

1987 No. 2015

VALUE ADDED TAX

The Value Added Tax (Repayments to Third Country Traders) Regulations 1987

Made - - - - 25th November 1987

Laid before the House of Commons 3rd December 1987

Coming into force 31st December 1987

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 23 of the Value Added Tax Act 1983^(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Repayments to Third Country Traders) Regulations 1987 and shall come into force on 31st December 1987.

Interpretation

2.—(1) In these Regulations –

“the Act” means the Value Added Tax Act 1983;

“prescribed year” means the period of twelve months beginning on the first day of July in any year;

“claimant” means a person making a claim under these Regulations or a person on whose behalf a claim is made and any agent acting on his behalf as his tax representative;

“official authority” means any government body or agency in any country which is recognised by the Commissioners as having authority to act for the purposes of these Regulations;

“third country” means a country other than those comprising the Member States of the European Community;

“tax representative” means any person established in the United Kingdom and registered for the purposes of the tax in accordance with the provisions of Schedule 1 to the Act who acts as agent on behalf of a claimant;

“trader” means a person carrying on a business who is established in a third country.

^(a) 1983 c.55; section 23 was amended by paragraph 2 of Schedule 2 to the Finance Act 1987 (c.16).

(2) For the purposes of these Regulations a person is treated as being established in any country if –

- (a) he has there a business establishment; or
- (b) he has no such establishment (there or elsewhere) but his permanent address or usual place of residence is there.

(3) For the purposes of these Regulations –

- (a) a person carrying on business through a branch or agency in any country is treated as being established there; and
- (b) where the person is a body corporate its usual place of residence shall be the place where it is legally constituted.

Repayments of tax

3. Subject to the provisions of these Regulations a trader shall be entitled to be repaid tax charged on supplies made to him in the United Kingdom or on goods imported by him into the United Kingdom as if he were a taxable person in the United Kingdom claiming credit for input tax in accordance with section 14 of the Act.

Tax representatives

4. The Commissioners may, as a condition of allowing a repayment under these Regulations, require a trader to appoint a tax representative to act on his behalf.

Persons to whom these Regulations apply

5.—(1) Save as the Commissioners may otherwise allow a trader to whom these Regulations apply who is established in a third country having a comparable system of turnover taxes will not be entitled to any refunds under these Regulations unless that country provides reciprocal arrangements for refunds to be made to taxable persons who are established in the United Kingdom.

(2) These Regulations shall apply to any trader but not if during any period determined under regulation 9 –

- (a) he was established in any of the Member States of the European Community; or
- (b) he made supplies of goods or services in the United Kingdom other than –
 - (i) transport of freight outside the United Kingdom or to or from a place outside the United Kingdom or any services ancillary thereto; or
 - (ii) services where the tax on the supply is payable solely by the person to whom they are supplied in accordance with the provisions of section 7 of the Act.

Supplies and importations to which these Regulations apply

6. These Regulations apply to any supply of goods or services made in the United Kingdom or to any importation of goods into the United Kingdom which is made on or after 1st January 1988 but they do not apply to any supply of goods or services or importation of goods which –

- (a) the trader has used or intends to use for the purpose of any supply by him in the United Kingdom; or
- (b) have been exported or are intended for exportation from the United Kingdom by or on behalf of the trader.

Tax which will not be repaid

7.—(1) The following tax shall not be repaid –

- (a) tax charged on a supply which if made to a taxable person would be excluded from any credit under section 14 of the Act;
- (b) tax charged on a supply to a travel agent which is for the direct benefit of a traveller other than the travel agent or his employee.

(2) In this regulation a travel agent includes a tour operator or any person who purchases and resupplies services of a kind enjoyed by travellers.

Method of claiming

8.—(1) A person claiming a repayment of tax under these Regulations shall –

- (a) complete in English and send to the Commissioners either the form numbered 1 in the Schedule hereto, or a like form produced by any official authority, containing full information in respect of all the matters specified in the said form and a declaration as therein set out; and
- (b) at the same time furnish –
 - (i) a certificate of status issued by the official authority of the third country in which the trader is established either on the form numbered 2 in the Schedule hereto or on a like form produced by the official authority; and
 - (ii) such documentary evidence of an entitlement to deduct input tax as may be required of a taxable person claiming a deduction of input tax in accordance with the provisions of regulation 62 of the Value Added Tax (General) Regulations 1985(a).

(2) Where the Commissioners are in possession of a certificate of status issued not more than twelve months before the date of the claim, the claimant shall not be required to furnish a further such certificate.

(3) The Commissioners may refuse to accept any document referred to in paragraph (1)(b)(ii) of this regulation if it had been furnished in support of an earlier claim.

Time within which a claim must be made

9.—(1) A claim shall be made no later than six months after the end of the prescribed year in which the tax claimed was charged and shall be in respect of tax charged on supplies or on importations made during a period of not less than three months and not more than twelve months;

provided that a claim may be made in respect of tax charged on supplies or on importations made during a period of less than three months where that period represents the final part of the prescribed year.

(2) No claim shall be made for less than £16.

(3) No claim shall be made for less than £130 in respect of tax charged on supplies or on importations made during a period of less than the prescribed year except where that period represents the final part of the prescribed year.

Treatment of claim and repayment claimed

10. For the purposes of paragraph 4 of Schedule 7 to the Act (provisions as to tax assessments) any claim made under these Regulations shall be treated as a return required under paragraph 2 of Schedule 7 to the Act.

11. For the purposes of section 40(1)(c) of the Act (provisions as to appeals) repayments claimed under these Regulations shall be treated as the amount of any input tax which may be credited to a person.

King's Beam House
Mark Lane
LONDON EC3R 7HE
25th November 1987

Colin C. Finlinson
Commissioner of Customs and Excise

(a) S.I. 1985/886; the relevant amending instrument is S.I. 1987/1916.



Is this your first application? If not, please give Reference No.

Receipt stamp

Official authority to which the application is addressed

VAT Control Division C (Branch 2/13th Directive) HM Customs and Excise St John's House Merton Road Liverpool L20 3NN

APPLICATION by a business person not established in the Community for REFUND OF VALUE ADDED TAX (Please read the explanatory notes before filling in)

Form sections 1-9: 1. Forenames and surname or name of firm of applicant; 2. Nature of applicant's business; 3. Particulars of the Official Authority and tax/business Registration No.; 4. Period to which the application refers; 5. Total amount of refund requested; 6. The applicant requests the refund of the amount shown in heading 5; 7. Method of settlement requested; 8. No. of documents enclosed; 9. The applicant hereby declares...

(*) Insert x in the appropriate box

(*) Insert x in the appropriate box

The applicant undertakes to pay back any monies wrongfully obtained

At (Place) on (Date) (Signature)

NOTE: Box 10 overleaf MUST be completed

Notes on Completion of the Application Form

A. General

The application must be made on the appropriate form completed in English.

Complete the form in BLOCK LETTERS starting each entry at the beginning of the line or space provided. Do not use punctuation marks (full stops, commas etc) unless essential.

In those sections which are marked thus do not insert more than one character (letter, figure, punctuation mark etc). Recognised abbreviations may be used (eg 'Ltd' for Limited).

The application must be submitted no later than six months after the end of the prescribed year in which the tax was charged. A prescribed year is a period commencing on the first day of July and ending on the last day of June in the following calendar year. Applications may also be submitted if the conditions set out in the notes to Boxes 4 and 5 are met.

The Commissioners may require claimants to appoint tax representatives, registered for VAT in the United Kingdom, to act on their behalf.

B. Reference number

The number to be inserted in the box in the top left hand corner of the claims will be issued by the official authority in the United Kingdom so leave it blank on your first claim.

You will be notified of your reference number for use with second or subsequent claims. Please ensure that you use the correct number or leave the box blank.

C. Numbered boxes.

Box 1. Your name and address will be shown on all communications sent to you exactly as you write it on the form.

Box 2. State the type of business activity engaged in during the period of the claim.

Box 3. The application must be accompanied by a certificate of status issued by the official authority of the country in which you are established to provide evidence that you are a business person in that country.

However, where the official authority in the United Kingdom already holds such evidence, you are not bound to produce another status certificate for a period of one year from the date of issue of the first certificate.

Box 4. The application should refer to purchase of goods or services invoiced, or imports made, during a period of not less than three months or more than one prescribed year. However, it may relate to a period of less than three months where the period represents the end of a prescribed year. Claims may also include invoices or import documents not covered by previous applications and concerning transactions made during the prescribed year in question.

Box 5. The application may be used for more than one invoice or import document. If the period to which the claim relates is three months or more, but less than one prescribed year, the total amount of VAT claimed must not be less than £130. Otherwise, if the period is one prescribed year, or the remainder of a prescribed year, the amount of VAT claimed must not be less than £16.

Box 6. Do not make any entry in this box.

Box 7. Account number - insert the number of the account to which refund is to be made.

Code number of financial body - insert Sorting Code number of the bank where the account is held. In the United Kingdom this number is shown in the top right hand corner of the cheque.

Account in the name of - insert the name of the account holder to whom the refund is to be made.

Name and address of financial body - insert the name and address of the bank where the account is held.

NB. The United Kingdom reserves the right to make refunds addressed to the applicant.

Box 8. Please attach ORIGINALS of documents showing amount of VAT incurred. These documents will be returned when the claim has been processed.

Box 9(a). Describe nature of activities for which goods acquired or services received are mentioned in the application for refund of tax. eg Participated in the International..... Fair, held in....
.....from..... to.....Stand No...

OR

International carriage of goods as from.....to.....on.....
If insufficient space is available you must use a continuation sheet, headed with your business registration number, endorsed 'Box 9(a)' and attached firmly to the application form.

Box 9(b). Exempted transport services are those carried out in connection with the international carriage of goods, including - subject to certain conditions - transport services associated with the transit, export or import of goods.

Box 9(c). Any refund which is obtained improperly may render the offender liable to the fines or penalties laid down by the law of the United Kingdom.



Certificate of Status of Business Person

The undersigned

.....
(Name and address of official authority)

certifies that

.....
(Name of business person)

.....
(Nature of activity)

.....
(Address of the Establishment)

is a registered business person in *his Registration
number being (name of country)

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Date

Date stamp

Signature

.....
(Name and grade)

*If the applicant does not have a Registration number, the official authority should state the reason for this.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 23 of the Value Added Tax Act 1983, as amended. They implement in the United Kingdom a scheme which will operate throughout the Community for the refund of value added tax incurred in Member States by business persons from non-Community (third) countries. The scheme has its origin in Council Directive 86/560/EEC (OJ No. L 326, 21.11.86, p. 40) which was adopted in Brussels on 17th November 1986. It complements the relief from double taxation currently available to Community Traders under the provisions of Council Directive 79/1072/EEC (OJ No. L 331, 27.12.79, p. 11) which was adopted in Brussels on 6th December 1979 and implemented by the Value Added Tax (Repayment to Community Traders) Regulations 1980 (S.I. 1980/1537).