

Indirect Taxnewsflash

KPMG IN ROMANIA

New measures for the settlement of VAT claims

Services

- VAT, customs and excise duties review and planning aimed at enhancing the VAT cashflow;
- VAT review and health checks aimed at identifying exposure to VAT risks and potential penalties;
- Advice on VAT treatment of specific transactions;
- VAT assistance during tax audits conducted by the tax authorities;
- Advice on VAT, customs and excise duties planning strategies;
- VAT implications arising from business restructuring (e.g. mergers and acquisitions, transfer pricing policies, commissionaire structures);
- VAT registration in Romania and other EU countries, as well as compliance services;
- Preparation and filing of VAT refund claims.

Order of the President of the National Agency for Fiscal Administration (ANAF) no. 1308/2009, (published in Official Gazette no. 476/10.07.2009), has approved new measures for settlement of VAT claims as well as the offsetting or reimbursement procedure for input VAT which has been approved for reimbursement.

Cross-check tax audit

The Order states that cross-check tax audits should be the priority when the tax authorities conduct checks for the settlement of VAT claims, which are considered to present a high risk of fraud.

The results of the cross-check tax audits must be submitted to the special department of the relevant tax authorities within 45 days of the date when they are requested by the tax authorities.

In certain cases, the deadline for submitting the required information can be postponed by the relevant authority within ANAF by 45 days.

In this case, however, the deadline for the tax authorities to make the VAT reimbursement is also postponed, and this applies to the

whole amount of VAT claimed by the taxpayer, not just to partial amounts.

Offsetting unpaid fiscal obligations

If the reimbursement decision has been issued but the taxpayer has unpaid fiscal obligations, the tax authorities must deduct the unpaid amounts from any VAT reimbursement.

Transfer of reimbursement rights

A taxpayer which is entitled to recover input VAT, can transfer its reimbursement rights to a third party. If it wishes to do so, the taxpayer must notify the tax authorities. Following this transfer, all the reimbursement rights are transferred to the transferee, while the transferor loses all its rights to recover the VAT stated in the reimbursement decision.

If the transferee has unpaid fiscal obligations, it should notify the tax authorities at the time when it makes its request for transfer of the reimbursement rights. The amount owed by the transferee will be deducted from the VAT reimbursement.

A national data base containing information about the reimbursement rights of taxpayers

as well as information about their creditors will be set up. The purpose is to provide a better record of taxpayers' obligations so that these can be cross checked against any claims made by taxpayers for reimbursements.

The provisions of Order no. 1308/2009 are applicable both to VAT claims which are already being processed (which will be settled, on a first-in first -out basis), as well as to all fresh claims.

Forms (Appendix no. 1 and 2 of Order no. 1308/2009 of the President of the National Agency for Fiscal Administration)

If the taxpayer opts for the compensation procedure and/or transfer of reimbursement rights as set out in this Order, it must submit the following documents to the tax authorities:

- „A list of unpaid suppliers as of ...” (the transferor is responsible for submitting this document to the relevant tax authorities);
- „A Notification regarding the transfer of reimbursement rights, drafted in accordance with Article 30 of the Fiscal Procedure Code (Government Ordinance no. 92/2003, as subsequently amended). These documents must be submitted to the appropriate tax authorities by the transferee.

About us

Our team consists of more than 100 Romanian and international consultants, with command of local and international legislation, organized to be able to react at short notice to requests for tax assistance covering a wide range of issues.

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