity**).

Even if **there is no reciprocity** the input tax refund procedure shall be conducted if **an entrepreneur not established in the Community territory**

- performs services under Section 13b para. 1 UStG in the Federal Republic of Germany **for which input tax is payable by the person receiving the service,**
- has conducted transactions which were subject to the **individual transport assessment** (Sections 16 para. 5 and 18 para. 5 UStG). (The individual transport assessment applies to passenger transport in the form of occasional services carried out by buses or coaches which are not registered in the Federal Republic of Germany if they cross a border to third-country territory).

- within Community territory as a person liable for the payment of tax exclusively provides **electronically supplied other services** to non-entrepreneurs resident in the EU and uses the option to register for tax purposes in one of the Member States, to the extent that the corresponding taxes have been paid (Section 16 para. 1a sentence 3, Section 18 para. 9 sentence 8 UStG in conjunction with Section 59 No. 4 UStDV)

A prerequisite for amounts to be deemed refundable despite a lack of reciprocity is that the input tax must be related to the aforementioned transactions.

The entrepreneur should apply for the refund to the **Bundesamt für Finanzen, D-53221 Bonn** using Form USt 1 T - Application for refund of turnover tax - or a corresponding form issued by another Member State of the European Union. The application must be filled out completely, in the German language, with a typewriter or in block capitals. The application for refund must be received by the competent fiscal authority **at the latest by 30 June** of the year after that in which the claim to a refund arose. This **deadline is final** and **cannot** be extended. If the conditions of Section 110 Fiscal Code are fulfilled, however, reinstatement in the status quo ante is possible.

2. Nº 3 of the application

The application must be accompanied by the **original** of a certificate issued by the country in which the entrepreneur is established. The certificate must be issued in the official language of a Member State of the European Union. It shall be valid for a period of one year from the date of issue. Its contents must correspond to the **pattern** presented below:

Certificate of registration as taxpayer (<u>entrepreneur</u>)		

(name and address of the competent authority)		
certifies that _____	_____	
	(name and surname, or name of firm)	

(nature of activity, or branch of industry)		

(address, corporate seat)		
is registered as a person (entrepreneur) subject to value-added tax		
under the following taxpayer reference number 1): _____		
_____	official stamp	_____
(Date)		(signature)
		(name and grade)
1) If the applicant does not have a taxpayer reference number, the competent authority shall state the reason for this.		

3. Nº 4 of the application

The entrepreneur must select the refund period. Applications are accepted only in respect of **past** periods. The refund period must comprise **at least** three consecutive months in one calendar year and may **not exceed one calendar year**.

An **exception** is made for the remaining period of a calendar year. In this case, the refund period may consist of the months of November and December, or December alone. In the refund period comprising the remainder of the calendar year the entrepreneur may also claim refund of any amounts of turnover tax paid in previous refund periods of the calendar year in respect of which he has not yet lodged an application.

4. Nº 5 and the annex to the application

The entrepreneur must calculate the total amount of the refund himself.

An application for refund cannot be made by entrepreneurs established in other countries of the European Union unless the refund amounts to at **least €200**. This does not apply if the refund period is the calendar year or the last period of a calendar year. In that case the refund must be **at least €25** (Section 61 para. 2 UStDV).

Entrepreneurs who are **not established in the Community territory** cannot apply for a refund unless the refund amounts to **at least €500**. This does not apply if the refund period is the calendar year or the last period of a calendar year. In that case the refund must be **at least €250**.

In the **annex** to the application the entrepreneur should list in the manner there described the amounts of input tax to be refunded. If there is not enough space, continuation sheets on the same pattern should be appended to the application. The total amount of the refund should be entered at Nº 5 of the application.

5. N° 7 of the application

The **sort code** must be indicated for banks in **Austria** and **Great Britain**. In addition, it may be given for banks in Ireland, Canada, South Africa and Switzerland.

The **BIC** – **Bank Identifier Code** – is an 8 or 11 character code valid internationally. Should this code be omitted in making **foreign transfers, you may have to pay charges** which arise in connection with additional work involved in the transfer. You may ask your bank for its **BIC**. Once the **BIC** is indicated, the name and location of the bank is no longer required.

6. N° 8 of the application

The application should be accompanied by the **originals** of the invoices and import documents. Turnover tax must be shown **separately** in the invoices. In the case of invoices not exceeding **€100**, declaration of the tax rate will suffice.

In the case of entrepreneurs who are **not established in the Community territory**, the input tax amounts which correspond to the purchase of **fuel** are **not eligible** for refund.

7. N° 9a of the application

Generalised statements are sufficient (e.g. visit to company X, movement of goods across the frontier in the month of July 2003, participation in trade fairs and exhibitions). If there is not enough room for the entries at N° 9a of the application, continuation sheets should be appended to the application as necessary.

Input tax not related to the applicant's business activity (e.g. incurred for private use) is **not** refundable.

8. N° 9b of the application

Please mark the applicable case.

Case 1

The entrepreneur has not engaged in the supply of goods or any other services in the Federal Republic of Germany or had any earnings within the Community:

This covers in particular **exhibitors** and visitors to trade fairs and visitors to companies who have been charged turnover tax on services received. It also includes entrepreneurs who make supplies for a consideration from third-country territory to the Federal Republic of Germany on an untaxed basis. Third-country territory includes countries which do not belong to the European Union.

Case 2

The entrepreneur has performed in the Federal Republic of Germany only certain transport services and ancillary activities:

This covers the **movement** of objects across frontiers and movement in international rail freight traffic from third-country territory (Section 4 N° 3(1)a UStG) as well as ancillary activities connected with this within the meaning of Section 4 N° 3(1)c UStG.

Case 3

The entrepreneur has realised in the Federal Republic of Germany only turnover for which tax is payable by the person receiving the service (Section 13b UStG) or which is subject to the **individual transport assessment** (see also comments at N° 1 above).

The names and full addresses must be given of the persons receiving the service by whom the turnover tax is payable under Section 13b UStG.

Input tax other than that related to the above-mentioned types of turnover realised by the entrepreneur in the Federal Republic of Germany **cannot** be refunded under the input tax refund procedure.

Example:

During the refund period July to September 2003, the entrepreneur was charged input tax on the purchase of goods and the use of other services. The turnover tax (input tax) charged is related to a **delivery** made by the entrepreneur in November 2003. The input tax cannot therefore be refunded under the input tax refund procedure.

The entrepreneur may, however, deduct the input tax from his tax in the general taxation procedure (Sections 16 and 18 paragraphs 1 to 4 of the UStG).

Nor is input tax refundable which is related to turnover realised abroad which - if it had been realised in the Federal Republic of Germany - would have precluded the deduction of input tax (Section 15 para. 2, 1st sentence N° 2 UStG).

Example:

A French physician attends a medical conference in the Federal Republic of Germany. Since a doctor's services are **tax-exempt**, thus precluding the deduction of input tax, there can be **no** refund of the input tax charged.

In addition, turnover tax charged to a **tour operator** in respect of the provision of **advance services in connection with tours** is **not** refundable either (Section 25 para. 4 UStG).

Turnover tax incurred from properly evidenced **entertainment** expenditure will be refunded only **to the extent of 80%** (for fiscal years beginning after 31st December 2003: 70%). Where insufficient evidence is provided of the amount and the business reason for such entertainment, **no** refund will be made.

9.

The refund application should be **signed** by the entrepreneur **personally**.

The entrepreneur may assign the claim to a refund. Such **assignment** shall not become effective, however, until it has been notified to the competent tax authority on the appropriate official form after the claim has arisen. It shall be signed by the entrepreneur and the assignee.

Commercial acquisition of refund claims for collection or other use for own account is permitted only to banks which use the claims as security.

The tax authority will return the original documents to the entrepreneur after having verified and cancelled them.

The tax authority will **inform** the entrepreneur **in writing** of the results of the verification, and if it refuses or alters a refund it will provide a tax assessment notice explaining its reasons.