

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** makes **supplies under contracts for work and materials** or **other supplies** in the Federal Republic of Germany for which the customer has either retained and paid over the turnover tax by the **withholding method** or has taken advantage of the zero arrangement. The withholding method covers taxable supplies under contracts for work and materials and other taxable supplies, such as for example transactions conducted in the Federal Republic of Germany by building contractors, architects, licensors, writers, journalists, artists and athletes (Sections 51 to 56 UStDV).

This also applies if an entrepreneur **not established in the Com-**

munity territory has conducted transactions which were subject to the **individual transport assessment**. 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 (Sections 16 para. 5 and 18 para. 5 UStG).

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 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. The application must be filled out completely, in the German language, with a typewriter or in block letters.

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)	

(address, corporate seat)	

(nature of activity, or branch of industry)	
is registered as a person (entrepreneur) subject to value-added tax under the following taxpayer reference number: _____	
_____	_____
(date)	(signature)
official stamp	(name and grade)
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. In doing so, for refund **periods from 1.1.1999** he may decide upon the currency in which to claim the refund. This decision should be notified by placing a **cross** alongside the relevant currency on form USt 1 T.

Note: notwithstanding the currency claimed for refund periods up to 31.12.2001, the amount will **always** be fixed in DM.

Invoices made out in DM or in EUR must be listed separately in the

attachments to the claim form. Please **place a cross** alongside the relevant currency **on both sides** of the attachments to form USt 1 T to indicate the currency (DM or EUR) applicable to **the relevant page** of the attachments. For attachments not made out in the currency claimed, **a single** sum should be formulated which must be **calculated** by the claimant in the currency in which the **claim** is made

An application for refund cannot be made by entrepreneurs established in other countries of the European Union unless the refund amounts to **at least** DM 400. 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** DM 50 (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 DM 1000**. 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 DM 500**.

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° 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 DM 200, declaration of the tax rate will suffice.

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

6. 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 ... , 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. The same applies to the input tax referred to at N° 7b, c, and – to an extent - d below.

7. N° 9b of the application

a) Put a **cross** beside 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° 3a UStG) as well as ancillary activities connected with this (Section 4 N° 3b UStG).

Case 3 The entrepreneur has realised in the Federal Republic of Germany only turnover subject to **withholding tax** or to the **individual transport assessment** (see also comments at N° 1 above).

The names and full addresses must be given of the recipients of services which were subject to **withholding tax**. Compliance must be **proved by submitting declarations made by all recipients** on the application of the "zero arrangement" (Section 52 para. 2 UStDV) or of the withholding method (Sections 52 para. 4, 53 para. 7 UStDV).

b) 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 January to March 1999 the entrepreneur was charged input tax on the purchase of goods and services. The turnover tax (input tax) charged is related to a **delivery** made by the entrepreneur in August 1999. 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).

c) **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 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).

d) Furthermore, as from 1.4.1999, in particular in the cases set out below, **no** refund of turnover tax will be made or will be made only to a **limited** extent:

- Turnover tax incurred on **travelling costs** by the entrepreneur or by his staff, relating to subsistence, overnight accommodation and travel costs of staff cars is concerned, will not be refunded.
- Turnover tax incurred on **home removal** costs will not be refunded.
- Turnover tax incurred from properly evidenced **entertainment** expenditure will be refunded only **to the extent of 80%**. Where insufficient evidence is provided of the amount and the business reason for such entertainment, **no** refund will be made.
- Turnover tax paid when acquiring, manufacturing, importing, obtaining within the community, renting or operating **vehicles** within the meaning of Section 18, paragraph 2 of the UStG (land and air vehicles, ships) may be refunded only **to the extent of 50%** if such vehicles have also been used for the entrepreneur's private requirements or for other purposes extraneous to that of the business.

The restrictions stated above apply to sales made to the entrepreneur after 31.3.1999. The date the invoice was received is not relevant.

8. N° 9c of the application

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.