LISTE DISTRIBUIMI/ CIRKULARNO PISMO/ ROUTING SLIP

REFERENCE: GDO:

PËR/ZA/TO: Regional Operation Directors Director of TSED Director of Tax Audit Department Director of Appeals Department Taxpayers Advocate

CC: Bashkim Shala - Deputy General Director of Operations Nahit Sharku – Deputy General Director for Programs and Procedures

NGA/OD/FROM: Sakip Imeri - Director General of TAK

TEMA/SUBJEKAT/SUBJECT: Internal regulation on refund procedures for VAT, PIT and CIT

Nr. i zyrës: Lokacioni: Prishtina
Br. kancelarije: Kuci: Data: 28.02.2017
Room No.: Extension: Datum: 

PËR AKTIVITET/ZA AKTIVNOST/FOR ACTION
PËR INFORMIMIN TUAJ/ZA VASU INFORMACIJU/FOR YOUR INFORMATION
VËMENDJA JUAJ/VASA PAZNJA/YUOUR ATTENTION

Honoured,

Tax Administration of Kosovo has an obligation determined by law to ensure the uniform application of legal provisions for all taxpayers, in the same manner to similar situations. With the purpose to treat fairly all the taxpayers, who through the relevant tax declarations submit claims for refund of VAT, PIT or CIT, this Regulation shall provide necessary clarifications on refund procedures.

Article 1
Claim for refund

Taxpayers' refund claim, shall be considered the submission of the tax declaration, which includes the amount of the refund claim, such as: VAT, PIT and CIT, by completing the respective columns of the declarations, such as, currently, the column 70 in the form of VAT, column 43 in the form of PIT and column 44 in the form of CIT.
Article 2
Legal basis

Credits and refunds are allowed under Article 30 of Law No.03/L-222 on Tax Administration and Procedures, quote:

"1. Any amount of any tax paid in excess of the amount due shall be applied to the taxpayer's current liability for any other tax or pension contribution due. TAK shall deliver to the taxpayer a notice in writing when such excess payment has been applied to another liability, advising the taxpayer of the amount of credit applied, tax and tax period”.

Article 41 of the Administrative Instruction No.15/2010 on implementation of Law no. 03/L-222 on Tax Administration and Procedures, defines the credits and refunds, quote:

“1. Paragraph 1 of Article 30 of the Law provides TAK the authority to apply any overpayment resulting from a TAK assessment, or reported on a tax declaration submitted by the taxpayer, to any current liability of the taxpayer, irrespective of the type of tax that created the overpayment or the tax liability outstanding. Except as provided in paragraph 3 of this Article, any overpayment may be applied to current tax liabilities by TAK.

2. When an overpayment is applied to a current tax liability, TAK shall issue a notice to the taxpayer advising of the application of the overpayment. The notice must include information to show the amount of overpayment and the type of tax and tax period to which the overpayment was attributable, as well as the amount and the type of tax and tax period to which the overpayment was applied.

3. Notwithstanding paragraph 1 of this Section, TAK shall not offset a VAT credit against a tax debt until such credit has been carried forward for three months. If a taxpayer with a VAT credit that was carried forward for three months or more owes a tax debt of more than €5,000, TAK may notify the taxpayer that an audit of the VAT credit will be initiated and, if the credit is determined to be valid, an amount of the credit up to the amount of the tax liability will be applied to the tax liability and the balance will be refunded. In such cases, the taxpayer will not have an option of retaining the credit for application against subsequent VAT tax debts.

4. As provided in paragraph 2 of Article 30 of the Law, a taxpayer who has an overpayment on a tax declaration is entitled to claim a refund of that amount, if the overpayment qualifies for a refund (as in the case of a VAT credit).

5. To obtain a refund of an overpayment of a tax liability, or a credit balance for which the taxpayer is eligible to claim a refund, the taxpayer must submit a claim to TAK on a form prescribed by TAK. The claim form shall be submitted to the regional office, or large taxpayer office, responsible for the taxpayer's tax affairs. Included with the claim form must be:

5.1. The taxpayer's name;
5.2. The taxpayer's physical address;
5.3. The taxpayer's Fiscal Number and, if applicable, the VAT Registration Number;
5.4. The address to which the taxpayer wishes notices regarding the refund to be sent;
5.5. If the taxpayer wishes the refund to be directly deposited into a bank account, the necessary bank details to which the refund should be directed;
5.6. The type of tax, tax period, and amount of refund claimed;
5.7. The cause of the overpayment or credit, or how the overpayment or credit came into existence;
* 5.8. Documentation required to support the refund claim

6. In the case of a claim for refund of VAT cases, the documentation required to support the claim, in addition to the items described in paragraph 5 of this Section, must include:
6.1. Statement of business regarding the cause of the overpayment of VAT, such as investments, large unusual purchases, etc.
6.2. If more than 50% of the transactions of the claimant are with one company, the name of the company, the address of the company, the relationship of the company to the claimant, the Fiscal Number of the company, the VAT Registration Number of the company.

7. The following documentation must be kept available for verification upon request by TAK:
7.1. All purchase invoices for the three months prior to the month of the creation of the credit being claimed, purchase invoices for the month in which the credit being claimed was created, plus the purchase invoices for the succeeding months prior to the month of the VAT refund claim
7.2. All sales invoices for the three months prior to the month of the creation of the credit being claimed, sales invoices for the month in which the credit being claimed was created, plus the sales invoices for the succeeding months prior to the month of the VAT refund claim
7.3. All contracts fulfilled during the period for which the refund claim is requested, or in process during that time
7.4. All customs documentation, plus associated purchase invoices, for all imports into Kosovo during the three months prior to the month in which the credit being claimed was created, all customs documentation and associated purchase invoices for the month in which the credit being claimed was created, plus the customs documents and associated purchase invoices for the succeeding months prior to the month of the VAT refund claim
7.5. Any other documentation or requirements established in the Law on VAT
7.6. Any other documentation requested by TAK during the processing of the claim.

8. As an exception to paragraph 5 of this Section, overpayments of Corporate Income Tax and Personal Income Tax of less than €500 shall not require submission of a refund claim. Such refunds may be claimed by indicating on the respective Corporate Income Tax declaration or Personal Income Tax Declaration that the taxpayer wishes to receive a refund of the overpayment shown on the declaration. The taxpayer must include appropriate bank information so that the overpayment can be paid directly to the designated bank account. TAK will process such refund claims immediately upon receipt following a review of TAK data which indicates that a refund is appropriate.

9. No refund will be issued until such time as the taxpayer has submitted all tax declarations due. A taxpayer who has not submitted all declarations will be considered to have not submitted a valid refund claim. Any refund claim submitted when the taxpayer has not submitted all required declarations will be rejected.
10. Even though TAK has approved a refund in accordance with paragraph 8 of this Section, TAK retains the right to audit any declaration submitted within the time period provided by applicable legislation in force.

11. A refund claim may be submitted at any time after the due date for submitting the applicable declaration up to 6 years from the date the tax was paid. For purposes of determining the date of payment of tax, advance payments of Corporate Income Tax (CIT) or Personal Income Tax (PIT) shall be considered to have been paid on the date such declarations are due to be submitted to TAK.

12. If a payment has been submitted in error, a claim for refund of such payment may be submitted to the tax administration, in accordance with the provisions of this Section, prior to the due date of the tax declaration for which the payment was erroneously made. If there are outstanding tax liabilities, TAK shall apply the payment to any current tax liabilities, as provided in paragraph 1 of this Section, prior to making the refund payment.

13. TAK must process a valid refund claim within 60 days from the date it is received in the applicable TAK office. Claims which do not include the information required by this Section will not be considered to be valid claims and will be rejected by the receiving office. During the course of reviewing the refund claim, TAK may request additional information from the claimant in accordance with Article 15 of the Law. If such information is not provided within the timeframe prescribed in the written request, the responsible TAK office shall reject the refund request and advise the taxpayer of the reason for the rejection.

14. If TAK does not process a valid claim within 60 days after it has been received, it must pay interest on the claim at the rate of interest prescribed by the Minister. Interest shall be computed on the amount of the claim that is approved for refund to the taxpayer beginning with the 61st day after the valid refund claim was received. No interest shall be due on a rejected refund claim. If the claim is rejected beyond the 60-day time period for reasons described in paragraph 13 of this Section, no interest shall be due.

15. Interest shall not be due on any VAT refund amount that is withheld for administrative reasons as provided in the Law on VAT or an Administrative Instruction issued in accordance with the provisions of that law.

16. If TAK subsequently audits a declaration for which a refund was received and determines that the taxpayer was not entitled to the refund amount, or should have received a refund for less than that actually approved, an adjustment to tax shall be made and applicable penalties and interest may be computed on the tax adjustment.”

Notwithstanding paragraph 5 of Article 41 of the Administrative Instruction No.15/2010, under this Regulation taxpayer is not required to fill and submit the Claim/Form for refund, but only completion of the tax declaration, namely the completion of the relevant column for refund, shall be considered a refund claim.
Article 3
Refund of VAT

1. Refund of VAT on quarterly basis

Procedures of VAT refunds are defined in Article 40 of Law No. 05/L-037 on VAT and Article 59 of the Administrative Instruction No. 03/2015 on the implementation of Law no.05/L-037 on VAT, quote:

"1.1. In conjunction with Article 40, paragraph 1 of the Law, if the amount of input tax in any tax period (for example one month) is higher than the amount of tax due for the same tax period, the taxpayer has a right to bear the VAT credit to the next tax period. The taxpayer must use this tax credit as payment of tax for the next tax period.

1.2. According to the Law on Tax Administration and Procedures, and based on Article 40, paragraph 2 from the Law, the taxable person has the right to claim refund.

1.3. According to Article 40, sub-paragraph 2.1 of the Law, the taxable person may request reimbursement of VAT if for three consecutive months is in credit and the end of the third month the amount of credit VAT exceeds 3,000 € provided that taxable person have been able lending at the end of each tax period for VAT during the quarter. It also requires that the taxable person has submitted all the statements of VAT and other taxes for all past tax periods, in accordance with legal requirements.

1.4. The balance of unused credit surplus means the excess tax credit remaining at the end of the quarter, which was not used against VAT liabilities generated during the quarter. To be reimbursed, the outstanding balance at the end of 3 (third) month, should exceed the amount of 3,000 €.

Example:

<table>
<thead>
<tr>
<th>February</th>
<th>March</th>
<th>April</th>
<th>Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>100€</td>
<td>2,000€</td>
<td>3,700€</td>
<td>3,700€</td>
</tr>
</tbody>
</table>

Reimbursement is possible for the value of 3,000 € up to 3,700 €.

Caution: This condition is not valid for exporters!
1.5. The taxpayer is entitled to claim a refund up to the 20\textsuperscript{th} day of the month following the quarter, which coincides with the time of the declaration of VAT, provided that they meet the following requirements:

a) The amount of input tax in each tax period of the quarter is greater than the amount of tax calculated at the same tax period of the quarter;

b) The amount of VAT credit is greater than 3,000 € in the last quarter;

c) The taxpayer has submitted all tax returns for all taxes required.

1.6. The request for reimbursement must be submitted to Taxpayers Service in the relevant Regional Office, together with the declaration of the end of the quarter or in electronic form if powered by TAK.

1.6.1. Review of the request for refund of VAT, the tax administration must be made within 60 days after receipt of the request. If exceeded 60 days, TAK will calculate and pay interest for the delay. If the delay is because the taxpayer failed to comply with deadlines set by legislation, then TAK will not calculate the interest for the delay.

1.6.2. The person who interrupted his activity and is credited to VAT shall be entitled to seek reimbursement of VAT credit despite residual value.

Example: Taxable Person "A" for various reasons discontinued business activity and VAT credit remained at 2,000 €. The taxpayer has the right to a refund even though credit is below the threshold provided for in Article 40, paragraph 2 of the Law. This requirement does not apply to the taxpayer credited more than 3,000 €.

2. VAT refunds on monthly basis, refunds for exports

According to Article 40, paragraph 2, subparagraph 2.2 of the Law No. 05/L-037, a taxable person who exports goods can request reimbursement of VAT after each tax period, provided that:

a) The amount of VAT credit (including credit from all supplies to the right of deduction) exceeds 3,000 € at the end of the tax period;

b) Meet all applicable customs and VAT;

c) submits all VAT returns and other tax statements for all periods in the past, and

d) Possess sufficient documentation to prove the claim refund of VAT.

Caution: Paragraph 2 of this Article shall not apply to supplies treated as exports, provided for by Article 33 of the Law.
2. **Refunds for European Commission contractors**

Notwithstanding paragraph 2 of the Article 40 of the Law Nr. 05/L-037, the taxable person has the right to apply for a refund of VAT on a monthly basis for VAT deduction related to the supplies directly funded by the European Commission, in accordance with sub-paragraph 3.1 of Article 33 of the Law on VAT, irrespective of the amount of VAT credit.

VAT refund claims under subparagraph 3.2 of the Article 59 of Administrative Instruction No. 03/2015, TAK is obliged to consider within 30 days of receipt.

The application is considered valid, provided that the conditions set out in paragraph 2, subparagraphs 2.2 and 2.4 of the Article 59 of Administrative Instruction No.03/2015 are met.

Taxable persons not established in Kosovo, but that are established in a Member State of the EU or in any country signatory to the IPA agreement (excluding Kosovo) is not required to be registered for business purposes in Kosovo, based Article 26, paragraph 2, section c, of the IPA Agreement for supplies that are directly funded by the European Commission (EC Contractor). However, if these persons are liable to pay other taxes by the Kosovo Tax legislation, they are required to obtain identification number in order to have the opportunity of payment of taxes in Kosovo.

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**Article 4**

The right to VAT refund

Any taxable person who meets the conditions set forth in Article 40 of the Law is entitled to seek VAT refund. In order to be considered that the taxable person has applied for VAT refund, one should:

a. Have completed and submitted VAT declaration physically or electronically, by filling out the appropriate column.

b. VAT declaration must be submitted by the 20th of the month following the month for which refund is requested.

A taxable person for VAT refund should possess the following evidence:

- All purchase invoices.
- All sales invoices.
- All customs documentation, plus associated purchase invoices.
- Tax declarations for all types of taxes required.
- Any investment, project.
- Any other relevant documents.
If a taxpayer has not filed all declarations for all types of taxes required, he will be deemed not to have submitted a valid refund claim and such claim will be rejected.

If the amount of the refund claimed by the taxpayer results to be inaccurate from the assessment of TAK, for the overstated amount penalties shall be applied according to Law no. 03/L-222 on Tax Administration and Procedures, while the approved amount will be refunded according to Article 40 of Law no.05/L-037 on Value Added Tax.

TAK will maintain the VAT refund if the taxpayer does not possess records and documents, or if there are indications that the data reported in the VAT return in which it reported the amount of VAT reimbursement and previous statements VAT is not accurate. Such indications should be documented in the minutes of the official report of TAK officer or Customs officer, explaining the reasons for not approving the refund claimed. Such tax report provides evidence till the taxable person proves otherwise.

TAK will not recognize the right of deduction of the input VAT nor that of the refund, when a taxable person (purchaser) purchasing transactions of over € 500 has not performed through a bank account when payment was made. The remainder of the payment obligation should be noted in the Report or the Form AU005 filled by the tax inspector.

TAK with a reasonable decision must notify the taxpayer of keeping the refund and provide an explanation for the reasons of the refund.

The taxpayer has the right to appeal to the decision of the Tax Administration in accordance with the Law on Tax Administration and Procedures.

Tax Administration, before proceeding a claim for refund of VAT to a taxable person, has the right to force that person to prove that the purpose of economic activity is the realization of taxable transactions, which give the right to VAT deduction.

According to article 42 of Law No.05/L-037 on VAT, and Article 63, paragraph 4 of the Administrative Instruction No.03/2015, the taxable person is not entitled to VAT refunds, but is entitled to deduct the input VAT for its taxable transactions, quote:

"4. A taxable person is not entitled to claim a refund for input VAT for stocks bought with VAT he has in possession at the time of reaching the VAT limit or at the moment of voluntary registration for VAT."
Example:

Business "X", which is registered as a business in 2016, on 15 January 2017 reaches the limit to be Declarer of VAT (or wants to be registered as of this date as voluntary declarer for VAT). According to Article 42 of the law, the taxpayer is entitled to recognize the input VAT for all goods in stock at the moment it reaches the limit or at the moment of voluntary registration for VAT. However, is not entitled to refund this VAT recognized by stocks, but only to credit for the following periods. The right to recognize the crediting of VAT, with the purpose of refund, shall have only after "breaking" of input VAT recognized by stocks with VAT calculated in the following periods and after meeting criteria set out in Article 40 of the law. Furthermore we illustrate the following:

The value of goods in stock at the moment of reaching the limit or at the moment of voluntary registration for VAT (15 January 2017) is 32,500€ and VAT 5,850€ (rate of VAT applied to purchase goods in stock was the standard rate 18%).

The declaration of stocks at the moment of reaching the limit or at the moment of voluntary registration for VAT, in the form of VAT, shall be done at the column "Adjustments to lower the VAT rate of 18%".

Transactions for the periods after obtaining the status "Declarer of VAT", are as follows:

<table>
<thead>
<tr>
<th>Tax period</th>
<th>Sale with VAT</th>
<th>VAT 18%</th>
<th>Purchase with VAT</th>
<th>VAT 18%</th>
<th>Transferred crediting</th>
<th>Amount to be paid</th>
<th>Credit balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>January/2017</td>
<td>3,600.00</td>
<td>648.00</td>
<td>6,000.00</td>
<td>1,080.00</td>
<td>5,850.00</td>
<td>-</td>
<td>6,282.00</td>
</tr>
<tr>
<td>February/2017</td>
<td>2,800.00</td>
<td>504.00</td>
<td>4,200.00</td>
<td>756.00</td>
<td>6,282.00</td>
<td>-</td>
<td>6,534.00</td>
</tr>
<tr>
<td>March/2017</td>
<td>4,200.00</td>
<td>756.00</td>
<td>3,500.00</td>
<td>630.00</td>
<td>6,534.00</td>
<td>-</td>
<td>6,408.00</td>
</tr>
<tr>
<td>April/2017</td>
<td>3,400.00</td>
<td>612.00</td>
<td>5,400.00</td>
<td>972.00</td>
<td>6,408.00</td>
<td>-</td>
<td>6,768.00</td>
</tr>
<tr>
<td>May/2017</td>
<td>3,100.00</td>
<td>558.00</td>
<td>6,400.00</td>
<td>1,152.00</td>
<td>6,768.00</td>
<td>-</td>
<td>7,362.00</td>
</tr>
<tr>
<td>June/2017</td>
<td>4,000.00</td>
<td>720.00</td>
<td>20,000.00</td>
<td>3,600.00</td>
<td>7,362.00</td>
<td>-</td>
<td>10,242.00</td>
</tr>
<tr>
<td>July/2017</td>
<td>5,800.00</td>
<td>1,044.00</td>
<td>7,000.00</td>
<td>1,260.00</td>
<td>10,242.00</td>
<td>-</td>
<td>10,458.00</td>
</tr>
<tr>
<td>August/2017</td>
<td>6,100.00</td>
<td>1,098.00</td>
<td>8,900.00</td>
<td>1,602.00</td>
<td>10,458.00</td>
<td>-</td>
<td>10,962.00</td>
</tr>
<tr>
<td>Total VAT collected</td>
<td>5,940.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Therefore, Business "X" until the period August/2017 cannot seek for VAT refund, since the value of VAT calculated in tax periods (months) was not higher than 5,850€ for as much as it recognized the input VAT from stocks available at the moment the person became taxable. Business "X" may seek VAT refund with statement for the period August/2017 and in the amount of 10,962 €.
Refund of Personal Income Tax

Refund of Personal Income Tax, is allowed under paragraph 6, Article 43 of the Law No:05/L-028 on Personal Income Tax, quote:

"6. If paid amount, or credited amount in compliance with the paragraph 5. of this Article are higher than total amount of tax assigned in compliance with this law, the taxpayer has the right to:

6.1. reimbursement on the excess amount of paid tax: or

6.2. with the request of the taxpayer, has the right to carry out as advanced payment for the following year."

Paragraph 8 of Article 41 of the Administrative Instructions No. 15/2010 stipulates that overpayments of Corporate Income Tax (CIP) and Personal Income Tax (PIT) of less than €500 shall not require submission of a refund claim. Such refunds may be claimed by indicating on the respective Corporate Income Tax declaration or Personal Income Tax Declaration that the taxpayer wishes to receive a refund of the overpayment shown on the declaration.

Exception to above mentioned paragraph, refund claim shall be considered filling of the column "refund" in the statement, regardless of the amount claimed.

Refund of Corporate Income Tax

Refund of Corporate Income Tax shall be allowed under paragraph 6, article 38 of Law No.05/L-029 on Corporate Income Tax quote, quote:

6. If paid amount, or credited amount in compliance with the paragraph 5. of this Article are higher than total amount of tax assigned in compliance with this law, the taxpayer has the right to:

6.1. reimbursement on the excess amount of paid tax: or

6.2. with the request of the taxpayer, has the right to carry out as advanced payment for the following year."

Paragraph 8 of Article 41 of the Administrative Instructions No. 15/2010 stipulates that overpayments of Corporate Income Tax (CIP) and Personal Income Tax (PIT) of less than €500 shall not require submission of a refund claim. Such refunds may be claimed by indicating on the respective Corporate Income Tax declaration or Personal Income Tax Declaration that the taxpayer wishes to receive a refund of the overpayment shown on the declaration.

Exception of paragraph quoted above, request for refund shall be considered the filling out of the relevant column "refund" in the declaration, regardless of the amount required.
Article 7
Responsibilities

From the moment of the submission of the declaration, which shall include a request for refund by the taxpayer, the responsibility to manage and review it shall fall on the Regional Directorate/LTD.

Regional Director/LTD shall delegate the case to the Head of the Audit Team, who shall define the tax inspector to review the request for refund.

Regional Director/LTD is responsible for reviewing refunds in the relevant region, given the fact that the Assessment Notice form is signed by the tax inspector, team leader and Regional Director/LTD.

In case of non-compliance to refund procedures, the Director General of TAK, shall require responsibility from the Regional Director/LTD.

Article 8
Review of refund by categories

The procedure for reviewing the request for refund shall be applied taking into account the performance of the taxpayer in the fulfillment of tax obligations prescribed by tax legislation.

Although the law has determined the period of sixty (60) days to review requests for refund in order to increase efficiency, public confidence and quality, for the purposes of this procedure, taxpayers shall be categorized into three main groups, as:

- **Category “A”,** shall include taxpayers:
  - who have submitted on time all tax declarations and information statements that are subject of the request;
  - who have not submitted corrective declarations during the period that are subject to review;
  - who have paid on time all the tax obligations;
  - who have a good performance assessed by risk analysis;
  - whose previous refund requests have proved correct;
  - who for the past three years, have maintained accounting records in accordance with legal requirements for financial reporting;
  - during the period that is subject to review, have not had transactions with fictitious or delinquent taxpayers;
  - Tax audits conducted by TAK attest their successful history, etc.

Requests for refund of this category shall be reviewed in an accelerated procedure, verifying evidence that support the request, without having to commence tax audit procedure against them. Time duration for reviewing the requests of the taxpayers of this category, shall maximally be seven (7) calendar days.
• **Category “B”** shall include taxpayers:
  - who have submitted on time all tax declarations and information statements that are subject of the request;
  - who mainly pay their tax obligations;
  - whose previous refund requests or tax audit conducted to them by TAK, proved that their self-assessment compared to TAK assessment, was more than 10% (whether it is understatement of tax or overstatement of refunds);
  - whose risk, assessed by the risk analysis, is low etc.

Requests for refund of this category shall be reviewed as follows:

a) If the tax inspector, through the process of verifying the evidence assesses that the accompanying evidence of the refund request is reliable and the commencement of tax audit procedure is unnecessary, he/she then shall recommend the team leaders to approve the refund in an accelerated procedure (as the cases of Category "A"), which should not last more than seven (7) calendar days;

b) If the tax inspector, through the process of verifying the evidence assesses that the accompanying evidence of the refund request must be verified to third parties as well, he/she then shall recommend the team leaders to commence the tax audit procedure. Time duration of tax audit procedures in cases of Category "B", shall not exceed twenty (20) calendar days.

• **Category “C”** shall include taxpayers:
  - who do not regularly submit on time all tax declarations and information statements that are subject of the request;
  - have submitted their first request for refund;
  - during the period that he/she is subject to review has submitted corrective declarations;
  - whose previous refund requests or tax audit conducted to them by TAK, proved that their self-assessment compared to TAK assessment, was more than 10% (whether it is understatement of tax or overstatement of refunds);
  - the tax credit on VAT is continuous for more than 12 tax periods;
  - whose risk, assessed by the risk analysis, is high, etc.

Requests for refund of this category shall always be reviewed by being subject to tax audit procedure. Tax audit should focus on issues that present high risk. It is not necessary to audit all types of tax, but the focus should be on the tax treatment of the request.

Time duration of the tax audit procedure in cases of category "C", shall not exceed thirty (30) calendar days. Exceptions are made for cases where there are delays for objective causes related to the taxpayer's reasons.
Article 9
Timeframes for review of refund request

Request for credit or refund for an overpayment of any type of tax may be filed within six (6) years from the date the tax was paid.

For purposes of determining the date of tax payment, advance payments of Corporate Income Tax (CIT) or Personal Income Tax (PIT), shall be deemed to have been paid on the date such statements are binding to be delivered to TAK.

The timeframe, within which requests must be submitted by the Information Technology authorized for these matters to the Regional Director / LTD, is one working day. Each request must be recorded in the special register of the Regional Directorate.

Regional Director / LTD in cooperation with Team Leader, within the shortest possible time, shall appoint the Tax Inspector (inspectors), who will deal with the case review.

Tax inspector shall verify the necessary documentation based on which it determines whether a refund will be approved or the case should be subject to tax assessment procedure (audit).

If the Regional Directorate/LTD concludes that the case should be assigned for audit, then the audit should commence within the shortest possible time.

Article 10
Tax audit

Approval of Request for Refund of funds does not imply the need to always be associated with the tax audit procedure (assessment).

When dealing with taxpayers with good performance in the application of tax legislation or the amount requested is small and reliable, then TAK shall visit the taxpayer in order to verify the relevant documentation. Otherwise, in case of requests whereby the actual situation cannot be concluded by reviewing the documentation, then this case shall be assigned for tax audit.

Article 11
Reporting

If the tax inspector, after verification of documents during the visit, finds that the taxpayer is entitled to refund, the inspector shall make a report (activity), which includes all the specifics found during verification of relevant documentation.
During the activity, the following data must be verified:
- Business activity;
- Application of the fair market value (if necessary);
- Investments in premises (if it relates to investments);
- Investment plan (project);
- Investments in essential assets;
- Costs associated to business activity;
- Specification of purchases and sales by tax periods;
- Specification of stocks in tax periods;
- The rate used during the manufacturing process (in manufacturing businesses);
- Particular specification on Refund which will include all the elements that resulted in the adoption of refunds,
- Other elements related to different specifications depending on the type of business activity, and
- Verification of the application of the reverse charge within the country (e.g. construction services) under the law and administrative instructions in force.

The procedure of tax audit should begin for any change in the factual situation from the tax inspector (finding the understatement of income or overstatement of credit).

If the tax audit is performed, the tax inspector shall then compile the Audit Report. The report should contain, in detail, the reasons for approval or rejection of the request for refund, providing answers to all of the data verification listed above.

TAK will not refund the funds if the taxable person does not possess the relevant evidence and documents or if there are indications that the data reported in the tax declaration where the amount of the refund is reported and previous declarations are not correct. Such indications must be documented in the official report - Minutes of the TAK official or Customs official. Such tax report provides evidence until otherwise proven by the taxable person.

TAK with a reasoned decision shall notify the taxable person to withhold the refund and shall provide an explanation for the reasons of withholding the refund.

Refund shall be withheld until the competent TAK office receives the necessary records, documents and tax declarations that were missing. If documentation is not submitted within the required timeframes set by TAK, the request for refund shall be rejected, while tax audit shall continue until the case is concluded.

Article 12
Method and destination of documentation submittal

Upon reviewing the refund, the Regional Directorate/LTD shall submit to the Tax Audit Department, the following documents:
- Evidence on taxpayer refund request,
- Refund approval form,
- ID copy of the owner,
- A copy of business registration certificate,
- A copy of the certificate of fiscal number, and
- A copy of the business bank card, confirmed by the relevant bank.

Upon receiving the documents listed above, Tax Audit Department shall, within the shortest period, prepare appropriate format for transferring the assets, which shall be signed by the Director General of TAK and submitted to the Department of Treasury.

Director General of TAK has the right at any time to delegate additional powers to the Regional Directorates / LTD regarding the approval of refund.

Tax Audit Department, respectively Division of Audit Quality, on a periodic basis, shall make an assessment on the respect of procedures and quality of the review of requests for refund by the responsible TAK officials, and shall prepare a report for the needs of senior management of TAK.

Director General of TAK may establish a commission to verify the compliance of the procedures established by this Regulation.

Article 13
Entry into force

This Regulation shall enter into force on the day of signature by the Director General of TAK.

Date: 28/02/2017
Prishtina

Mr. Sakit Xhemi
General Director of TAK