

Tax & Legal Weekly Alert

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Certain companies established outside the EU may claim VAT refunds by the end of September

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So far, Romania signed reciprocity agreements with Turkey, Switzerland, Norway, and Serbia (starting from January 2018).

In principle, taxable persons established in the aforementioned countries have the right to claim a refund of the VAT paid in Romania, under the same limits and conditions applicable to taxable persons established in Romania, when exercising their VAT refund right in the respective country. The applicable conditions should be checked in the reciprocity agreements available on the website of the Romanian Ministry of Public Finance.

The VAT refund request should be submitted within 9 months from the end of the calendar year in which the tax becomes chargeable. Thus, VAT paid during 2017 may be claimed for refund by submitting the application until the end of September 2018.

The refund procedure is governed by the Thirteenth Council Directive 86/560/EEC, transposed into the Romanian Fiscal Code (Article 302 paragraph 1 letter b).

One of the conditions is the appointment of a fiscal representative in Romania for the purpose of the VAT refund. The representative acts in the name and on behalf of the taxable person he represents and it is held individually and jointly liable with the non-EU resident company.

For example, a company based in Switzerland has the right to the VAT refund paid upon import of equipment performed in Romania for the purposes of its economic activity.

In order to benefit from a VAT refund, the company, through its appointed fiscal representative, should, inter-alia:

- Submit the original import customs declaration;
- Justify the status of being a taxable person in Switzerland;
- Justify the performance of import for the purpose of its economic activity;

The VAT amount approved for refund is wired in RON currency, in a bank account opened in Romania and indicated by the fiscal representative.

Based on our experience, a number of challenges might arise during the VAT refund administrative process, such as:

- Time-consuming process for appointing the fiscal representative;
- The necessity to submit the original documents justifying the VAT refund;
- Delays in solving the VAT refund.

For further questions regarding the aspects mentioned in this alert, please contact us.



Vlad Boeriu
Partener, Taxe indirecte
+40 21 2075 341
vboeriu@deloittece.com



Ramona Truşculescu
Director, Taxe indirecte
+40 21 2075 645
rtrusculescu@deloittece.com



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