



BUSINESS SURVEY

**FOREIGN VAT/GST REFUNDS:
MAGNITUDE AND ASSOCIATED COSTS**

Work is currently under way to assess the scope and magnitude of costs associated with foreign VAT/GST refunds, where these are available. This work is tasked to a Technical Advisory Group (TAG) comprising government and business representatives. The TAG considers it useful to collect data from businesses.

To this end, the TAG is asking for input from businesses through the questions attached to this document. The data will be used to determine trends, to estimate magnitude and to calculate simple ratios. Accordingly, the TAG does not require precise data, but would appreciate your best estimates.

[Responses to this questionnaire should be sent to the OECD Secretariat \(stephane.buydens@oecd.org and alain.charlet@oecd.org\) by 10 September 2008](mailto:stephane.buydens@oecd.org)

Background

In February 2006 the OECD launched a project aimed at providing guidance for governments on applying Value Added Taxes (VAT) or Goods and Services Tax (GST) to cross-border trade.

The current lack of international “rules of the game” leads to uncertainties, unintended double taxation or unintended non-taxation, which can be harmful for the development of international trade, in turn affecting both businesses and governments.

The OECD is therefore developing International VAT/GST Guidelines <http://www.oecd.org/ctp/ct>. The immediate focus of the guidelines will be on services and intangibles, with trade in goods being dealt with later.

In this context, OECD countries have agreed on two fundamental principles for charging VAT/GST on internationally traded services and intangibles:

- For consumption tax purposes internationally traded services and intangibles should be taxed according to the rules of the jurisdiction of consumption;
- The burden of value added taxes themselves should not lie on taxable businesses except where explicitly provided for in legislation.

In the context of the second principle above, the words “except where explicitly provided” mean that countries may legitimately place a value added tax burden on business in clearly specified situations, explicitly provided for in legislation. Examples of when this can happen include situations where outputs of the taxpayer are exempt¹ (e.g. financial services, health care, education); where there is a need to secure effective taxation of final consumption (e.g. when the taxpayer makes transactions that fall outside the scope of the tax or the input tax relates to purchases that are not used for its taxable business activity); and where explicit administrative obligations are not met (e.g. insufficient evidence to support input tax deduction).

Normally, the right to recovery of input tax incurred in the course of furtherance of taxable business is operated by reducing the tax payable on outputs over a certain period of time. In some cases, taxpayers pay more tax on their inputs than is due on their outputs and ought in principle to receive refunds. This is true, in particular, of exporters (since their output is zero-rated² if the destination principle applies) and those whose investment purchases are larger than their current sales over the return period (e.g. new or developing enterprises). This is also true for businesses who incur VAT in connection with their business activities in a jurisdiction in which they do not make taxable supplies and are therefore not registered, nor required to be registered, for VAT purposes.

In most cases, goods and services supplied to customers established outside of a jurisdiction are zero-rated. This is normally the case for exported goods and for services and intangibles provided to foreign customers. However, there are situations where businesses incur input VAT in jurisdictions where they are not established or registered. The absence of appropriate procedures to allow non-established businesses to recover VAT incurred on their purchases in a jurisdiction where they are not established or registered or to be relieved from VAT on these purchases may lead to double taxation (e.g. because the foreign input VAT/GST incurred in a foreign country is normally not refundable/deductible in the country where the customer is established and/or because these goods or services can be taxed on importation in this country).

This right for non-established businesses to recover input VAT that is payable is applied in varied ways across jurisdictions. In some countries, this right is allowed by means of granting requests for refunds. However, such recovery procedures can be complex and impose significant compliance burdens, to the point where making such claims is almost discouraged. Moreover, the conditions and procedures for recovery vary considerably between countries. Other countries require registration of the non-established business in order that the business can recover input tax incurred.

¹ For the purpose of this document, a supply is considered as “exempt” when it is not taxed under VAT and there is no right to deduction of the input tax for the provider. In some jurisdictions, such supplies are referred to as “input taxed”.

² For the purpose of this document, a supply is considered as “zero-rated” when it is not taxed under VAT and there is a right to deduction of the input tax for the provider. In some jurisdictions, such supplies are referred to as “exempted”.

Survey Questions

The data will be used to determine trends, to estimate magnitude and to calculate simple ratios. Accordingly, we do not require precise data, but we would appreciate your best estimate. If you do, please make it clear, so that we know how to treat the data.

Responses to this questionnaire should be sent to the OECD Secretariat (stephane.buydens@oecd.org and alain.charlet@oecd.org) by 10 September 2008

1. On an annual basis, what is the global amount of foreign VAT/GST both refunded and not refunded to your business for which domestic businesses would have obtained a credit/refund of input VAT in comparable circumstances?
Please provide both amounts if possible.

2. With regard to the amounts of technically refundable foreign VAT/GST that your business forgoes, is this because of:
 - 2.1. The absence of refund procedures; or

 - 2.2. The cost or complexity of such procedures.

 - 2.3. Please give examples

3. What is the compliance costs involved with foreign VAT/GST refunds? In other words, what are the annual direct and indirect costs of current refund procedures for your business (internal costs and external costs such as costs of outsourcing refund functions, financial costs of late payments, etc)?

4. What are the costs (amounts and nature) involved with organising your business in order to secure refunds or qualify for an exemption/relief in a foreign country? This could include the setting up of a new entity to become a domestic taxpayer, with associated costs of setting up, auditing, personnel, premises, local taxes, income tax, etc.

5. Does your business apply a de minimis threshold when determining whether to apply for foreign VAT/GST refunds where refunds may be permitted? If so, why and what is that threshold?

6. Do you have any other relevant information that you would like to share in respect of your business' experience with foreign VAT/GST and obtaining refunds from foreign jurisdictions where your business is not established?