



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government

*Ministria e Ekonomisë dhe Financave
Ministarstvo za Privrednu i Finansije – Ministry of Economy and Finance*

Administrata Tatimore e Kosovës - Poreska Administracija Kosovo -Tax Administration of Kosovo

Based on article 3, paragraph 3, subparagraph 1, 2, 3 and 4 of the Law Nr.03/L-222 on Tax Administration and Procedures, the General Director of Tax Administration of Kosovo issues this:

PUBLIC RULING, NO. 3 / 2010
ON
PROCEDURES FOR REFUNDING/RETURNING EXCESS PAYMENTS

ARTICLE 1
Purpose

The Public Ruling establishes procedures to process claim for excess payment Refund / Return, from the moment of receiving the claim in the Taxpayers Service Office to its approval. This Public Ruling will apply to the claims for Value Added Tax refunds.

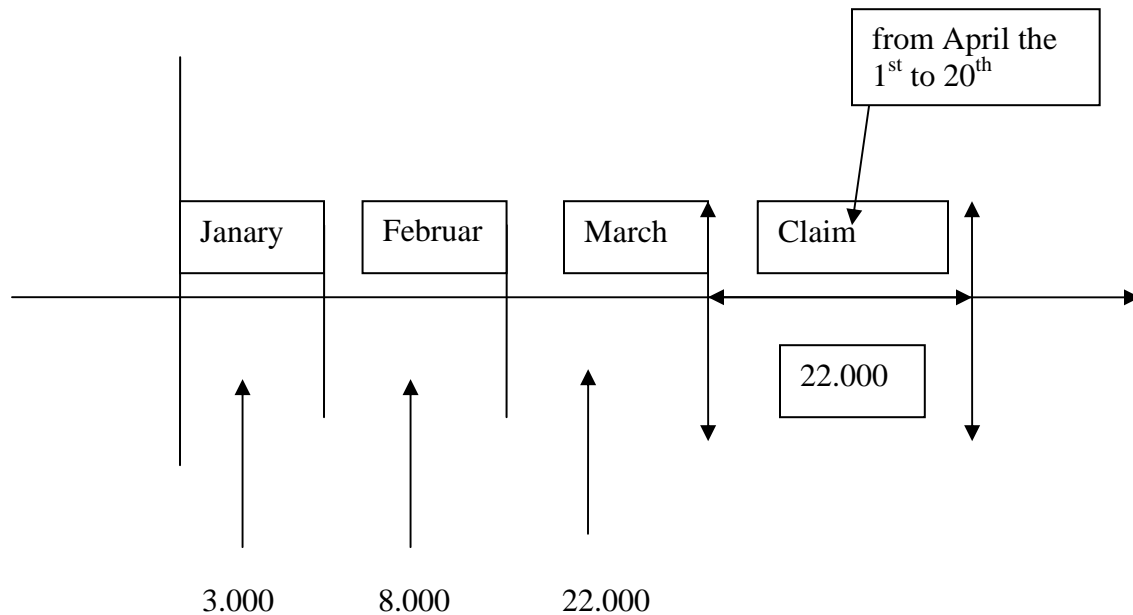
ARTICLE 2
Legal Ground and the entitlement to excess payment Refund/Return

1. The entitlement to excess payment Refund/Return is defined under article 30 of the Law No. 03/L-222 on Tax Administration and Procedures.
2. VAT refund is allowed to the taxable persons defined under article 40 of Law no. 03/L-146 on Value Added Tax. According to this article, the taxable person may claim VAT refund from the 1st to 20th day of the month after each quarter of calendar year, provided that the criteria listed below were met:
 - 2.1 The taxpayer must be in credit status at the end of each tax period of the quarter,
 - 2.2 The amount of VAT credit exceeds the amount of 5,000 euro at the last tax period of the calendar quarter,
 - 2.3 The taxpayer has submitted all VAT returns and other tax returns for all previous tax periods.

Illustrative Examples:

Unused balance of excess credit means the excess credit remaining at the end of the subsequent period of three months which could not be used against new VAT obligations created for the following three tax months (Quarter). The unused balance at the end of the third (3) month, should exceed the amount of 5.000 euros to be refunded.

Example:1



Example: 2

	January	February	March
VAT Estimated	3,000	4,000	7,000
VAT Deductible	18,000	1,000	3,000
VAT Due	-15,000	3,000	4,000
Credit from the previous periods	0	-15,000	12,000
Carried or Refunded Credit	-15,000	-12,000	-8,000

The taxpayer may claim the refund of Euro 8000 after the end of the 1st quarter after submitting the claim to TAK latest until the 20th of April.

From the above example, we see that if the taxable person has a VAT carried excess credit, and if the taxpayer claims a refund of credit at the end of the third month of

calendar quarter, he/she must apply for VAT refund, after the end of last tax period of the quarter but not later than the 20th day of the following month, for example:

For the first quarter (January, February, March) until the 20th of April, for the second quarter (April, May, June) until the 20th of July, for the third quarter (July, August, September) until the 20th of October, and the fourth quarter (October, November, December) until the 20th of January.

3. If the taxpayer does not submit the VAT refund claim at the latest by the 20th day of the month following after each calendar quarter, then he/she has no right to claim the VAT refund before the end of the next quarter of the calendar year, but the credit will be transferred to the following tax periods and it can be used to pay any tax liability.
4. If the taxable person supplies goods treated as export transactions, he/she can claim a refund after each tax period, provided that the taxpayer meets the following conditions:
 - 4.1 The turnover relating to export transactions represents at least twenty percent (25%) of total turnover relating to transactions with the right of deduction of deductible VAT. Export transactions are transactions referring to Article 31, paragraph 1 and Article 33, paragraph 1 and 3 of the Law.
 - 4.2 The value of the VAT credit exceeding five thousand (5,000) euros at the end of the tax period;
 - 4.3 The taxable person has complied with all applicable customs and VAT provisions, and
 - 4.4 The taxable person has submitted all VAT returns and other tax returns for all past tax periods.
5. Persons who have stopped their activity and are in credit are also entitled to VAT refund claim. E.g. The taxpayer's credit is 3.000 euro, for any reason he/she has stopped the activity, this taxpayer has a right to refund although the taxpayer's credit is below the threshold stipulated under Article 40, paragraph 2.1 of the Law on VAT, in this case there does not apply the condition that the taxpayer should have a credit over 5.000 euros nor the condition that he/she should be in credit status at the end of each tax period of the quarter. Refund may be issued for each last tax period prior to deregistration from VAT regardless whether it is the end of the month of the quarter.
6. Proofs that a taxable person should be in possession of when submitting a VAT refund claim:
 - 6.1 All receipts of purchases for tax periods related to credit ,
 - 6.2 All sales invoices for tax periods related to credit;
 - 6.3 All customs documentation, plus accompanying receipts of purchases, for all imports into Kosovo for the tax periods related to credit.
 - 6.4 Explanation regarding the cause of the VAT credit balance, such as investments, unusually large purchases, etc.

6.5 Contracts or any other important document of long-term or short-term investment projects, such as in buildings, machinery, etc.

Explanation: The taxpayer is required to have in possession the above noted documents when submitting the refund claim, but it does not mean that such documents are to be attached to the refund claim.

Article 3

Claim processing procedure

1. The Regional Office is responsible for managing and reviewing refund claims from the moment of its submission by the taxpayer to the service office. The Regional Manager will delegate the review of the case to the Team Leader, and the same will be reviewed by the tax inspector based on risk analysis.
2. The Regional Manager will be responsible for reviewing the refund claims in the respective region taking into account the fact that the Assessment Notice form will be signed by the inspector, team leader and regional manager.
3. In case of non-compliance with refund procedures, the General Director of TAK will seek responsibility from the regional manager.
4. After reviewing the refund, the region will send a refund review report to the Department of Control, enclosing all the required forms including the form that should be signed by the director of TAK, who is authorized to approve the refund claim, according to Law 03 / L -222 on Tax Administration and Procedures,. The Audit Department will monitor the respecting of Refund Procedures for all cases and shall inform the Director of TAK about the Refund flow based on quarterly, biannual and annual analysis.

Article 4

Time frames for reviewing refund claim

1. The time frame within which claims must be sent to the regional manager by the Service Office is a working day. Each claim must be recorded in the service office and the same shall be submitted to the manager by the handover report.
2. The manager, in cooperation with the team leader, within the shortest possible time frame, shall assign the Tax Inspectors to review the case.
3. Tax inspectors will verify the necessary documents and will give a competent opinion whether to return the funds or to sent the case for control due to specifics found during the verification of Taxpayer's documents.
4. If the tax inspector ascertains that the case should be sent for control, then control should be opened within the shortest possible term.
5. Based on Article 30, of the Law Nr.03/L-222, the VAT refund claim should be completed within 60 days after receiving the request for refund, which request was submitted to the Service Office at respective regional Office of TAK. After this date if there is no reason for delay, then the interest will be calculated after the day 61 as set

forth by the legislation of TAK, if there are reasons for delay due to information that the taxpayer has not comply with deadlines set by legislation, then TAK will not calculate the interest for the delay.

Article 5 Control

The request for refund / return of assets need not always be associated with the control process . If we are dealing with a taxpayer with a successful history in the implementation of tax legislation and if the amounts are small and reliable, then the Regional Office is required only to visit the subject and verify the relevant documentation. Otherwise, all claims that the real situation can not be ascertained by reviewing the documentation should be set for control.

Article 6 Reporting

1. If the inspector finds that the taxpayer is entitled to Refund / Return without control process, the inspector must write a report (activity), which will include all specifications found during the verification of the relevant documentation. The report (activity) will be forwarded to the Department of Control along with supporting documents (Claim, Assessment Notice for Refund / Return and the Approval Form by the Director of TAK) and the taxpayer will be reported after the approval by the Director of TAK.
2. During the course of the activity, the following data should be verified:
 - 2.1 Verification of business activity;
 - 2.2 Verification of application of the open market value;
 - 2.3 Investments in facilities (if it has to do with investments);
 - 2.4 Investment plan (project) ;
 - 2.5 Investment in fixed assets;
 - 2.6 Expenses related to business activity;
 - 2.7 Specification of purchases and sales by tax periods;
 - 2.8 Specification of stocks in the tax periods;
 - 2.9 The regulations used during the manufacturing process (manufacturing businesses);
 - 2:10 Particular specification on Refund / Return including all elements that have resulted in the approval of Refund / return, and
 - 2:11 Other elements that relate to different specifications depending on the type of business activity.
3. For any change of factual situation by the tax inspector, there should begin the procedures of control.

4. If a subject was controlled, then the tax inspector will write a Report on that control. This report will contain in detail the reasons for acceptance or refusal of Refund / Return claim.

These reasons should include:

- 4.1 Verification of business activity;
- 4.2 Verification of application of the open market value;
- 4.3 Investments in facilities;
- 4.4 Investment Plan (project) ;
- 4.5 Investment in fixed assets;
- 4.6 Expenses related to business activity;
- 4.7 Specification of purchases and sales by tax periods;
- 4.8 Specification of stocks in the tax periods;
- 4.9 The regulations used during the manufacturing process;
- 4:10 Material analysis;
- 4:11 Particular specification on Refund / Return including all elements that have resulted in the approval of the refund / return, and
- 4:12 Other elements that relate to different specifications depending on the type of business activity.

5. This report will be signed by the tax inspector, team leader and manager and, together with supporting documents (Claim, Assessment Notice for Refund / Return, Approval Form by the Director of TAK and AU010, after possible changes resulting from control) will be forwarded to the Department of Control. The report on the control results will be submitted to the taxpayer, upon the approval by the Director of TAK.

6. ATK will not make a refund if the taxable person does not have records and documents, or if there are indications that the data reported in the VAT return in which there was reported the amount of VAT refund and the previous VAT sreturns are not correct. Such indications should be documented in the official report - the Minutes of ATK or Customs officer. Such a tax report provides evidence until the taxable person proves otherwise. By a justified decision, TAK shall notify the taxable person for keeping the Refund and provide an explanation for the reasons of keeping the refund;


7. Refund will be held until the competent Tax Office receives the necessary evidence. documents and missing tax returns. If the documentation is not provided within the deadlines set forth by TAK, the control of VAT refund claim will be closed and the final report which will explain the reasons for not approving the refund claim will be issued and offered to the taxpayer.

Article 7

Forms and clarifications on fulfilling them

1. The following forms will be used during the process of application for Refund / Return :

1.1 Request Form for Refund or Return of assets

 REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVA - REPUBLIC OF KOSOVO QEVERIA E KOSOVËS - VLADA KOSOVA - GOVERNMENT OF KOSOVO MINISTRIA E EKONOMISË DHE FINANCAVE - MINISTARSTVO ZA PRIVREDU I FINANSIJE - MINISTRY OF ECONOMY AND FINANCE ADMINISTRATA TATIMORE E KOSOVËS - PORESKA ADMINISTRACIJA KOSOVA - TAX ADMINISTRATION OF KOSOVO	
Request for refund / return	
Serial number of the document	
Fiscal number of the taxpayer Taxpayer Name Address and location of the taxpayer Municipality Owner / Director	
Telephone Telephone	
Bank Bank account	
Refund	RETURN
[1] Tax type [2] Tax Period [3] The amount claimed for Refund / Return <i>If the request is made for VAT Refund then enter the amount from the box [46] of VAT Declaration</i> [4] VAT paid on import [5] VAT paid on local purchases [6] The amount of overpayment/return Attach justification of credit status Liabilities to TAK <i>All tax liabilities to TAK or Customs liabilities</i> [Eight] Amount claimed for Refund / Return	
I hereby state with responsibility that the information in the request are correct (_____) (_____) ----- <i>name, surname and signature of Applicant</i> <i>Date of request</i>	
(For tax office use only) The data in the application comply with the data in VAT declaration for the relevant period	
<i>Control Officer's Name officer's signature and seal date of receipt</i>	

Instructions for completing the above form for VAT Refund

Fiscal number of the taxpayer:

Every taxpayer should have the fiscal number before filling the claim for refund or over-payment, to obtain a fiscal number should be based on the Instruction no. 07/2009.

Name of registered taxpayer:

Name registered in the VAT registry. Self-employed persons register their full personal name , general partnerships, limited partnerships, limited liability companies, joint stock companies; subsidiaries; permanent units, other companies that register their registration business name exactly as shown in the Instruction for obtaining a fiscal number.

Address and location of the taxpayer;

The taxpayer should always write the correct address , location where he operates with his office, business activity, there should also be specified if the office of the taxpayer that differs from the place where the business activity is run.

Municipality / Region:

The taxpayer must describe the location of the city where he/she runs its activity.

Owner / Director:

The taxpayer must provide accurate data regarding the name of the owner / director of the subject so that this information helps us get in touch with the taxpayer, if necessary. If the company authorizes another representative to deal with these procedures, he/she must prove the authorization certified at the competent authorities that all the information filled in the application form are correct and that he/she represents the company with full responsibility and bears all responsibilities offered to TAK. There should always be written the contact phone number to communicate, if necessary for any additional documents required by the TAK.

Bank and account number:

Request for VAT refund is paid on the account that you have given in the completed application form. If you write your account in the completed form, a copy of your bank account on the name of taxpayer should be attached also to this form, this copy shall be attached to the document submitted to the treasury if the refund is approved.

If you want your payment of the refund to be made in one bank of another location, enter the full name and address of the bank and your account number. Refund will be paid in euro currency.

Type of tax:

In this field, the taxpayer must describe the type of tax if the claim is for VAT refund or over-payment.

Tax Period:

Tax Period covered by the VAT refund form will always be the last period of the declaration, and if we have any over-payment (return) of assets, there should be noted the period of over-payment.

Amount claimed for refund / Return:

A taxpayer may request refund amount at the end of the calendar quarter, if the taxpayer has been in credit status in each period of the quarter and the end of the quarter the amount of credit

should be over 5.000 Euro. Exporters may claim their refund monthly if the amount of credit exceeds 5.000 euro, see above, there must be completed VAT declaration to prove that the taxpayer has claimed a refund and has completed the declaration.

VAT paid on import:

The taxpayer must provide proof of customs documents for imported goods for the transferred credit , either goods for sale, fixed assets, various investments, machinery, raw materials etc.. These customs documents will prove the credit claimed by the taxpayer.

VAT paid on local purchases:

The taxpayer also should present documentation to prove the credit for local purchases such as: goods for sale, investments, fixed assets etc.. Also, sales for the three months of establishing credit.

- *Why does deductible VAT for the said month exceeds the VAT estimated.*


Overpayment /Return Reason:

The taxpayer must provide a description / explanation of the reasons why does deductible VAT exceed estimated VAT /0}

Liabilities to TAK:

If the taxpayer has an obligation owed to ATK or Custom, then the taxpayer must describe the amount of liabilities in the form . ATK has the right to verify the accuracy of the liability by verifying all the documentation required for certain periods, i.e. an analysis of the request for credit or over-payment verification.

1.2 Assessment Notice Form for Refund / Return of assets:

 REPUBLIKA E KOSOVËS – REPUBLIKA KOSOVA – REPUBLIC OF KOSOVO QEVERIA E KOSOVËS – VLADA KOSOVA – GOVERNMENT OF KOSOVO MINISTRIA E EKONOMISË DHE FINANÇAVE – MINISTARSTVO ZA PRIVREDU I FINANSIJE – MINISTRY OF ECONOMY AND FINANCE ADMINISTRATA TATIMORE E KOSOVËS – PORESKA ADMINISTRACIJA KOSOVA – TAX ADMINISTRATION OF KOSOVO			
ASSESSMENT NOTICE FORM FOR REFUND/RETURN OF ASSETS			
Name of subject: Address and place of the subject: Municipality:		Fiscal no.: Owner: Telephone:	
Type of tax [1]		Tax period [2] _____	
Amount claimed for Refund / Return [3]	 [3]	
The amount approved for Refund / Return [4]	
Liabilities to TAK [5]	
.....	 [6]	
Amount to be transferred to liabilities [6]	
.....	 [6]	
Transferred to:			
Type of tax	Tax Period	Amount for transfer	No.of Evaluation
The amount to be refunded / returned [7] _____ Date			
<i>Signature and Seal of Inspector Signature and stamp of team leader. Signature and Seal Manager</i>			

NOTE:

In case of changes after the control, this form must be forwarded to the form AU010 for the respective period. If the request is made for VAT then you should always pay attention to field {46} of VAT declaration and VAT form AU 010.

JUSTIFICATION:

It should definitely be accompanied by a form AU 010 of the corresponding period for the reason that if by control there are found changes, under declaration, over declarations, etc.. then these changes are made only by AU010 form and this form will only be used for cancellation (breaking) of outstanding credit from the system and its transfer to the taxpayer's account or to other periods if the subject eventually has liabilities to TAK.

Filling the form:

The first part deals with taxpayer's data.

Second Part:

- **Field 1:** *Enter the type of tax.*
- **Field 2:** *Enter the period for which the Refund/Return Claim was made*
- **Field 3:** *Enter the amount requested for Refund / Return by the taxpayer on the occasion of Application. This field should correspond with field 3 of the request.*
- **Field 4:** *Enter the amount which it was ascertained that should be refunded / returned after verification of documentation or after control.*
- **Field 5:** *Enter the current amount of Taxpayer's liabilities*
- **Field 6:** *Enter the amount that would be intended to transfer to liabilities of taxpayer. If liabilities are greater than the amount approved , transfer all the approved amount to the field 6. If liabilities are less than the amount approved then transfer the entire amount of liabilities to the field 6. You'll carry the total of field 6 to the following fields where it is written Transferred to: liabilities depending on the amount of liabilities in the period and different types of taxes.*
- **Field 7:** *Enter the amount to be Refunded / Returned to the taxpayer in his account. Field 7 will be equal to the field 4 minus field 6.*

At the last part, this form will be signed by the Tax Inspector, Team Leader and Regional Office Manager.

1.3 The Form which will be complemented by Region and will be signed by the General Director of TAK:

Refund / Return approval form

(This document is an official payment order for the Treasury Department for the following applicants)

Applicant's Name

Applicant's ID number

Address

Phone Number

Owner / Manager

Type of tax

Entitled to: Return Refund

The approved amount refers to the Return/Refund Application No. _____ Dated
: _____

Please enter the account number

Bank: Branch:

Ordering authority

Director of Tax Administration

Date: _____

This form will always be filled by Region and will be sent along with other documentation to the Department of Control. The day when the TAK Director has signed this form will be calculated as the day of Refund/Return approval.

Article 8
Way and the destination for documentation delivery

1. After the refund request is reviewed by the respective regional office, and after the required documents have been completed such as:
 - 1.1 Report (AU005), if no control was performed;
 - 1.2 Control Report (if control was performed)
 - 1.3 AU010 original;
 - 1.4 Owner's ID Copy;
 - 1.5 Copy of business registration certificate,
 - 1.6 Copy of fiscal number certificate,
 - 1.7 Copy of bank card on business name and confirmation from the bank.

2. These documents should be sent to the Department of Control to be forwarded to the General Director of TAK, who approves or rejects the request. If the director of TAK approves the request, then the forms AU010 can be entered into IT system. After this, region can report the result to the taxpayer. If the Director of TAK rejects the requests, then control will not be considered completed and AU010 forms will be returned to the Region for review. The Director of TAK shall appoint a commission to verify the requests approved by the Regional Offices if he considers it necessary.

Note:

Since the new law on VAT Nr. 03/L-146 begins to apply from 1 July 2010, and according to this law, requirements for filing a claim for refund are calendar quarterly periods and over 5.000 euro credit, then consequently the first requests for refund according to this Law can be accepted only for quarter July, August, September 2010, from 1 October to 20 October 2010.

To be in favor of the taxpayer, there was foreseen that the taxpayers can make the requests during this period (July, August, September) for the second quarter (April, May, June/2010), not limited to the period as foreseen in the new Law on VAT, from the 1st to the 20th day of the following month.

This situation of request filing will be valid until 30 September 2010, where from 1 to 20 October, when the first request will be filed for the third quarter of 2010.

Article 9
Entry into force

This public ruling shall enter into force on the day of its signing by General Director of TAK.

Behxhet Haliti

General Director of TAK
Prishtina, dated ____/____/2010