

Guidelines – VAT Refunds for non-EU travellers

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Purpose and Background

Article 146(1)(b) of the VAT Directive¹ (transposed by item 1(3) of Part One of the Fifth Schedule to the VAT Act, Cap. 406 Laws of Malta) provides for an exemption on VAT on:

“the supply of goods dispatched or transported to a destination outside the Community by or on behalf of a customer not established within their respective territory, with the exception of goods transported by the customer himself for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use;”

Article 147 of the VAT Directive then provides that where the goods referred to in Article 146(1)(b) relate to goods to be carried in the personal luggage of travellers, the exemption shall apply only if the following conditions are met:

- The traveller is not established within the Community;
- The goods are transported out of the Community before the end of the 3rd month following that in which the supply takes place;
- the total value of the supply, including VAT, is more than EUR 175 or the equivalent in national currency. However, Member States may exempt a supply with a total value of less than this amount.

Article 71(a) VAT Act (Cap. 406, Laws of Malta) accordingly transposes the provisions of Article 147 of the VAT Directive as regards the abovementioned exemption, i.e. it provides for the repayment by Government, subject to such limitations, conditions, and formalities as may be prescribed by the Minister by regulations of an amount not exceeding the tax chargeable on supplies made to non-taxable physical persons of goods exported by them outside Malta.

Accordingly, in exercise of the powers conferred by Articles 71 and 75 of the VAT Act, the Minister has prescribed the regulations contained in the Value Added Tax (Refund to Non-Residents) Regulations [Subsidiary Legislation 406.13], regulating the repayment of such tax in line with the provisions of article 147 the VAT Directive.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax; <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32006L0112>

The purpose of this document is for the Commissioner for Tax and Customs ('CfTC') to provide guidance, in conformity with article 75(2) of the VAT Act, on the application of Subsidiary Legislation 406.13.

Interpretation

Refund of VAT paid on goods purchased in Malta

Subsidiary Legislation 406.13 provides for the repayment by Government of an amount not exceeding the Maltese VAT paid on supplies made in Malta to non-EU travellers of goods exported by them outside the European Union (EU) in their accompanying luggage.

This VAT refund is applicable to physical persons whose permanent address or habitual residence is situated outside the EU, as evidenced in a passport or other identification document considered as valid by the Maltese authorities (such as a residence card).

The VAT refund is **not** applicable to:

- Goods wholly or partly consumed in Malta;
- Goods exported for business purposes;
- Goods where the value of such goods purchased from a single establishment as shown on a single fiscal receipt is below fifty euro (€50);
- Goods transported by the traveller himself for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use.

The VAT refund claim is further subject to the following conditions:

- i. An approved application form is filed at the Customs Exit Point (this may be obtained either from the shop where the purchase is made, or at the Customs Exit Point);
- ii. The goods are taken out of the EU by the end of the 3rd month from the date on which the good was purchased (*ex: if goods are bought on the 4th of January 2022, the traveller has up to the end of April 2022 to reclaim the VAT incurred thereon*);
- iii. **Where Malta is the last EU departure point**, the goods are to be officially certified to have been taken out of the EU by the Maltese Customs Authorities by way of an official stamp on the application form;
- iv. **Where Malta is not the last EU departure point**, the goods are to be endorsed to have been taken out of the EU by the relevant authorities of the EU Member State being the last EU departure point (*ex: A traveller departing Malta and transiting through another EU Member State with a final destination being outside the EU, should obtain endorsement in the EU Member State where the final transit to a non-EU country occurs*);

- v. Original fiscal receipts in respect of the purchase of goods for which repayment is being claimed are to be attached to the application form;
- vi. Any other information (such as travel documents) as may be requested by the Maltese Authorities are to be provided;
- vii. A commission may be withheld by the appointed authorised refund operator as agreed/approved by the Office of the Commissioner for Revenue.

The officially certified application form together with the supporting documentation required is to be posted into the appropriate box situated just outside the Customs Office at the Customs Exit Point at the airport or seaport.

Refunds of **foreign** VAT paid where Malta is the last EU departure point

Non-EU travellers who wish to claim VAT on purchases made in other EU Member States on goods to be exported by them outside the EU in their accompanying luggage where Malta is their **last** departure point in the EU, are required to:

1. Obtain and fill out a refund application form in the EU Member State in which they made the purchase, i.e. where the VAT was charged;
2. Submit the refund application form for endorsement at the Malta Customs Exit Point;
3. Post the endorsed application form into the appropriate box situated within the departure lounge.

The refund application would then be considered by the Member State in which the purchase was made, i.e. where the VAT was paid.

Other General Conditions for Official Certification or Endorsement by Maltese Customs Authorities

Certification/Endorsement by Malta Customs shall be rejected if:

- the goods are not physically presented for verification by the Customs Authorities; and
- valid fiscal receipts for the purchase are not presented. A credit/debit card payment acknowledgement is not a valid fiscal receipt (*copies of receipts including e-printouts, second copies, duplicates, or receipts including the word [COPY] shall not be accepted*).

Persons who encounter any difficulties or have any queries are invited to call on 153 or send an e-mail to servizz@gov.mt.

Disclaimer

These guidelines shall not prejudice in any way any of the powers of the CfTC in terms of the VAT Act.

These guidelines shall replace and supersede any previously applicable guidelines on the same matter.

The CfTC reserves the right to substitute, alter or withdraw these guidelines as necessary at any time.