

## SOME CONSIDERATIONS REGARDING THE CONTROL OF VAT REFUND

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***Abstract:** It is not possible to request the refund of the balance of the negative amount of the tax from the reporting fiscal period, less than 5,000 lei inclusive, this being postponed compulsory in the next fiscal period's statement. a risk analysis. In the case of the settlement with the negative amount of value added tax with a reimbursement option for which the amount requested for reimbursement is up to 45,000 lei, as well as in the case of the settlement with the negative amount of value added tax with a reimbursement option deposited by the beneficiary who benefits by a payment schedule, the central fiscal body reimburses the tax with the subsequent fiscal inspection.*

***Keywords:** VAT to be reimbursed, VAT reimbursement control, early tax inspection, document analysis, reimbursement decision*

### **1. General aspects regarding the control of the VAT refund**

According to the Fiscal Code: The taxable persons, registered in the VAT voucher, can request the reimbursement of the balance of the negative amount of the tax from the fiscal reporting period, by checking the corresponding box from the tax return from the fiscal reporting period, the payment being also a request for reimbursement, or they can carry the balance of the negative amount in the statement of the next fiscal period. If the taxable person requests the repayment of the balance of the negative amount, it will not be carried over to the next fiscal period. It is not possible to request the reimbursement of the balance of the negative amount of the tax from the reporting period, less than 5,000 lei inclusive, this being compulsory carried over to the next fiscal period. By exception, the balance of the negative amount of value added tax entered in the value added tax statement for the fiscal period prior to the date of the opening of the insolvency procedure provided by the legislation in the field is not taken in the tax statement for the fiscal period in which the procedure was

opened, in case which the debtor is obliged to request the reimbursement of the tax by correcting the previous fiscal period's statement. The value added tax requested for reimbursement through the discounts with the negative amount of value added tax with reimbursement option, deposited within the legal term of deposit, is reimbursed by the central tax body, according to the procedure and conditions approved by order of the president A.N.A.F.

In the case of refunds with the negative amount of value added tax with the option of reimbursement, filed after the legal term of deposit, the negative amount of these will be taken into the next period's statement.

The central tax body decides in accordance with the law whether it performs the fiscal inspection before or after the reimbursement approval, based on a risk analysis. In the case of the settlement with the negative amount of value added tax with a reimbursement option for which the amount requested for reimbursement is up to 45,000 lei, as well as in the case of the settlement with the negative amount of value added tax with a reimbursement option deposited by the beneficiary who benefits by a payment schedule, the central fiscal body reimburses the tax with the subsequent fiscal inspection.

In the case of the anticipated fiscal inspection, carried out for the settlement of the payments with the negative VAT amount, the period subject to the fiscal inspection will include exclusively the fiscal periods in which the operations that generated the balance of the negative amount of the tax were carried out.

The procedure for settling negative value-added tax refunds with a repayment option, approved by OANAF 3699/2015, provides: negative value-added tax refunds with a repayment option are solved according to the degree of fiscal risk that they present it as follows:

- in the case of VAT refunds with low fiscal risk, by issuing the VAT refund decision;
- in the case of VAT refunds filed by other taxpayers than the big taxpayers, the medium taxpayers or the exporters, classified at average fiscal risk, with the documentary analysis;
- in case of VAT refunds with high fiscal risk - with anticipated tax inspection. Therefore, if a low risk results from the fiscal analysis, the VAT refund will be approved with a subsequent tax inspection.

If, however, following the fiscal analysis, a high risk results, the VAT refund is solved with an anticipated tax inspection.

In the case of the anticipated fiscal inspection, carried out for the settlement of the payments with the negative amount of VAT, the period

subject to the fiscal inspection will include exclusively the fiscal periods in which the operations that generated the balance of the negative amount of the tax were carried out.

## 2. VAT refund procedure

Refund of value added is negative settlement amounts by tax authorities to the taxable personally.

More specifically, if the acquisition tax incurred by the taxpayer is greater than the amount of tax collected by the tax body, then a surplus (hereinafter negative amount) which will be reimbursed to the taxable person after completing a request for a refund. Specifically, when the amount of deductible VAT is greater than the amount of VAT collected, and the statement contains negative amounts, amounts that will be recovered by the company from the state budget. There are many types of expenses for which the VAT refund can be requested, plus the international activities of the company, if they exist. The VAT refund is regulated by Law no. 227/2015 of the Fiscal Code, updated by Emergency Ordinance no. 3/2018 from, 2018.

The value of the VAT to be reimbursed is calculated after determining the amounts that resulted from the taxes related to the purchases made by a taxable person and the taxes collected for taxable transactions. Following the calculations, it will be established whether there is VAT to be refunded to taxable persons or if they still have VAT to pay to tax authorities (positive amounts). Taxable persons can request quarterly or monthly VAT refund, if there are negative amounts to be settled. The request for VAT refund can be made whenever there is a surplus of VAT resulting from the related calculations, but only if the amount is more than 5,000 lei.

Any taxable person, VAT payer, can request the repayment of the negative amount. It is necessary to select this option from the tax return through the form 300, the payment being also a request for reimbursement.

The VAT refund cannot be requested in the following situations:

- companies that are not paying VAT cannot request the reimbursement of the negative amount. Non-paying VAT firms are those with a turnover below 300,000 lei.
- if the negative amounts are less than 5,000 lei. These amounts will be compulsorily carried forward to the next fiscal period

The VAT refund is usually done in 45 days or in 90 days if the VAT refund settlement involves an early check. The initial term may be extended by a period of two to six months if, in order to solve the request, it is necessary to administer other additional evidence in order to make a decision. During this period, the taxpayer cannot claim interest for late payment of VAT.

Deposits for VAT reimbursement are made at the fiscal body where the companies have the fiscal domicile by one of the following ways: directly to the department that deals with fiscal management, by post, by e-mail. The reimbursement decision is the document approving the VAT refund application. The reimbursement decision is issued by the competent fiscal body, more specifically by ANAF. For companies with low fiscal risk, the reimbursement decision is issued within five days of the filing of the claim, and for the other taxpayers, the period varies depending on the length of the procedure for the documentary analysis or the anticipated fiscal inspection. The stage of the reimbursement request can be verified by the taxpayers directly on the ANAF website, the taxpayer needing the fiscal identification code, the amount requested for the reimbursement, the month and year to which the discount with the reimbursement option refers, so that it can be identified in the ANAF register. The situation of VAT refunds is presented and updated monthly on the ANAF website. The companies with fiscal risk are those companies that, following the submission of the documents for settlements to ANAF, fall in the category with negative amounts with the option of repayment. These companies will then be checked for risk analysis. Following the risk analysis, the fiscal body will determine the degree of risk in which a company is classified. In the category of small fiscal risk, it will be taken into account that the amounts requested for settlement do not exceed 45,000 lei and that there are no facts of the nature of the tax offenses registered in the taxpayer's tax file.

If the settlement with negative amounts exceeds this limit of 45,000 lei, the companies are classified in the average fiscal risk degree. For the high fiscal degree, the existence of certain tax offenses recorded in the tax record and the score obtained by the taxpayer following the fiscal analyzes carried out by the fiscal inspection bodies are taken into account (the documentary analysis, the fiscal inspection indicators sheet, the risk analysis sheet). In addition, this category includes taxpayers who have not filed in the last 12 months all the necessary statements (390 and 394), but also for which the insolvency procedure was opened. The settlements by which the VAT refund is requested are solved according to the degree of risk, as follows:

- small fiscal risk - by issuing the decision to reimburse the VAT, by the specialized compartment within a maximum of five days from the date of filing the statement
- average fiscal risk (settlements deposited by other taxpayers than the big, medium or exporter taxpayers in this category of risk) - with the documentary analysis.
- high tax risk - with anticipated tax inspection.

The documentary analysis represents the procedure for verifying the necessary documents that justify the requested amount for the VAT refund. The documents required for the documentary analysis are:

- sales and purchase logs.
- check balances.
- commercial contracts, invoices, customs documents attesting the export made.
- documents attesting an investment and other documents showing the amount requested for reimbursement.
- any other documents that the fiscal body may consider necessary to justify the reimbursement. These documents must be presented in original and in copy and must refer to the period from which the negative amount of VAT comes.

The anticipated fiscal inspection is performed only in the case of companies with high fiscal risk in order to verify the amounts requested for settlement and covers only the periods for which the money is required. The necessary documents that are required for the fiscal inspection are the following:

- fiscal documents, statements and documents attesting the payment of taxes, contributions and taxes.
- the balance sheets and the balances of verification drawn up by the end of the year for the period subject to the fiscal inspection.
- the register of fiscal records (for the tax payers of profit).
- supporting documents for the services received by the company.

VAT from international trade activities within the EU can be recovered as follows:

- operations for importing goods for which VAT is paid in another Member State.
- the purchase of goods or services in the territory of another Member State and the payment of VAT at the time of purchase.

The procedure for reimbursement of intra-Community VAT implies:

- filling in a request for reimbursement, represented by Form 318.

- verification of the fact that the taxable person from Romania was registered as a VAT payer during the period in which the respective purchases were made.
- redirection of the reimbursement request by the competent fiscal body to the competent authorities of the Member State. The request for reimbursement of intra-Community VAT is made by addressing a request for reimbursement, electronically, to the Member State in which import operations or acquisitions have been carried out. The application must be submitted to the competent fiscal body in Romania, through the service "Filing statements online". This request is represented by the form 318. For the reimbursement of the intra-Community VAT, it is necessary to complete the Form 318, which represents "The request for reimbursement of the value added tax for the taxable persons established in Romania, filed according to art. 302 para. (2) of the Fiscal Code ". The application must not be submitted later than September 30th of the calendar year following the reimbursement period. The minimum amount that can be requested is related to the repayment period as follows:
  - if the repayment period is less than one calendar year, but more than three months, the amount of VAT that can be requested for repayment must not be less than 400 euros or the equivalent of these amounts in the national currency of the respective Member State
  - if the repayment period represents the period of a calendar year or the remaining period of a calendar year, the amount of VAT that can be requested for reimbursement must not be less than 50 euros or the equivalent of this amount in the national currency of the respective Member State.

The deadline for settling the reimbursement request is between 4 and 8 months from the date the Member State receives the reimbursement request.

### **3. Case studies regarding the reimbursement of the VAT refund**

#### **Case study no. 1 regarding the control of VAT refund**

To establish the VAT to be recovered knowing that as a result of the subsequent control of the VAT in 2020, for the period 2016-2020, the VAT was repaid at the amount of 150,000 lei for the period 2016-2019, and 3,000 lei from 2020.

Solution:

1. VAT recovered rejected for reimbursement (4424) following fiscal control 150,000 lei for the period 2016-2020;

2. The recording in VAT of the VAT rejected for reimbursement as a deferred loss

$$1174 = 4424 \quad 150.000 \text{ lei}$$

3. VAT recovered (4424) rejected for reimbursement after fiscal control 3,000 lei for the 2020 period.

4. The recording in VAT of the VAT rejected for reimbursement as a deferred loss.

$$635 = 4424 \quad 3.000 \text{ lei}$$

### Case study no. 2 regarding the control of VAT refund

Establish VAT recoverable knowing that after subsequent verification of VAT in 2020 was rejected VAT refund in the amount of 5,000 lei (SFD 4424 25,000). After the inspection, the amount of 20,000 lei (4418:10,000 lei, 4315:5,000 lei, 4316:2,500 lei, 444 : 2,500 lei), was admitted to compensation.

Solution:

1. VAT recovered rejected for reimbursement (4424) after fiscal control 5,000 lei for 2020.

2. The recording in VAT of the VAT rejected for reimbursement as a current loss.

$$635 = 4424 \quad 5.000 \text{ lei}$$

3. VAT recovered (4424) admitted to compensation in the amount of 20,000 lei according to the compensation decision.

$$473 = 4424 \quad 20.000 \text{ lei}$$

4. The registration of the payment of the outstanding fiscal obligations offset, according to the payer's file (4418: 10,000 lei, 4315: 5,000 lei, 4316: 2,500, 444: 2,500 lei).

%	= 473	<u>20.000 lei</u>
4418		10.000
4315		5.000
4316		2.500
444		2.500

#### 4. Conclusions

It is not possible to request the refund of the balance of the negative amount of the tax from the reporting fiscal period, less than 5,000 lei inclusive, this being postponed compulsory in the next fiscal period's statement. a risk analysis.

In the case of the settlement with the negative amount of value added tax with a reimbursement option for which the amount requested for reimbursement is up to 45,000 lei, as well as in the case of the settlement with the negative amount of value added tax with a reimbursement option deposited by the beneficiary who benefits of a payment schedule, the central fiscal body reimburses the tax with the subsequent fiscal inspection.

The settlements by which the VAT refund is requested are solved according to the degree of risk, as follows:

- low fiscal risk, by issuing the VAT refund decision, by the specialized compartment within no more than five days from the date of filing the statement
- average fiscal risk (settlements deposited by other taxpayers than the big, medium or exporter taxpayers in this risk category), with the documentary analysis.
- high tax risk - with anticipated tax inspection.

The VAT refund is usually done in 45 days or in 90 days if the VAT refund settlement requires an early check.

The initial term may be extended by a period of two to six months if, in order to solve the request, it is necessary to administer other additional evidence in order to make a decision. During this period, the taxpayer cannot claim interest for late payment of VAT.

Deposits for VAT reimbursement are made at the fiscal body where the companies have the fiscal domicile by one of the following ways: directly to the department that deals with tax management, by post, by e-mail.

The reimbursement decision is the document through which the VAT refund application is approved. The reimbursement decision is issued by the competent fiscal body, more specifically by ANAF.

For companies with low fiscal risk, the reimbursement decision is issued within five days of the filing of the claim, and for the other taxpayers, the period varies depending on the length of the procedure for the documentary analysis or the anticipated fiscal inspection.

**Bibliography**

1. Oprean, I., Lenghel, R.D., Oprean, D.B, Auditing financial statements, Risoprint Publishing House, Cluj-Napoca, 2015;
2. Lenghel, R.D., Financial control and audit, Risoprint Publishing House, Cluj-Napoca, 2011;
3. Guide for a quality audit, CAFR Publishing House, Bucharest, 2012;
4. Manual of International Quality Control Regulations, Audit, Review, Other Insurance Services and Related Services, Volumes 1, 2, Publishing House, CAFR, Bucharest, 2014.

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