

## Information in English

### Information concerning VAT-refund to diplomatic and consular missions, international organisations and diplomats

#### Fundamental changes from 1 January 2004:

- The refund period has been shortened, claims are made on a quarterly basis.
- The purchase of a motor vehicle is tax-exempt, i.e. the seller does not invoice value added tax and standard consumption levy. For this purpose the Federal Ministry for Foreign Affairs issues a certificate which must be handed over to the seller. Thus, in the case of a car purchase, pre-financing and subsequent refund of value added tax and standard consumption levy is no longer necessary.
- Rent payments are tax-exempt, i.e. the lessor does not invoice value added tax. For this purpose the Federal Ministry for Foreign Affairs issues a certificate which must be handed over to the lessor. Thus, also in the case of rent payments, pre-financing and subsequent refund of value added tax is no longer necessary.
- The claims for refund must be filed by the diplomatic mission or by the international organisation which must certify on the claim form.
- Claims are no longer filed with the Federal Ministry for Foreign Affairs but directly with the competent authority (currently: Federal Ministry of Finance, Hintere Zollamtsstraße 2b, A-1030).
- For diplomats (not for diplomatic missions or international organisations) it is possible to apply for a lump-sum refund. In this case there is no obligation to pay attention to whether invoices have been issued correctly and to retain such invoices.
- It is no longer necessary to submit invoices together with each claim but only on request. In cases where no invoices or inadequate invoices are submitted on request, the entitlement to refund expires.
- Extended but clear requirements concerning the correct issue and retention of invoices (in cases where no option is made for a lump-sum refund).

#### The new rules from 1 January 2004 in detail:

##### Refund period

The refund period is the calendar quarter (first quarter: January, February, March; second quarter: April, May, June; third quarter: July, August, September; fourth quarter: October, November, December). It is necessary to make a separate claim for every refund period and the deadline for filing starts to run on the day following the end of the respective calendar quarter. Contrary to current practice, there is no deadline for filing and a claim is not possible only in cases where such a claim is time-barred (i.e. after 5 years).

##### Making claims

The claim form can be completed and printed by means of the computer via the homepage of the Federal Ministry of Finance, but it is also possible to download it and complete it by typewriter or handwriting:

For diplomats it is necessary to make claims through the diplomatic mission which in particular must certify that the claimant is a member of its staff. Subsequently the claim – contrary to current practice - must be filed, in a single original and without enclosure of invoices, directly with the competent authority (Federal Ministry of Finance, Hintere Zollamtsstraße 2b, A-1030).

The main purpose of the new refund procedure is to speed up the procedure. However, such speeding up is only possible if the claim form has been filled in completely and correctly, in particular the correct statement of the number of the diplomatic identity card (organisation number) is a requirement for speedy processing.

##### Contact with the competent authority

In order to speed up the refund procedure there is direct contact with the competent authority (Federal Ministry of Finance), i.e. without interposition of the Federal Ministry for Foreign Affairs. The Federal Ministry for Foreign Affairs shall act as an intermediary only in cases where there are differences of opinion between a person entitled to refund and the competent authority.

##### Correct invoice

Invoices are no longer attached to the refund claim but are retained by the person entitled to refund who calculates the corresponding value added tax by himself. In order to avoid doubts and difficulties in calculating the amount of refund to be paid to persons entitled to refund – who often have no knowledge of German – strict formal requirements must be fulfilled. Therefore, in the case of purchase, it is necessary to pay attention to whether the invoice is issued correctly. If the following requirements are strictly fulfilled, no objections should be made in the course of the examination of invoices.

- There is an invoice issued by an Austrian entrepreneur, it is kept together with the record of payment and is submitted on request.
- The name of the person entitled to refund (but not, for instance, a family member) is indicated on the invoice as the purchaser of the supply of goods or services.
- The date of issue of the invoice is within the respective calendar quarter.
- The tax is borne by the person entitled to refund, i.e. in particular there is no reimbursement of expenses by a third party (e.g. insurance payments in cases of damage).
- The consideration plus value added tax is at least EUR 73.
- The amount of tax (value added tax) is separately shown (indicated by figures) on the invoice.

The requirement that the tax must be “borne“ by the person entitled to refund in order to be refundable is intended to prevent an unjustified tax relief (e.g. if the tax is borne by the insurance in cases of motor vehicle damage, if a discount is used or a price reduction is granted because the purchased goods are faulty). For this purpose the records of payment must therefore be retained together with the invoices.

Original invoices must always be retained for seven years. This also applies if the refund was made without a request for submission of invoices. If the sending State requests the submission of invoices, copies must be made and retained.

Where a claimant does not accede or fully accede to a request for submission of invoices, no refund is made accordingly.

## **Reciprocity**

The tax relief (which is exclusively based on Austrian law) is still subject to reciprocity. A reciprocal partial relief for individual categories of goods or services is not possible. The Federal Ministry for Foreign Affairs determines whether such reciprocity exists.

## **Motor vehicle**

A completely new rule concerns the tax-exempt purchase of a motor vehicle at an Austrian car dealer, since – contrary to current practice – such rule provides for a direct exemption from value added tax and the standard consumption levy. This essentially contributes to speeding up tax relief. As regards the tax-exempt purchase of a motor vehicle, the following procedure is applied:

- For the tax-exempt purchase of a motor vehicle the claim form U45 is required, on which – inter alia – the car dealer, the type of the car and the purchase price must already be indicated. The form may be completed and printed (e.g. by the car dealer) by computer via the homepage of the Federal Ministry of Finance. The completed form, which is certified by the diplomatic mission, must be filed with the Federal Ministry for Foreign Affairs which issues the certificates (for the entrepreneur and for the registration authority).
- The certificate for the entrepreneur is handed over to the Austrian car dealer. On the basis of this certificate the sale is exempt from value added tax and exempt from the standard consumption levy.
- The certificate for the registration authority is handed over to the registration authority which enters the blocking note in the registration certificate.

Also the purchase of used cars can be effected tax-exempt by following the same procedure.

If the motor vehicle is not bought but leased (rented), the tax exemption applies only to the standard consumption levy. Value added tax is imposed on the respective lease payments. This VAT is refunded by way of the refund procedure (in the case of diplomats within the frame of the maximum refundable amount) on the basis of the invoices.

Diplomats are entitled to a certificate every two years. In addition, every two years they may purchase a motor vehicle tax-exempt in another Member State of the EU and – pursuant to customs law – import such motor vehicle tax-exempt (duty-free) as personal property, and every two years they may import a motor vehicle tax-exempt (duty-free). In addition to this, there are no further reliefs for motor vehicles (e.g. for family members). A refund in connection with the purchase of a motor vehicle is not possible (even if the VAT and the standard consumption levy are shown on the invoice).

The recapture of tax is the same for all three types of tax advantaged purchase of motor vehicles (purchase at an Austrian car dealer, intra-Community acquisition in another EU Member State, import from a non-EU Member

State). In such cases the customs provisions apply. Therefore, there is no recapture of tax (after a minimum period of six months) in the event of removal, death and serious damage. The term "motor vehicle" is defined in the 1967 Law on Motor Vehicles. According to this law "motor vehicles" are in particular cars, mixed vehicles and motorcycles. Trailers, airplanes and boats, however, do not constitute a "motor vehicle".

## Rent

A completely new rule provides for tax-exempt rent for mission and residence premises and for private dwelling, since – contrary to current practice – in such cases there is direct exemption from value added tax. This essentially contributes to speeding up the tax relief. For tax-exempt rent the following procedure is applied:

- For tax-exempt rent the claim form U46 is necessary on which, inter alia, the lessor and the object of the lease must already be indicated. The form may be completed and printed (e.g. by the lessor) by computer via the homepage of the Federal Ministry of Finance. The completed form, which is certified by the diplomatic mission, must be filed with the Federal Ministry for Foreign Affairs which issues the certificates (for the lessor).
- This certificate is handed over to the lessor. On the basis of this certificate the lease is exempt from value added tax. This certificate is issued for a maximum period of five years, in the case of diplomats for the period of validity of their diplomatic identity cards. After that period and in the event of change of residence it is necessary to apply for a new certificate. In case of termination of the tax-exempt lease, the certificate ceases to be valid but remains with the lessor. Diplomats are entitled to such a certificate with regard to their principal residence in Austria. In addition to this, there are no further reliefs for lease (e.g. for family members living in the same dwelling or for a secondary residence). A refund of tax in the case of rent is not possible (even if the value added tax is shown on the invoice). This exemption also applies to the supply of heat by the lessor. However, where the price is paid directly to the supplier of heat (e.g. district heating), the exemption does not apply. This VAT is then refunded by way of the refund procedure (in the case of diplomats within the frame of the maximum refundable amount) on the basis of the invoices.

## Stay in hospitals

Under the general value added tax law supplies made by "public" hospitals, "non-profit" hospitals, physicians, certain therapists, dental technicians and services for the transport of patients are exempt from value added tax, so that there is no special exemption for persons entitled to refund. The stay in "private" hospitals is, however, not exempt from value added tax. Such value added tax is refunded on the basis of invoices, i.e. – contrary to current practice – in the case of diplomats within the frame of the maximum refundable amount.

## Ceiling for refund

In the case of diplomats the annual refundable amount is limited. A limitation – as in the past – applies to value added tax, and now also to the electricity tax and the natural gas tax. The annual ceilings amount to:

EUR	2,900	for value added tax
EUR	180	for electricity tax
EUR	180	for natural gas tax.

If a claim does not refer to both electricity tax and natural gas tax but only to electricity tax or natural gas tax (e.g. because the dwelling is not supplied with electricity and gas but exclusively with electricity), the respective amount doubles to EUR 360 annually.

## Lump-sum refund

The option to claim a lump-sum refund for value added tax, electricity tax and natural gas tax is completely new. This essentially contributes to simplifying and speeding up tax relief. The option for a lump-sum refund is available only to diplomats. Diplomatic missions must always make a concrete claim for refund. In the case of a lump-sum refund the following procedure is applied:

- The person entitled to refund must decide whether he wishes to opt for a lump-sum refund or a concrete refund for a calendar year. He must indicate this decision on the claim form when making the first claim in the respective calendar year.

- It is possible to decide separately on a lump-sum refund for every calendar year. However, such decision is binding for the whole calendar year and cannot be reversed (not even in cases where retrospectively the concrete refund would have been more favourable). On the other hand, it is not possible to apply subsequently for a lump-sum refund, e.g. where a claim for concrete refund was made and in the course of checks it becomes obvious that actually no amounts or only lower amounts can be evidenced by invoices.
- Also in the case of a lump-sum refund a claim must be filed for every calendar quarter. The decision to opt for a lump-sum refund is made on the first claim (see above). The second, third and fourth claims serve to indicate the form of payment (account number ...), and to confirm that the claimant is still entitled to refund (certificate issued by the diplomatic mission – see “Making claims“ above). In addition, the diplomatic mission certifies that it itself does not claim a refund of electricity tax and natural gas tax for the respective calendar year concerning that person entitled to refund (i.e. in cases where it bears the running costs of the dwelling of the person entitled to refund).
- The simplification which the lump-sum refund seeks to achieve (for the person entitled to refund and for the authority) can only be accomplished if the lump-sum refund procedure applies to all refundable taxes. Therefore, a lump-sum refund for value added tax, electricity tax and natural gas tax can only be claimed jointly.
- There is no need to retain and submit any invoices for years for which a lump-sum refund is claimed. Thus it is possible to make a prompt payment of the refund amount after filing the refund claim.

<b>In the case of a lump-sum refund the following amounts are refunded for every full or commenced month of entitlement:</b>		
value added tax:	EUR	100
electricity tax:	EUR	5
natural gas tax:	EUR	5
<b>The total lump-sum refund is therefore:</b>		
for the calendar quarter:	EUR	330
for the calendar year:	EUR	1,320

Entitlement to tax-exempt purchase of a motor vehicle and tax-exempt rent also exists in cases where a lump-sum refund is claimed.

Federal Ministry of Finance