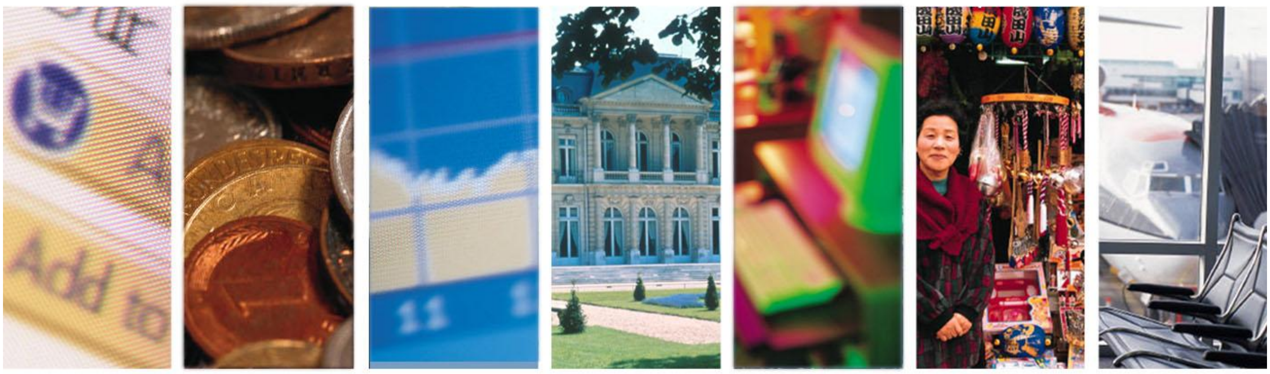
ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT



VAT/GST RELIEF FOR FOREIGN BUSINESSES: THE STATE OF PLAY

A Business and Government Survey

February 2010

Prepared by the Committee on Fiscal Affairs

CENTRE FOR TAX POLICY AND ADMINISTRATION

Table of Contents

Executive Summary

In 2006, the OECD launched a new project aimed at providing guidance for governments on applying Value Added Taxes (VAT) [1] to international trade. As part of this work on developing International VAT/GST Guidelines, the OECD Committee on Fiscal Affairs (CFA) in cooperation with businesses undertook work to ensure that taxation occurs in the jurisdiction of consumption and foreign businesses (i.e. businesses that are neither established nor registered in a jurisdiction) do not unduly support VAT in that jurisdiction.

Indeed, beyond the application of the so-called "Destination Principle" (according to which exports are relieved from VAT and imports are taxed under the same rate and on the same basis as domestic sales), most businesses involved with international trade incur VAT in jurisdictions where they are unable to exert their right to deduct input tax through standard domestic VAT rules. A lack of rules or procedures allowing those businesses to be relieved from or to recover the VAT incurred could contradict one of the principles agreed by OECD countries in 2006 i.e. that "the burden of value added taxes themselves should not lie on taxable businesses except where explicitly provided for in legislation".

In order to assess the nature and extent of the difficulties involved with this situation, the CFA's Working Party on Consumption Taxes agreed in 2007 that information should be collected on the magnitude and nature of the main issues with which businesses and tax administrations are confronted, with a view to assessing whether these issues are significant enough to require remedies. At the same time, information in respect of best practices would also be collected.

Surveys were undertaken in 2007 and separate questionnaires were sent to tax administrations and businesses. The surveys focused on how the procedures actually work in practice rather than on how they have been set by law. The aim of this exercise was not to make an exhaustive list of difficulties country by country but, rather, to assess the difficulties with which businesses and tax administrations are confronted more generally.

The outcome of the survey on administrative practices with governments shows that, at least in OECD countries, procedures exist almost everywhere to fully or partially relieve foreign businesses of the local VAT burden. However, these procedures include a multitude of individual procedures according to local legislation and practices. These procedures are generally divided into two groups of countries: those where a wide range of zero-rating provisions exist for supplies to foreign businesses (these countries tend to supplement their rules with the ability to register for VAT – with or without restrictions – and with other business simplifications) and those where local VAT is charged on certain supplies to foreign businesses and where a form of direct refund procedure is available. Formalities to recover this input VAT vary widely across countries, which may create difficulties, in particular for businesses incurring VAT in multiple jurisdictions. In addition, a number of countries require some kind of reciprocity with the claimant's home country in order to allow for refunds to be made. This is mainly based on the requirement that these countries provide similar

[1] Some jurisdictions adopt a "Goods and Services Tax" (GST) which is a form of value added tax. For ease of reading all value added taxes will be referred as "VAT".

advantages to their businesses when they incur consumption taxes there. However, there appears to be a lack of consistency in the application of reciprocity by different countries.

The outcome of the business survey shows that 308 businesses responded to the questionnaire, which confirmed the interest created by the issue and provided a sample large enough to draw valid conclusions. The survey revealed that 80.2% of businesses incur expenditure in foreign countries and almost all of them (i.e. 95.5%) do so in more than one country. Of those, 94.7% incur VAT on such foreign expenditure. A significant proportion of businesses (nearly 21%) are unable to recover any of such foreign VAT, citing a range of reasons, many of which are a direct result of tax authorities' policies or procedures.

Businesses incur significant amounts of VAT on foreign business expenditure: over 80% incur more than USD 10 000 per annum and over 25% incur more than USD 1 million per annum.

Not all foreign VAT claims fall into the common category "travel expenditure & conferences/trade shows". Whilst almost all businesses would incur foreign VAT on such expenditure, a significant number incur foreign VAT on goods (inc. tooling, stock, etc.) and general services (inc. professional and back office services).

Almost 72% of businesses expressed a degree of difficulty with procedures for refunds. Key difficulties seem to be communication with the authorities, including guidance, forms and procedures and speed of repayment. This is echoed by the fact that at least 56.4% of businesses outsource the function of managing foreign VAT claims, citing local language as well as cost efficiency as the main factors for doing so.

About half of respondent businesses recover 50% or less of the foreign VAT they incur and a quarter recover less than 25%. In terms of doing business in a particular jurisdiction, over one-third of businesses are influenced by the potential to incur foreign VAT and nearly 40% have implemented legitimate alternatives to avoid paying it or going through refund procedures.

It appears from the replies to the questionnaire that businesses would mainly like to see improved communication with tax administrations, including in terms of administrative guidance (clarity of the rules), interaction with individual businesses (taxpayer service) and actual means of communication (use of modern communication technologies). The replies also indicate that harmonisation and standardisation of the rules and procedures and quicker repayments from tax authorities would be considered by businesses as significant improvements to refund procedures. The CFA will continue to work on these issues with a view to helping countries improve their VAT relief methods and procedures whilst at the same time providing safeguards against fraud.

I. Introduction

1. The OECD work on VAT/GST Guidelines

1. Recent work, led by the OECD's Committee on Fiscal Affairs (CFA) in cooperation with businesses, has revealed that the current international consumption taxes environment, especially with respect to trade in services and intangibles, is creating obstacles to business activity, hindering economic growth and distorting competition. Complex, unclear or inconsistent rules across jurisdictions are difficult to manage for revenue bodies and create uncertainties and high compliance costs for businesses.

2. To address these issues, the CFA has been working since 2006 on the development of the OECD International VAT/GST Guidelines (www.oecd.org/ctp/vatguidelines) (Guidelines). These will include a broad range of issues in the VAT area including taxation of international trade and refund mechanisms. Details on the progress of this work can be found on the OECD website http://www.oecd.org/ctp/ct.

3. Pending completion of the Guidelines, OECD countries have agreed in 2006 on two fundamental principles:

   - 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.

4. In this context, the CFA clarified the following: *"[the] words "except where explicitly provided" mean that countries may legitimately place a value added tax burden on business. Indeed, this is frequently the case as the following examples illustrate:*

   - *Where transactions made by the taxpayer are exempt because the tax base of the outputs is difficult to assess (i.e., many financial services) or for policy reasons (health care, education, culture).*
   - *Tax legislation may also impose value added tax on businesses to secure effective taxation of final consumption. This will be the case when the taxpayer makes transactions that fall outside the scope of the tax (e.g., transactions without consideration) or the input tax relates to purchases that are not wholly used for furtherance of taxable business activity.*
   - *Countries also provide legislation that disallows input tax recovery where explicit administrative obligations are not met (e.g., insufficient evidence to support input tax deduction).*

For the purposes of these principles, however, any such imposition of value added tax on business should be clear and explicit within the legislative framework of the tax." [2]

5. The Guidelines are being developed by OECD governments, drawing on input from businesses and from non-OECD economies. In its work, the CFA's Working Party n° 9 on Consumption Taxes (Working Party) is assisted by a Technical Advisory Group (TAG) made up of academics and government and business[3] representatives.

2. Relieving VAT for Foreign Businesses

6. The second principle (the burden of value added taxes themselves should not lie on taxable businesses except where explicitly provided for in legislation) is normally applied to international trade through the destination principle according to which exports are relieved from VAT and imports are taxed under the same rate and on the same basis as domestic sales. However, there are inevitably a number of cases where the standard rules will not apply and where foreign businesses will incur VAT in a jurisdiction where they are neither established nor registered. A number of jurisdictions allow foreign businesses to recover that input VAT incurred in these jurisdictions. However, this right is applied in varied ways across jurisdictions and recovery procedures, where they exist, can be complex and impose significant compliance burdens. As part of the development of the Guidelines in this area, the Working Party agreed in 2007 that information should be collected on the magnitude and nature of the main issues with which businesses and tax administrations are confronted, with a view to assessing whether these issues are significant enough to require remedies.

7. This data gathering work is finished and its results are outlined in this document, which has been approved by the CFA in January 2010. This document comprises another four parts:

- A description of the framework and methodology applied to the surveys, as well as a summary of other information that has been considered (Chapter II);
- A review of existing relief procedures (Chapter III);
- The result of the survey with governments on administrative practices (Chapter IV); and
- The result of the survey with businesses on their practical experiences (Chapter V).

[2] CTPA/CFA (2006) 8.

[3] Business experts participate to the International OECD VAT/GST Guidelines project through the Business and Industry Advisory Committee to the OECD (BIAC).

II. Assessing the Nature and Extent of the Issues

1. Methodology

8. The data-gathering work was undertaken by means of questionnaires sent to government delegates to the Working Party (between June 2007 and November 2008) and questionnaires aimed at businesses placed on the OECD Website (in July 2008 and in June 2009). The surveys focused on how the procedures actually work in practice rather than being limited to how they have been set by law. The aim of this exercise was not to make an exhaustive list of difficulties country by country but, rather, to assess the difficulties with which businesses and tax administrations are confronted. At the same time, information in respect of best practices would also be collected.

9. This work was limited to:

- "Foreign" businesses, i.e. how businesses that are neither established nor registered/ required to be registered in a jurisdiction as a result of their day-to-day activities can recover VAT incurred (or avoid VAT being charged) in that jurisdiction in respect of the purchase of goods, services, intangibles or other things used for business purposes;
- VAT-type taxes. It does not deal with other consumption taxes such as retail sales taxes and excise duties;
- International issues; and
- Business-to-Business transactions. VAT refund or relief procedures for tourists and personal export schemes are not covered by this work.

Customs and VAT procedures for the export of goods were also left outside the scope of this work.

10. The review work was not limited in geographical terms although the data-gathering exercise in respect of the government administrative practices was mainly focused on OECD countries.

11. Finally, some difficulties may also arise in situations where the right to deduct input tax is limited for certain businesses e.g. when all or part of their outputs are VAT exempt[4]. The question arises as to whether and to what extent the VAT incurred in a foreign country should be refunded, since the scope for exemptions may vary from one country to another and distortions of competition may occur for that reason. This issue is left outside the scope of this work.

[4] In this context, exemption means that no VAT is chargeable by the supplier and the supplier is unable to recover any input tax incurred in the process of making such supplies. In some jurisdictions, exemption is referred to as "input taxation".

2. Questionnaires on Governments' Administrative Practices

12. Work started with an analysis of the circumstances in which businesses incurred foreign VAT and an assessment of the current refund/recovery mechanisms. A questionnaire on administrative practices was subsequently sent to tax administrations of OECD countries and selected non-OECD economies[5] to compile a summary of the legislation and administrative practices in place.

13. This questionnaire was followed by additional questions to governments in May and November 2008. The summary of the findings of this survey is outlined in Chapter IV of this publication.

3. Questionnaires on Business Experience

14. A questionnaire on business experience was published on the OECD website in July 2008. From the responses obtained, it appeared that many businesses found it difficult to quantify the foreign VAT incurred and not refunded. However, the vast majority of responses clearly indicated difficulties with the current procedures for obtaining foreign VAT refunds.

15. Drawing from this experience, a second questionnaire was published on the OECD website in June 2009. This new questionnaire, an electronic version using interactive technology, included both quantitative (e.g. amounts involved) and qualitative (e.g. "how easy/difficult is it to claim foreign VAT?") questions to measure businesses perceptions and opinions, as well as descriptive questions (e.g. "what best describes the foreign VAT that you incur?") to assess exposure to business and their attitude to foreign VAT. The questionnaire was distributed widely and 308 responses were received. The detailed outcome of this survey is outlined in Chapter V of this publication.

4. Data from Other Sources

16. There has been some work undertaken in the past on aspects of indirect taxation, including the recovery of foreign VAT and related issues. Collectively, these other works have tended to bear out the conclusion that there are problems with existing procedures, even if they do not go on to suggest possible solutions.

17. In addition to recent work done by the International Monetary Fund (IMF), two pieces of work that would certainly be worth keeping under review are the work that is being done

[5] Argentina, Chile, China, India, Israel, Morocco, Russia, Slovenia, and South Africa.

within the EU on its own internal refund procedure[6] and the current work being done by the Australian government.

18. Regarding VAT refunds in general (both domestic and international), according to IMF research, "refunding of credits […] has been a source of tension between tax authorities and the business sector and, in some countries, has led to complex administrative measures that have significantly undermined the functioning of the VAT system"[7].

19. Work within the EU arose as a result of complaints from businesses about the complexity of the existing paper-based procedure and the delays associated with it. Indeed, at the time of making the proposal for a change at the end of 2005, the EU Commission estimated that 53.5% of large companies had not requested refunds to which they were entitled at some point due to these problems[8]. The EU Member States have since agreed to introduce an electronic procedure for their own internal refund procedures, with tighter deadlines and penalties on Member States if these are not met. That procedure became effective within the EU with effect from 1 January 2010.

20. In Australia, a recent discussion paper[9] notes that although there are limited legislative impediments to registration by non-residents, identification and documentary requirements may be practical impediments to registration for some.

21. The consultative paper reacts to these concerns by posing a number of questions including how to directly address them and alternatively whether a direct refund procedure should be introduced. In the latter case the question is also raised of whether direct refunds should be based on reciprocal agreements with other countries as in some European Union countries.

[6] Council Directive 2008/9/EC of 12 February 2008, Official Journal of the European Union L44 of 20 February 2008 p.23, formerly known as the EC 8th VAT Directive.

[7] IMF Working Paper WP/05/218 VAT Refunds*:* A Review of Country Experience, Harrison, G. and Krelove, R. IMF 2005.

[8] See Report from the European Commission COM(2004)728 FINAL.

[9] Review of the Application of GST to Cross-Border Transactions, Discussion Paper, The Australian Board of Taxation, July 2009.

III. Relief Procedures

1. Overview

22. Since the early results from the data-gathering work showed that 20 of the 31 countries that responded to the questionnaire were using direct refund procedures, additional work was devoted to this specific mechanism. However, this does not mean that this mechanism is considered "preferable" to other existing mechanisms.

23. Although there are many individual procedures that aim to relieve foreign businesses of the local VAT burden, countries that operate a VAT system are generally divided into two groups:

- Countries where a form of direct refund procedure is not available, but where there is generally a wider range of zero-rating provisions for supplies to foreign businesses. These countries tend to supplement their rules with the ability to register for VAT (with or without restrictions) and with other business simplifications;

- Countries where it is expected that local VAT will be charged on certain supplies to foreign businesses (by virtue of the rules determining the taxation of supplies), hence where a form of direct refund mechanism is available with or without restrictions.

Examples of procedures from these two groups follow.

2. Relief Procedure in New Zealand

24. New Zealand's approach to attaining neutrality in relation to international services is first to zero-rate supplies to non-residents who are outside New Zealand at the time of performance and secondly to zero-rate a range of other specific supplies. Exports of goods and certain services in connection with the export of goods are also zero-rated.

25. Non-resident businesses may, in certain circumstances, also register for VAT and claim refunds of VAT charged where inputs exceed outputs.

3. Relief Procedure in Canada

26. Generally, Canada does not utilise refund procedures to deal with VAT properly payable by foreign businesses not registered for Canadian VAT purposes. Canada does rely extensively on zero-rating to provide relief to foreign businesses where appropriate. However, the zero-rating rules do not provide relief in all cases. Therefore, assuming zero-rating relief is not available and depending on the facts and circumstances, the Canadian VAT rules may provide relief in another form for foreign businesses by involving Canadian VAT-registered suppliers and customers who are transacting with the foreign businesses.

27. For example, one such rule allows for no VAT to be charged to a foreign business on an otherwise taxable supply of goods in Canada provided the supplier to the foreign business receives a "drop shipment certificate" from a VAT registered person (e.g., the foreign business' Canadian customer) who is physically receiving the goods in Canada from the supplier.

28. Another rule allows a foreign business to "flow through" VAT paid on the importation of goods into Canada or paid to a VAT registered person to its VAT registered customer or supplier, who will in turn recover that VAT through its VAT returns. For both of these rules, there is a VAT registered person in the process to which the government authorities can enforce action against should it be determined that the VAT relief that was obtained was not appropriate.

4. Relief Procedure in Morocco

29. Morocco does not operate a refund procedure for foreign businesses that incur VAT on their Moroccan purchases. To achieve neutrality in respect of supplies to international businesses, Morocco relies primarily on the zero-rating of exported goods and services.

30. This is complemented by a procedure available to certain qualifying industry sectors, where, subject to certain conditions, qualifying foreign businesses are issued with a VAT exemption certificate allowing them to buy free of VAT certain purchases that would otherwise be subject to the applicable VAT rate, such as supplies where consumption occurs in Morocco and supplies that are not exported (e.g. oil prospecting, foreign cinematographic production, etc.).

5. Relief Procedure in the European Union

31. European businesses, which incur VAT in connection with their business activities in a Member State of the European Union in which they do not make supplies of goods or services, are entitled to deduct the VAT charged in that Member State. This "deduction" is by means of an effective VAT refund by the Member State in which the VAT was paid. However, some Member States apply limitations to this right to deduct input VAT

(e.g. restaurant costs, entertainment activities, cars, fuel etc.). From 1 January 2010, the paper-based procedure for reimbursement of VAT incurred by these EU business persons has been replaced by a new and fully electronic procedure[10]. The new procedure is expected to facilitate claims and ensure a quicker refund. Another new feature is that interest will be paid if Member States make late refunds.

32. Businesses not established within the European Union that incur VAT in connection with their business activities in a Member State, in which they do not make supplies of goods or services, are in principle also entitled to deduct the VAT charged in that Member State. This 'deduction' is again by means of a VAT refund from the Member State in which the VAT was paid, but may be conditional upon the granting by third countries of comparable advantages regarding turnover taxes. This refund procedure was not changed on 1 January 2010[11].

6. Conclusion

33. The previous paragraphs highlight the fact that OECD countries and non-OECD economies take different approaches to ensure that foreign businesses involved in international trade do not suffer a local VAT burden. In addition to the two mainstream procedures of wider range zero-rating provisions and refund procedures, other supplementary approaches have been identified, such as refunds through registration, shifting responsibility onto locally registered suppliers/customers and the granting of purchase exemption certificates. It is likely that other procedures and specific reliefs exist and that countries may use a combination of different approaches.

[10] Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (Official Journal L 44, 20.2.2008, p. 23). Prior to 1 January 2010, the rules for such refunds were provided for in the Eighth Council Directive 79/1072 /EEC of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (Official Journal L 331, 27.12.1979, p. 11).

[11] Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory (Official Journal L 326, 21.11.1986 p. 40).

IV. Results from the Government Survey

34. Since refund approaches are used by a majority of OECD countries, the following paragraphs examine in more detail some of the main features and possible problems that are linked to the refund procedure.

35. This outline does not, however, represent a comparative study of the advantages and disadvantages of the different relief procedures and is therefore not intended to promote or, on the other hand, to discourage the choice or use of a particular relief procedure.

1. Time Limits to Submit Refunds

36. In most countries, there are strict time limits for submitting refund claims and the right to refund is lost after the time limit has expired. However certain countries have procedures in place for late applicants. For example, in one country, non-established businesses have the right to object to the foreclosure decision by filing a justified complaint. In another one, late applications are taken into consideration, as long as it is less than five years since the end of the year to which the application relates.

2. Restrictions to Refunds

37. Generally, countries do not apply specific restrictions on foreign businesses regarding the type of expenses that give rise to a right for refund. However, three countries do apply some restrictions. In the first one, refunds to foreign businesses are limited to certain expenses such as purchase of goods and services relating to transportation activities and participation in fairs and exhibitions. In the second one, refunds of VAT incurred on the purchase of fuel are excluded for certain claimants, based on the country where they are established. The last one applies a limited list of items for which refunds to foreign businesses are allowed.

3. Formalities

38. Countries usually require claimants to provide original invoices and tax registration certificates to support their refund claims. These documents do not normally require notarisation but this is the case in a couple of countries. In one of them, the document substantiating that the claimant qualifies as a business must be authenticated by the authorities of the country in which the claimant is established if that country is not party to

The Hague Convention[12]. In the other, refund claims completed by an intermediary should be supported by a notarised 'Letter of Authority'.

4. Reciprocity

39. Ten respondent countries require some kind of reciprocity with the claimant's home country in order to allow refunds to be made.

40. In particular, EU Member States are allowed to use reciprocity as a condition for refunding to non-EU businesses under Directive 86/560/EEC, widely known as the 13th VAT Directive. This is mainly based on the requirement that these countries provide similar advantages to their businesses when they incur consumption taxes (VAT/GST or sales taxes) there.

41. The requirements for reciprocity generally take two main forms: the requirement for formal bilateral agreements between countries (required by six countries) or unilateral decisions to recognise countries considered as having (or not having) appropriate features in their legislation (four countries). A mix of these forms of reciprocity requirements can exist in countries where formal reciprocity agreement with the country of the claimant is not required. However, each claimant must provide a certificate showing that their home country recognises reciprocity of treatment. There is no such requirement for countries with which a formal bilateral agreement exist (one country).

42. Generally, it seems fair from a policy perspective for a country to allow refunds or relief to a foreign business that is not registered in that country having regard to the fact that:

(i) This is in line with the principle of neutrality (i.e., a foreign business should not be disadvantaged nor advantaged compared to a domestic business); and

(ii) The home country of the foreign business would provide the same or similar relief to a foreign business incurring VAT in that home country.

Taken together, factors (i) and (ii) provide the rationale for reciprocity and, ultimately, for fair and equitable results.

43. There appears to be a lack of consistency in the application of reciprocity by different countries. For example, the term "turnover tax" does not seem to be consistently defined as relating to a tax collection in a staged process. Some countries have a black and white list of countries for allowing claims but these differ between countries. Moreover, there appears to be a narrow view of what is considered to fall within the realm of reciprocity.

[12] The Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents is a convention of the Hague Conference on Private International Law signed in 1961. It specifies the modalities through which a document issued in one of the signatory countries can be certified for legal purposes in all the other signatory states. Such a certification is called an apostille. It is an international certification comparable to a notarisation and is often added to documents that have been in some manner signed by a notary, lawyer or other public official.

44. To this end, where alternative means of relieving VAT are adopted (as per paragraphs 24 to 30 above, e.g., broader zero-rating, relying on domestic registrants as a conduit for relief, voluntary registration[13], purchase exemption certificate, etc.), these are likely to achieve the same result that the burden of value added taxes themselves does not lie on the foreign business, except where explicitly provided for in the legislation.

5. Exposure to Refunds

45. The exposure of countries to cross-border refund claims varies widely (see Table 1 overleaf). Five countries deal with more than 50 000 claims a year while eleven countries deal with less than 10 000 claims a year. On average, countries deal with 27 500 claims a year, with two countries well above (more than 100 000 claims a year) and four countries well below (less than 1 200 claims a year).

46. The percentage of amounts claimed that are actually refunded appears relatively high, with an average of 78.7% and with ten countries above 90%; eight countries between 70% and 90% and only two countries below 50%.

47. The average amount refunded by claim varies widely between countries from USD 3 235 to USD 136 791, with an average of USD 20 530.

48. Notes for reading Table 1:

- The average amount refunded by claim is calculated by dividing the global amount refunded by the number of claims received and actually refunded.

- An approximation of the number of claims received and actually refunded is obtained by applying the percentage of the amounts claimed and actually refunded to the number of claims. This is not perfectly accurate since it compares the percentage of amounts refunded with the number of claims received, but it provides a good approximation for comparison purposes.

- For Member States of the European Union, figures show the amounts relating to refunds to non-EU claimants only (i.e. 13th VAT Directive claims).

[13] In cases where refund mechanisms to foreign businesses are not available, some countries allow non-established businesses to voluntarily register and reclaim the VAT incurred through a standard VAT return. However, this registration may be submitted under certain conditions and have an impact on the claimant's rights and obligations in the country. In some countries registration under a local VAT number is not possible unless the business makes taxable supplies in the country. In some cases, registration may influence the broader VAT treatment of cross-border services e.g. the supplier paying the VAT rather than it being accounted for by the customer through the reverse-charge mechanism, where this is in line with local practices.

Table 1				
Countries' exposure to refunds				
Countries	Number of refund claims received	Amounts actually refunded	Percentage of the amounts claimed actually refunded	Average refund by claim
A	52	4 765 803	67.0%	136 791
B	146	1 200 000	90.8%	9 052
C	1 000	8 360 000	76.0%	11 000
D	1 100	27 500 000	70.0%	35 714
E	2 422	29 833 870	60.2%	20 462
F	3 000	48 000 000	74.2%	21 563
G	3 055	63 271 000	93.0%	22 270
H	3 622	11 000 000	76.0%	3 996
I	4 500	71 617 000	75.0%	21 220
J	5 279	52 181 000	88.0%	11 233
K	9 731	366 000 000	99.1%	37 953
L	10 000	41 887 000	90.0%	4 654
M	10 947	108 000 000	40.0%	24 664
N	13 000	159 000 000	94.2%	12 984
O	15 000	114 000 000	94.0%	8 085
P	16 000	175 000 000	77.0%	14 205
Q	20 000	90 000 000	96.6%	4 658
R	20 400	236 626 000	92.0%	12 608
S	51 700	689 000 000	95.0%	14 028
T	60 000	725 000 000	96.7%	12 496
U	63 818	477 000 000	85.0%	8 793
V	103 000	873 000 000	Not available	Not available
W	212 605	6 877 000	1.0%	3 235
Average	27 408	190 396 464	78.7%	20 530
All the amounts are in USD				

6. Fraud and Avoidance Issues

49. Granting refunds to businesses with no "legal" presence in a country inevitably brings an element of risk for tax administrations. The absence of any jurisdictional power over that business or the lack of appropriate exchange of information procedures or assistance in recovery may well leave the tax administration exposed to fraudulent claims, with no legal provision for imposing or enforcing penalties, nor with any hope of recovering any undue refund payments. Recent modernisation work in the European Union (reform of the internal EU refund procedure) recognised the importance of the link between reliable exchange of information procedures and administrative cooperation and the development of simpler and more efficient refund procedures.

50. The OECD has worked on improving the legal framework for exchange of information for both direct and indirect tax purposes. Article 26 of the Model Tax Convention on Income and Capital provides that "the competent authorities of the Contracting States shall exchange information as is foreseeably relevant […] to the administration and enforcement of the domestic laws concerning taxes of every kind and description". The extension of

Article 26 to cover taxes of every kind and description was introduced in 2000 (previously, exchange of information was limited to the taxes covered by the Convention). An increasing number of bilateral treaties are based on the updated Article 26 and include exchange of information for VAT purposes, although the revision of bilateral treaties will take considerable time.

51. Another tool is the joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters, which provides for exchange of information on all taxes. The fourteen countries[14] which are already parties to the Convention can exchange VAT information under this instrument.

52. Other tools for exchange of information in tax matters (including VAT) also exist, such as the Nordic Mutual Assistance Convention on Mutual Administrative Assistance in Tax Matters[15] and European Union Regulation No 1798/2003 of 7 October 2003.

[14] Parties to the Convention are: Azerbaijan, Belgium, Denmark, Finland, France, Iceland, Italy, Netherlands, Norway, Poland, Sweden, Ukraine, United Kingdom and United States. Canada, Germany and Spain have signed the Convention and are still in the process of ratification.

[15] Parties to the Convention are: Denmark, Finland, Iceland, Norway and Sweden.

V. Results from the Business Survey

1. Highlights

H1. The answers show a very broad representation of companies and industries, as well as business sizes and geographic locations, with no abnormal dominance that could distort the analysis. This enables some solid and credible conclusions to be drawn.

H2. 80.2% (247) of businesses incur expenditure in foreign countries and, of those, 95.5% (236) incur it in more than one country, with a good spread across the different regions of the world.

H3. 94.7% of the main panel, the 247 respondents that incur business expenditure in foreign countries, declared that they incur VAT on their foreign expenditure.

H4. Nearly 21% of businesses are actually unable to recover any of the foreign VAT they incur on business expenditure.

H5. Less than 20% of businesses are actually able to recover the foreign VAT they incur on business expenditure in all the countries where they incur VAT on such expenditure.

H6. Within the range of reasons why businesses are not able to recover foreign VAT, many are a direct result of tax authorities' policies or procedures.

H7. 90.9% of businesses use direct VAT claims and 42.7% of businesses use local VAT registration to seek foreign VAT refunds.

H8. Over 98% (225 out of 228) of businesses are aware of the magnitude of the amounts of foreign VAT that they incur.

H9. Businesses incur significant amounts of VAT on foreign business expenditure. The answers show that:

- Over 80% incur more than USD 10 000 per annum;
- Over 50% incur more than USD 100 000 per annum; and
- Over 25% incur more than USD 1 million per annum.

H10. The 98 businesses that were able to provide a geographic allocation of the foreign VAT that they incur on business expenditure indicated that they incur, collectively, just over USD 1 billion of foreign VAT per annum.

H11. The respondents to the survey incur VAT in all parts of the world, with a dominance of Europe and, in particular, the EU Internal Market.

H12. Not all foreign VAT claims fall into the common category "travel expenditure & conferences/trade shows". Whilst almost all businesses would incur foreign VAT on such expenditure, a significant number incurs foreign VAT on goods (inc. tooling, stock, etc.) and general services (inc. professional and back office services).

H13. A high proportion of businesses find procedures for refunds generally difficult to contend with – almost 72% expressed a degree of difficulty.

H14. Key factors determined by businesses to assess the ease or difficulty of a foreign VAT refund procedure seem to be:

- Communication with the authorities, including guidance, forms and procedures; and
- Speed of repayment.

H15. Local language and cost efficiency are the main factors that drive at least 56.4% of businesses to fully or partially outsource the management of their foreign VAT refund claims.

H16. About half of businesses have stopped claiming VAT in some countries, citing "the amounts incurred are not worth the trouble" and/or "the administration is too difficult" as the key reasons.

H17. Half of businesses recover 50% or less of the foreign VAT they incur and a quarter recover less than 25%.

H18. Over half of businesses incur costs to obtain refunds that are 15% or less of the amounts recovered. However, for more than a third of businesses, the costs are between 16% and 50% of the amounts recovered.

H19. According to businesses, tax authorities take a long time to pay, with well over half of all claims taking 6 months or more to be refunded, and half of those taking over a year.

H20. When they do so, businesses seem to be successful in appealing against denied claims, as 89% of those concerned confirm that they have been successful in at least some of their cases.

H21. In terms of doing business in a particular jurisdiction, over a third of businesses are influenced by the potential to incur foreign VAT and nearly 40% have implemented legitimate alternatives to avoid paying it or going through refund procedures.

H22. In order to improve the procedures, businesses would like to see:

- Improved communication with tax administrations, including in terms of administrative guidance (clarity of the rules), interaction with individual businesses (taxpayer service) and means of communication (use of modern communication technologies);
- Harmonisation and standardisation of the rules, procedures and forms; and
- Quicker repayments from tax authorities.

2. Outline of the Summary Analysis

53. This is a summary analysis of the business survey on refund mechanisms. The purpose was to assess the scope and magnitude of VAT incurred by businesses in foreign jurisdictions, businesses' experience with the refund mechanisms available and the scope and magnitude of associated costs.

54. The business survey was based on an online questionnaire that adopted an interactive format, rather than a linear format. Respondents were directed to certain questions, based on their answers, rather than having to answer all questions in order, even if not relevant. Accordingly, none of the respondents had to answer all the 75 questions that made up the questionnaire. In addition, respondents were able to skip certain questions. Overall, it means that the number of respondents per question is not linear. This summary provides the number of responses to the questions analysed.

55. The questionnaire was first made available on the OECD website on 5 June 2009 with a deadline of 17 July 2009 for responses. That was then extended to 14 August 2009. It was promoted via the OECD's normal channels, as well as through business associations, industry groups, international business networks and articles in the specialised press.

56. The questionnaire was organised around 3 main sections:

- Section 1: Tell Us about You and Your Business
- Section 2: Tell Us about Your Business Experience with Foreign VAT
- Section 3: What is Your Business Experience with Foreign VAT Reclaims?

57. This summary analysis is organised in a similar way.

58. At the end of Section 3 of the questionnaire, respondents were also asked to identify things that might make a difference. The responses form the basis for the "Suggestions for the Future" section, which concludes this summary analysis.

3. Section 1: Tell Us about You and Your Business

59. This section is about the profiling of the respondents, to understand who they are, their size, location and type of industry they are involved with.

3.1. Size and Quality of Panel/Sample

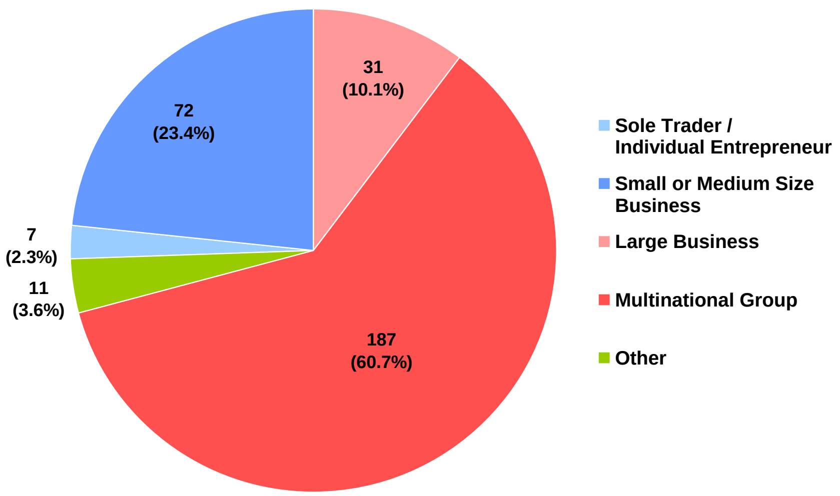
60. 308 businesses responded to the questionnaire. Such a level of participation confirmed the interest raised by the refund issue. The sample is large enough to draw valid conclusions from the responses and provides a good basis for analysis.

61. It is always difficult to determine the "representativeness" of such a sample, drawn from a voluntary response to a questionnaire rather than a selection of businesses within a given population. However, the answers show a broad representation of companies and industries, with no abnormal dominance that could distort the analysis.

3.2. Size/Type of Business

62. Figure 1 shows a dominance of large businesses and multinationals (70.8% – in pink and red) in the composition of the sample/panel. Smaller businesses, such as sole entrepreneurs and small & medium size businesses (SMEs) still achieve a reasonable representation, with 25.7% (in dark and light blue). A small percentage of respondents (3.6% – in green) identified themselves as "other" (including partnerships, charities, etc).

Figure 1: What best describes the business or group you work for?



63. This dominance of larger businesses is expected in a survey that focuses on cross-border trade and therefore confirms the overall quality of the sample/panel.

3.3. Location of Respondents

64. Table 2 overleaf shows that the geographical spread of respondents covers a large number of countries (33 countries). 61.2% are in the EU (thus 38.8% non-EU), 89% are in the OECD

area and 11% outside of the OECD. The dominance of the EU is to be expected because of the Common Market and is, at 61.2%, not an abnormal result.

Table 2			
Select the country where Your Business has its head-office (308 responses)			
N°	Country	Number of Votes	In %
OECD member countries			
1	Belgium*	9	2.9%
2	Canada	45	14.7%
3	Denmark*	2	0.6%
4	France*	22	7.3%
5	Germany*	18	5.9%
6	Hungary*	2	0.6%
7	Ireland*	1	0.3%
8	Italy*	17	5.5%
9	Japan	6	1.9%
10	Korea	1	0.3%
11	Luxembourg*	4	1.3%
12	Mexico	4	1.3%
13	Netherlands*	10	3.2%
14	Norway	4	1.3%
15	Portugal*	32	10.6%
16	Spain*	2	0.6%
17	Sweden*	8	2.6%
18	Switzerland	9	2.9%
19	United Kingdom*	38	12.4%
20	United States	39	12.8%
Total OECD		273	89%
Non-OECD countries			
21	Bulgaria*	2	0.6%
22	Costa Rica	1	0.3%
23	Hong Kong	1	0.3%
24	India	1	0.3%
25	Indonesia	1	0.3%
26	Israel	1	0.3%
27	Jersey	1	0.3%
28	Liechtenstein	1	0.3%
29	Malaysia	1	0.3%
30	Singapore	2	0.6%
31	Slovenia*	21	6.8%
32	Thailand	1	0.3%
33	Togo	1	0.3%
Total non-OECD		35	11%
Total European Union		188	61.2%
Total		308	100%
* = Member States of the European Union			

65. It is true that the survey was conducted in English only, which may have influenced the composition of the sample (essentially for SMEs since English is used in most multinational businesses (MNEs)). Since the survey focused solely on VAT (and not on other taxes) there may be a sample bias towards respondents in jurisdictions with a high VAT profile. However, the geographical coverage of the sample is large enough to avoid any significant geographical distortion in the results.

3.4. Industry of Respondents

66. The responses cover a very broad spectrum of industries, as shown in Figure 2 below and Table 3 overleaf. Manufacturing is the highest with nearly 28%. Intellectual services and financial services (both with 7.8%) follow with consumer goods next (6.2%).

Figure 2: What industry best describes the main activity of Your Business?

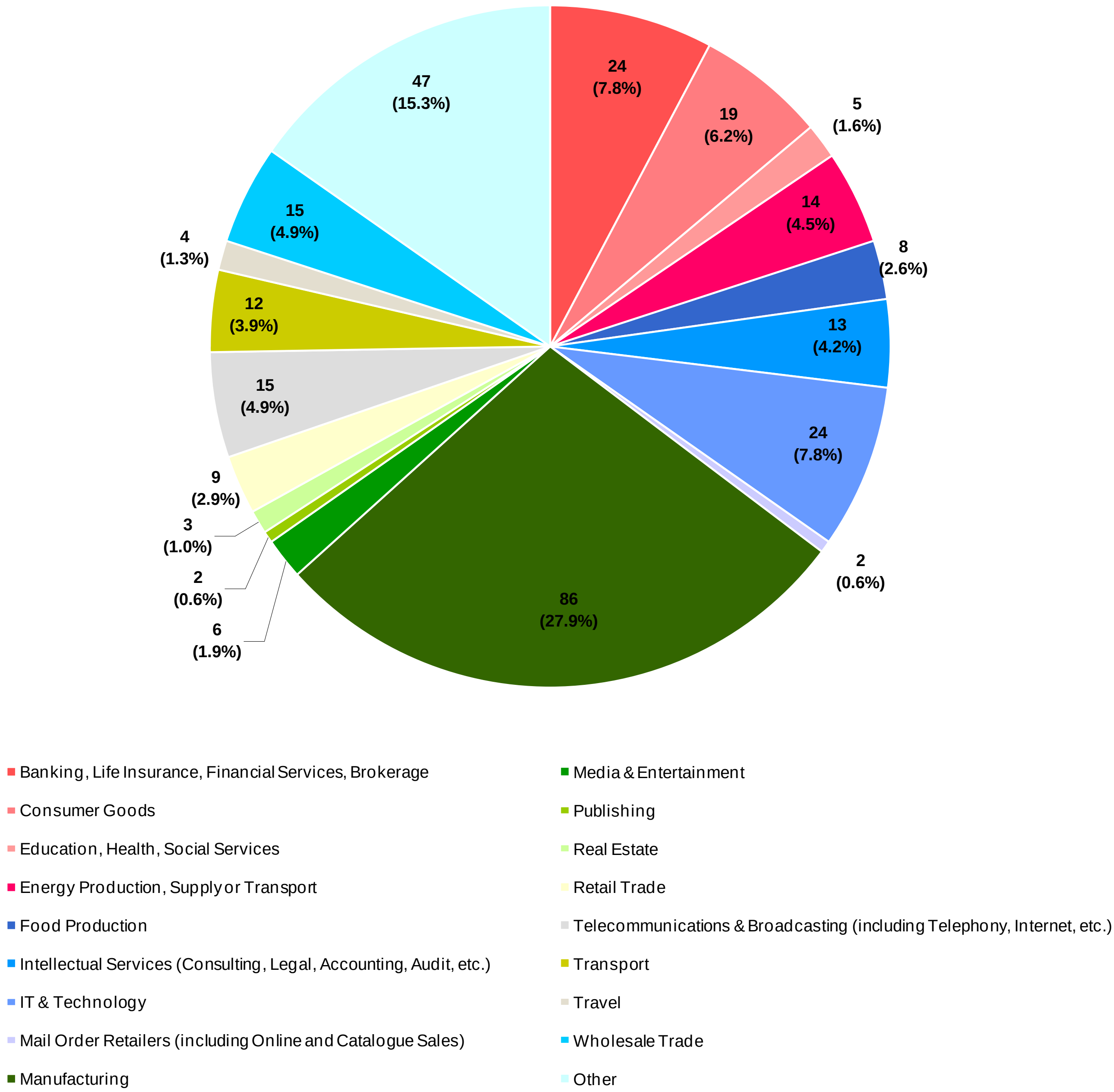


Table 3		
What industry best describes the main activity of Your Business? (308 responses)		
Industry	Number of votes	In %
Manufacturing	86	27.9%
Other *	47	15.3%
Banking, Life Insurance, Financial Services, Brokerage	24	7.8%
IT & Technology	24	7.8%
Consumer Goods	19	6.2%
Telecommunications & Broadcasting (inc Telephony, Internet, etc.)	15	4.9%
Wholesale Trade	15	4.9%
Energy Production, Supply or Transport	14	4.5%
Intellectual Services (Consulting, Legal, Accounting, Audit, etc.)	13	4.2%
Transport	12	3.9%
Retail Trade	9	2.9%
Food Production	8	2.6%
Media & Entertainment	6	1.9%
Education, Health, Social Services	5	1.6%
Travel	4	1.3%
Real Estate	3	1.0%
Mail Order Retailers (including Online and Catalogue Sales)	2	0.6%
Publishing	2	0.6%
Total	308	

* The review of the comments posted by the respondents who selected "Other" shows a wide variety of industries, including automotive, construction, heavy machinery, hospitality and pharmaceuticals, as well as the industries linked to these (such as support and engineering). Several of these respondents also belong to groups involved in several industries.

Highlight 1

The answers show a very broad representation of companies and industries, as well as business sizes and geographic locations, with no abnormal dominance that could distort the analysis. This enables some solid and credible conclusions to be drawn.

4. Section 2: Tell Us about Your Business Experience with Foreign VAT

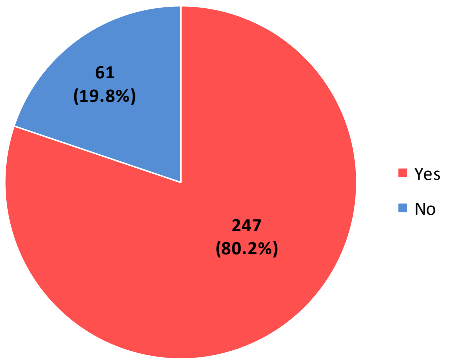
67. This section is about understanding the extent of the respondents' involvement with "foreign" cross-border trade and their exposure to foreign VAT. Respondents were informed that, for the purpose of the questionnaire, "foreign" means a country where the respondents are not established or VAT-registered as a result of their normal day-to-day activities.

4.1. Business Experience with Foreign Business Expenditure

68. Figure 3 shows that 80.2% of the respondents (247) indicated that they incur business expenditure in countries where they are not established or registered as a result of their day-to-day activities. Compared to Figure 1, it shows that SMEs and smaller businesses that completed the questionnaire also incur business expenditure in foreign countries. On the other hand, 19.8% of responses (61) indicated that they do not incur such costs.

69. Taking into account the structure of the interactive questionnaire, these 61 respondents would then have been sent to the very last section of the questionnaire (see section 5.5 of the report). Accordingly, the sub-group of 247 respondents constitutes the main panel for the analysis of the survey.

Figure 3: Has Your Business incurred costs in foreign countries?

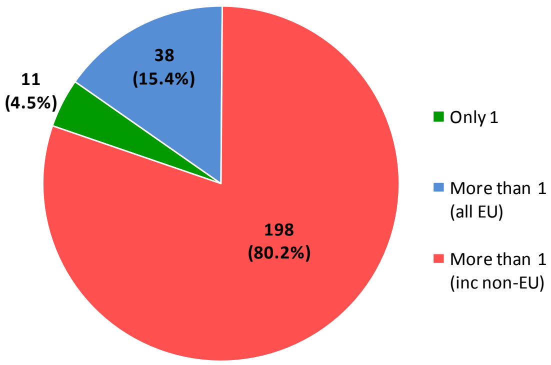


4.2. Countries where Business Expenditure Has Been Incurred

70. According to Figure 4, 4.5% (11 out of 247 businesses) incur expenditure in only one country; 15.4% (38) in more than one country but all within the European Union and the vast majority, 80.2% (198), in more than one country, including one or more outside the European Union. This confirms that the panel is not EU-centric and that the results of the questionnaire are based on an experience of different systems and regions.

71. For businesses that incur business expenditure in only one country, the size of the sample (11 responses) is not big enough to separately draw relevant conclusions as to the geographical spread or difficulties encountered.

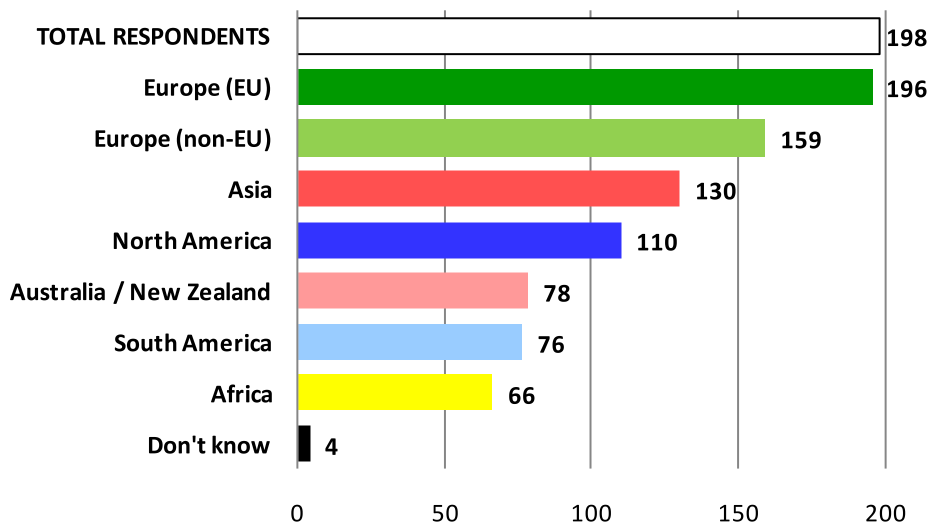
Figure 4: In how many foreign countries has Your Business incurred expenditure?



72. For businesses that incur expenditure in more than one country, but all within the EU, the 38 responses (15.4% of the 247 businesses of the main panel) show a pretty good spread across countries with more than 5 countries per business on average (for a total of 215 votes). Expenditure is incurred in all the 27 Member States, with Germany (24 votes), Spain (20 votes), France (18 votes), Italy (14 votes) and UK and Belgium (13 votes each) being the top 6. This probably reflects the reality of the Internal Market.

73. The vast majority of the main panel of respondents incur expenditure in more than one country and not wholly in the European Union (198 responses, i.e. 80.2% of the main panel). The geographical spread by regions where expenditure is incurred is pretty well balanced (see Figure 5): Europe (EU), 196 votes (99% of the respondents have incurred expenditure in at least one EU country); Europe (non-EU), 159 votes (80.3% of respondents have incurred expenses there); Asia, 130 votes (65.7%); North America, 110 votes (55.6%); Australia/New Zealand, 78 votes (39.4%); South America, 76 votes (38.4%); Africa, 66 votes (33.3%). Only 4 respondents were unable to tell the regions where their expenses were incurred, which is negligible.

Figure 5: In which regions has Your Business incurred expenditure? (multiple choice)



74. 172 respondents gave more detailed information about the countries where the expenses are incurred, providing a spread across 175 countries with an average of 17.8 countries per respondent (3 068 votes). Out of the 175 countries where business expenses were incurred by respondents, 142 have a VAT system in place.

75. The size of the sample and the geographical spread of countries where business expenses are incurred confirm Highlight 1 about the validity of the sample.

Highlight 2

80.2% (247) of businesses incur expenditure in foreign countries and, of those, 95.5% (236) incur it in more than one country, with a good spread across the different regions of the world.

4.3. Is VAT Incurred on the Foreign Business Expenditure?

76. Only 2.8% of the main panel (7 respondents) declared that they do not incur VAT on their foreign expenditure. On the other hand, 94.7% (234 respondents) declared that they incur VAT on such expenditure. Only a marginal number of the main panel (2.5% – 6 respondents) did not know whether they incur such foreign VAT. This reflects the wide spread of VAT across countries and confirms that the main panel has experience of foreign VAT systems.

Highlight 3

94.7% of the main panel, the 247 respondents that incur business expenditure in foreign countries, declared that they incur VAT on their foreign expenditure.

4.4. Who Recovers VAT in Foreign Countries?

77. 20.9% of the respondents (i.e. 49 out of 234) who indicated that they incur foreign VAT said they are unable to recover any of that tax (Figure 6 below).

Highlight 4

Nearly 21% of businesses are actually unable to recover any of the foreign VAT they incur on business expenditure.

78. According to Figure 6, 71.8% (i.e. 168 out of 234 – in green) said they are able to claim but, of that number, 73.3% (i.e. 123 of the 168 – Figure 7 in red and blue) said that they only claim in some or just one of the countries where they incur foreign VAT.

Figure 6: Is Your Business able to recover any of the foreign VAT?

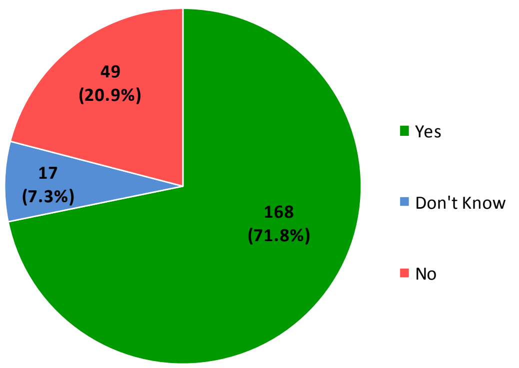
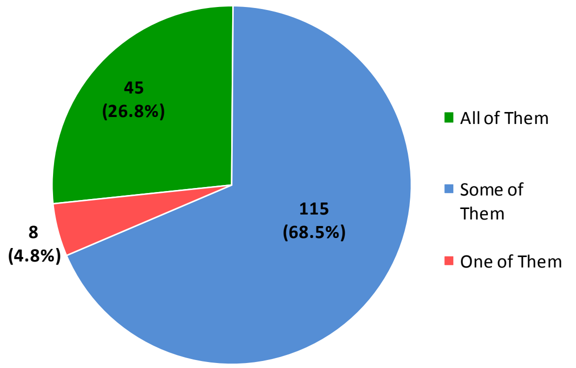


Figure 7: If Yes, in how many countries?



79. Overall, combining the results of Figure 6 and Figure 7 (overleaf), only 19.2% (i.e. 45 of 234 respondents) are able to recover foreign VAT in all the countries where they incur such VAT. 73.5% (i.e. 172 of 234 respondents) do not claim foreign VAT in all the countries where they incur such VAT.

Highlight 5

Less than 20% of businesses are actually able to recover the foreign VAT they incur on business expenditure in all the countries where they incur VAT on such expenditure.

80. When asked about the reasons (multiple choice) preventing them from making foreign VAT reclaims, they selected on average 3.7 reasons, as outlined in Table 4 below.

Table 4		
Why can't Your Business recover the VAT? (172 responses – multiple choice) [16]		
Reason	Number of votes	In % (of 172 responses)
The tax authorities make claiming refunds too difficult	113	65.7%
The tax authorities will not refund VAT to a foreign business	96	55.8%
The amounts involved are too small	88	51.2%
The costs of recovery are too high	79	45.9%
There is no reciprocity arrangement between the two countries	67	39.0%
It would need to register for VAT	60	34.9%
The tax authorities will not allow a foreign business to register & recover VAT without having a taxable activity in the country	46	26.7%
The tax authorities will not allow a foreign business to register & recover VAT without creating a branch or another establishment in the country	45	26.2%
The accounting system does not identify the VAT incurred abroad	24	14.0%
Some other reason	4	2.3%
Total	622	

81. The main factor, chosen by two thirds of the respondents is that the tax authorities make claiming refunds too difficult. The second highest factor, chosen by over half of the respondents is that the tax authorities will not refund VAT to a foreign business. Taken together with the requirement to register and the associated difficulties (i.e. having an establishment in the country or having a taxable activity in the country) this means that more than half (57.8% or 360 votes out of 622 – in red and pink in Table 4) of the votes concentrate on the difficulties imposed by foreign tax authorities on non-established and non-registered businesses, in relation to foreign VAT reclaims.

[16] This question allowed for multiple choice responses, so each respondent may have chosen more than one reason. With a total of 622 votes, the average here is actually 3.7 votes per respondent.

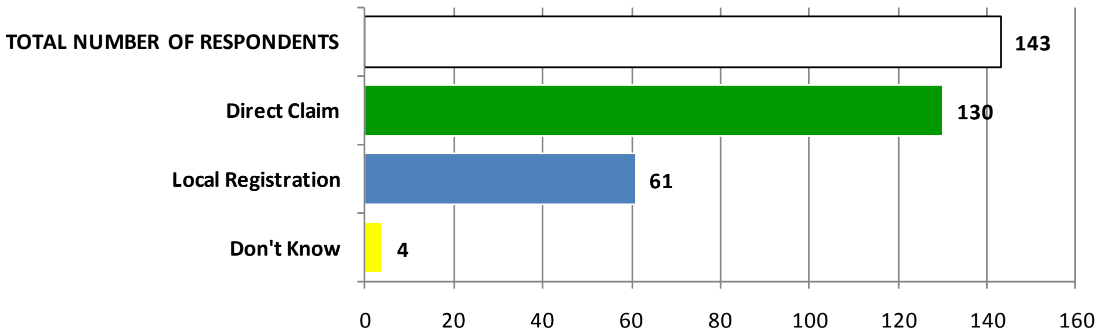
82. The other 2 reasons (of the top 4 – in blue in Table 4) confirm that businesses apply a common cost/benefit test when assessing whether to reclaim foreign VAT. Further information on amounts and costs is available later in this report (see sections 4.5 and 5.4).

Highlight 6

Within the range of reasons why businesses are not able to recover foreign VAT, many are a direct result of tax authorities' policies or procedures.

83. As regards the method of recovery (Figure 8 below), 90.9% (130 out of 143) of the respondents indicated that they use direct refund claims whilst 42.7% (61 out of 143) use local VAT registration. A proportion of respondents use a combination of both methods. Only 2.8% of respondents did not know the way foreign VAT was recovered. In the questionnaire, both methods have been combined.

Figure 8: What are the methods of foreign VAT recovery? (multiple choice)



Highlight 7

90.9% of businesses use direct VAT claims and 42.7% of businesses use local VAT registration to seek foreign VAT refunds.

4.5. What Is the Magnitude of the Foreign VAT Incurred?

84. According to Figure 9 overleaf, the 228 respondents that incur VAT on foreign business expenditure are generally well aware of the amounts at stake. Indeed, 18.9% (43) of the respondents are able to provide the actual annual amount of VAT incurred and 52.2% (119) are able to provide an annual estimate. Altogether, this means that 71.1% (162) of respondents are aware of the amounts.

Figure 9: Do you know the amount of foreign VAT incurred by Your Business?

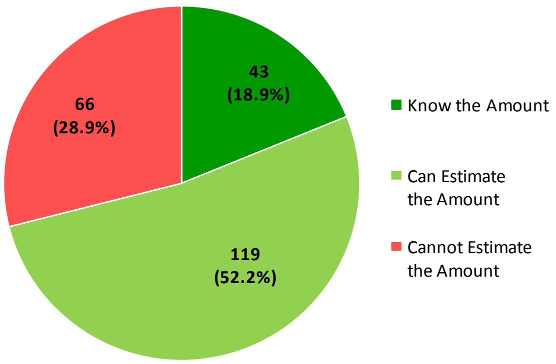
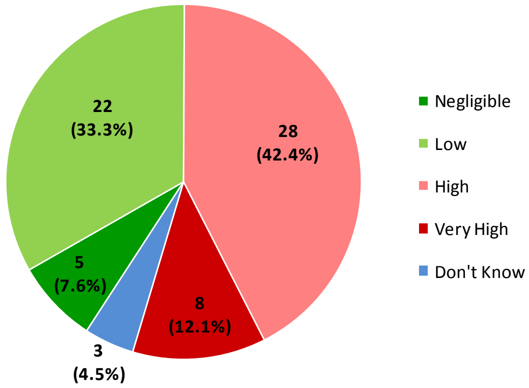


Figure 10: If you cannot estimate, do you consider the amounts to be:



85. Figure 10 provides information about the perception of the 66 respondents in Figure 9 (in red) that were unable to provide specific amounts or estimates. Of those, 54.5% (36 respondents – in red and pink) considered the amounts involved high or very high. Only 4.5% (3 respondents – in blue) declared not having a feel for the amounts incurred.

86. Overall, looking at Figure 9 and Figure 10 together, this means that over 98% (225 out of 228) of businesses are aware of the magnitude of the amounts of foreign VAT they incur.

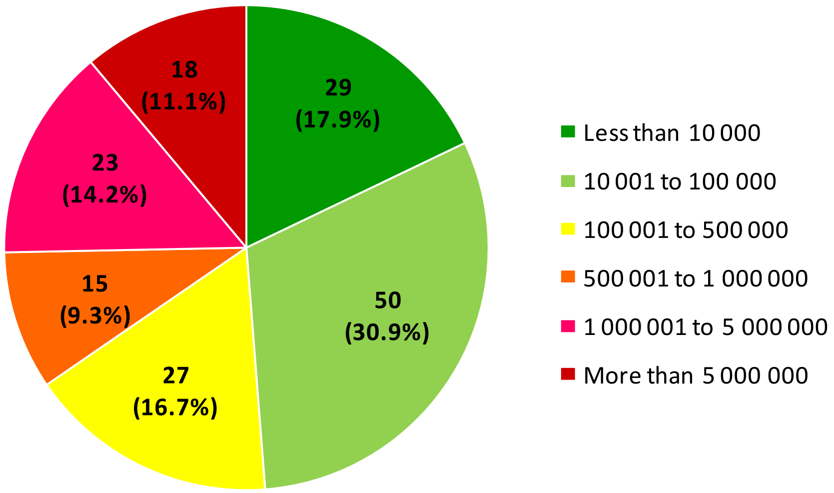
Highlight 8

Over 98% (225 out of 228) of businesses are aware of the magnitude of the amounts of foreign VAT that they incur.

87. Figure 11 overleaf shows that the group of 162 respondents who know or can estimate the amount of foreign VAT that they incur is split virtually equally between those who incur less than USD 100 000 foreign VAT a year (48.8% – in dark and light green) and those who incur more than USD 100 000 foreign VAT a year (51.2% – in yellow to red).

88. Over 80% of respondents incur more than USD 10 000 a year and a quarter of the respondents (25.3%) declared that they incur more than USD 1 million a year. This reflects the spread of the sample across the type and size of participating businesses (see Highlight 1).

Figure 11: What is the amount of foreign VAT incurred by Your Business (in USD)?



Highlight 9

Businesses incur significant amounts of VAT on foreign business expenditure. The answers show that:

- **Over 80% incur more than USD 10 000 per annum;**
- **Over 50% incur more than USD 100 000 per annum; and**
- **Over 25% incur more than USD 1 million per annum.**

4.6. Where Is Foreign VAT Incurred?

89. The amounts of foreign VAT incurred vary widely depending on the regions (Table 5 overleaf). The European Union is the region where the amounts are the highest both in terms of the number of businesses concerned (93 votes) and value (a total of more than USD 820 million). The average amount by vote is also the highest there (approximately USD 8.9 million). This dominance probably reflects the intensity of the exchanges on the Internal Market and the higher standard VAT rates in this area.

90. Looking at the total amounts, this region is followed by Europe (non-EU); Asia, Australia/New Zealand, South America, Africa and North America. The average amount analysis shows a similar ranking between the regions. North America is not unexpectedly at the bottom of the list as the USA does not have a VAT-type tax and the standard rate in Canada is either 5% or 13% depending on the province.

Table 5			
Amounts of VAT (in USD[17]) incurred by regions (98 responses – multiple choice)[18]			
Region	Number of votes	Total amount (USD)	Average amount incurred (USD)
Europe EU	93	826 860 000	8 891 000
Europe non-EU	37	116 906 000	3 160 000
Asia	26	26 322 000	1 012 000
Australia/New Zealand	17	19 331 000	1 137 000
South America	20	11 556 000	578 000
Africa	16	9 516 000	595 000
North America	27	6 442 000	239 000
Total	236	1 016 933 000	

Highlight 10

The 98 businesses that were able to provide a geographic allocation of the foreign VAT that they incur on business expenditure indicated that they incur, collectively, just over USD 1 billion of foreign VAT per annum.

Highlight 11

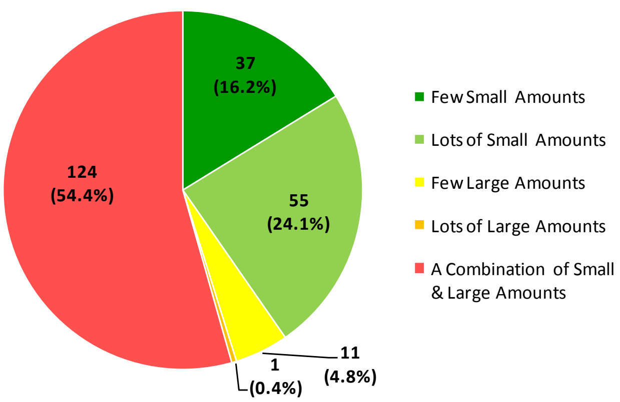
The respondents to the survey incur VAT in all parts of the world, with a dominance of Europe and, in particular, the EU Internal Market.

4.7. Profile of Foreign VAT Claims

91. Figure 12 shows that, of the 228 businesses that answered this question, 40.3% (92 – in dark and light green) indicated that their foreign VAT is essentially made up of small amounts.

92. By contrast, only 5.2% (12 – in yellow and orange) indicated claims were made up of either few or lots of large amounts.

Figure 12: What best describes the foreign VAT that Your Business incurs?



[17] Rounded to the nearest thousand USD.

[18] This question allowed for multiple choice responses, so each respondent may have chosen more than one region where VAT is incurred. With a total of 236 votes, the average here is actually 2.4 votes per respondent.

93. However, the majority of businesses (54.4% – 124 businesses – in red) indicated that their foreign VAT is made up of a combination of small and large amounts.

94. To assess the type of expenditure on which businesses incur foreign VAT, businesses were asked to select from a list (Table 6) as many types as relevant. On top of the list is, as expected, "travel expenditure (hotel, cars, fuel, etc)" (91.6% of businesses selected this type). This is followed by another expected type: "conferences, seminars, trade shows, etc." (76.2%). In third place is "general services and professional fees" (50.7%). Finally, the fourth highest selection (33.5%) is "purchase of goods".

Table 6

Can you tell us about the type of expenditure on which Your Business incurs foreign VAT? (227 responses – multiple choice) [19]

Option	Number of votes	In % (of 227 responses)
Travel expenditure, such as hotels, taxis, car hire, restaurants and fuel (except air travel)	208	91.6%
Conferences, seminars, trade shows, training courses, etc.	173	76.2%
General services and professional fees	115	50.7%
Purchase of goods such as tooling, raw materials and stock/inventory	76	33.5%
Transport services (haulage)	65	28.6%
Hire of servers, telecommunication lines, co-location services, roaming charges, etc.	47	20.7%
Back office services such as payroll, accounts payable, accounts receivable, administration and support	36	15.9%
Land related costs such as office rental and warehousing	35	15.4%
Other	18	7.9%
Not sure	1	0.4%
Total	774	

95. Together with the amounts disclosed in the previous parts of the questionnaire, this confirms that businesses do not incur foreign VAT solely on travel expenditure.

96. Most businesses incur foreign VAT as a result of their ongoing business operations (86.8% chose that option), but also as a result of ad-hoc projects (48%) and business development efforts (35.2%).

Highlight 12

Not all foreign VAT claims fall into the common category "travel expenditure & conferences/trade shows". Whilst almost all businesses would incur foreign VAT on such expenditure, a significant number incurs foreign VAT on goods (inc. tooling, stock, etc.) and general services (inc. professional and back office services).

[19] This question allowed for multiple choice responses, so each respondent may have chosen more than one type of expenditure. With a total of 774 votes, the average here is actually 3.4 votes per respondent.

5. Section 3: What is Your Business Experience with Foreign VAT Reclaims?

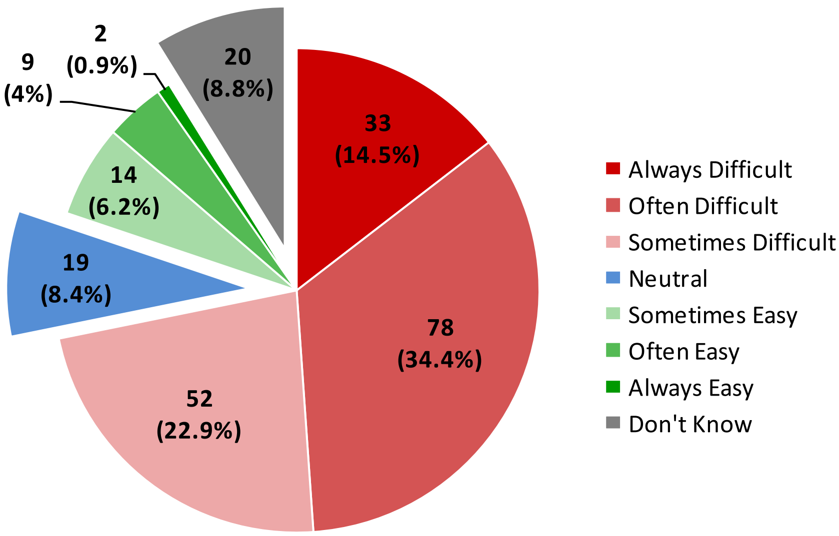
97. This section is about understanding respondents' involvement with foreign VAT claims to assess their perception, gauge their experience, evaluate their costs and, finally, understand what could improve their overall experience.

5.1. Assessment of Refund Procedures by Businesses

98. Figure 13 below shows that businesses overwhelmingly perceive foreign VAT refund procedures to be generally difficult (71.8% – 173 respondents – from red to pink). Only 11.1% (25 respondents – from dark to light green) find them to be generally easy.

99. Assessing the perceived level of difficulty, almost half (48.9% – 111 respondents – in red and light red) of businesses consider foreign VAT refund procedures to be often or always difficult.

Figure 13: Overall, how do you consider procedures for refunds?



Highlight 13

A high proportion of businesses find procedures for refunds generally difficult to contend with – almost 72% expressed a degree of difficulty.

100. Table 7 (overleaf) summarises businesses' views on why certain refund procedures are particularly easy. Respondents were allowed to select more than one reason and have, on average, selected just under 2 each.

101. It is interesting to note that many respondents (83 votes, 40.1%) pointed out that no refund procedures are particularly easy.

102. That aside, "clear guidance from the tax authorities" came out as the top reason for procedures to be viewed as easy, chosen by 38.6% of businesses. On the same theme, 33.3% of respondents put "easy communication" in second place. "Quick repayments" made it to third place, with 31.9% of the votes.

Table 7		
Why is this particularly easy in some countries? (207 responses – multiple choice)[20]		
Option	Number of votes	In % (of 207 responses)
No refund procedures are particularly easy	83	40.1%
Clear guidance from tax authorities is available	80	38.6%
Communication with tax authorities is easy	69	33.3%
Actual repayments are quickly made	66	31.9%
Procedures are harmonised between countries	32	15.5%
Electronic submission procedures are available	31	15.0%
Deadlines/procedures for submitting claims are managed by the tax administration in a flexible way	29	14.0%
Other (please specify)	16	7.7%
Total	406	

103. Table 8 summarises businesses' views on why certain refund procedures are particularly difficult. Respondents were allowed to select more than one reason and have, on average, selected 4.2 each, i.e. more than twice as many as for the question on easy procedures.

Table 8		
Why is this particularly difficult in some countries? (207 responses – multiple choice)[21]		
Option	Number of votes	In % (of 207 responses)
Actual repayments are made with long delays	133	64.3%
Communication with tax authorities is difficult	121	58.5%
Procedures and claim forms are specific to each country	117	56.5%
Refund procedures are still paper-based (forms, original invoices, etc)	115	55.6%
Guidance from tax authorities is unclear or unavailable	102	49.3%
Deadlines/procedures for submitting claims are managed by the tax administration in a very strict way	91	44.0%
Need to appoint a tax representative	77	37.2%
Need to register in the country	52	25.1%
No refund procedures are particularly difficult	21	10.1%
Other (please specify)	30	14.5%
Total	859	

[20] This question allowed for multiple choice responses, so each respondent may have chosen more than one reason. With a total of 406 votes, the average here is almost 2 votes per respondent.

[21] This question allowed for multiple choice responses, so each respondent may have chosen more than one reason. With a total of 859 votes, the average here is actually 4.2 votes per respondent.

104. This time, it is interesting to note that only a few respondents (21 votes, 10.1%) considered that no refund procedures are particularly difficult.

105. Many businesses (64.3%) cited that "actual repayments were made with long delays" as the principal cause of difficulty. Shortly behind, with business selections from 49.3% to 58.5%, we find "communication-related" issues (i.e. actual communication, forms & procedures, guidance) and the fact that procedures are still paper-based (55.6%).

Highlight 14

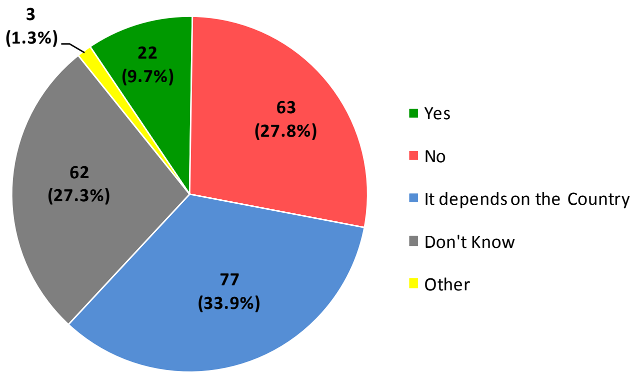
Key factors determined by businesses to assess the ease or difficulty of a foreign VAT refund procedure seem to be:

- **Communication with the authorities, including guidance, forms and procedures; and**
- **Speed of repayment.**

106. According to Figure 14, very few businesses feel that foreign tax authorities are more flexible with them once they know them: only 9.7% (in green) think so versus 27.8% (in red) who think the opposite.

107. This is to be balanced by the fact that a third of businesses (33.9% – in blue) consider that it depends on the country and that over a quarter (27.3% – in grey) simply do not know.

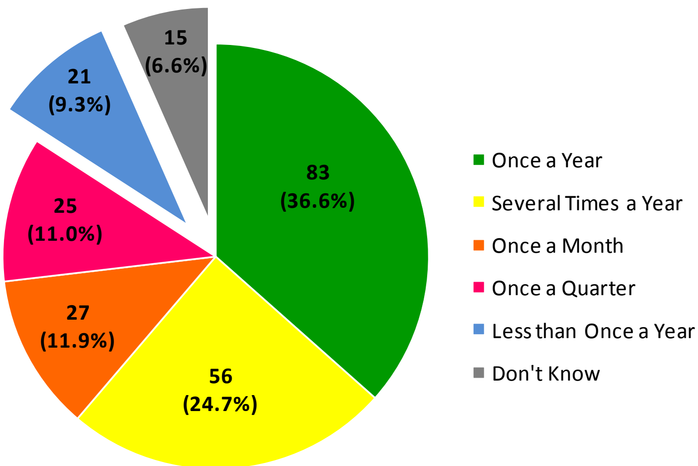
Figure 14: Do you feel Government are more flexible when they know you?



5.2. Management of Refund Claims by Businesses

108. According to Figure 15, most businesses are familiar with foreign VAT procedures, as the vast majority of them (84.1% – 191 out of 227 – the whole pie chart excluding the blue and grey segments) are engaged in such procedures at least once a year.

Figure 15: How often is Your Business engaged with foreign VAT refund procedures?



109. Table 9 shows that 25.1% of the respondents (in green) systematically manage their claims internally. On the other hand, at least 56.4% of the respondents (in red and pink) fully or partially outsource the management of refund claims (including to another associated entity), including nearly a quarter (24.7% – in red) who systematically resort to outsourcing.

Table 9		
Generally, who makes the claims for your refunds of foreign VAT? (227 responses)		
Option	Number of votes	In %
Someone within Your Business	57	25.1%
Someone outside Your Business (including another entity of your company/group)	56	24.7%
Combination of the above	72	31.7%
It depends on the countries	27	11.9%
I don't know	15	6.6%
Total	227	100%

110. The main reasons invoked for outsourcing are summarised in Table 10 below. The clear winner, with nearly 62% of businesses vote, is "knowledge of local languages". Cost efficiency, success rate and peace of mind also emerge as strong reasons for outsourcing.

Table 10		
Why are all or part of refund claims done outside of Your Business? (159 responses – multiple choice)[22]		
Option	Number of votes	In % (of 159 responses)
They have better understanding of local languages	98	61.6%
It is more cost effective	63	39.6%
It is easier for us not to worry about this	59	37.1%
They are more successful at it	53	33.3%
It is just not worth doing in house	45	28.3%
It is legally required	19	11.9%
We have always done it that way	17	10.7%
Other	15	9.4%
Total	369	

Highlight 15

Local language and cost efficiency are the main factors that drive at least 56.4% of businesses to fully or partially outsource the management of their foreign VAT refund claims.

[22] This question allowed for multiple choice responses, so each respondent may have chosen more than one reason. With a total of 369 votes, the average here is actually 2.3 votes per respondent.

5.3. Are There Countries where Your Business Has Stopped Claiming Foreign VAT?

111. Exactly half the businesses that responded have stopped claiming VAT in some countries. Table 11 below shows that the top 2 reasons are: "the amounts incurred are not worth the trouble" and "the administration is too difficult".

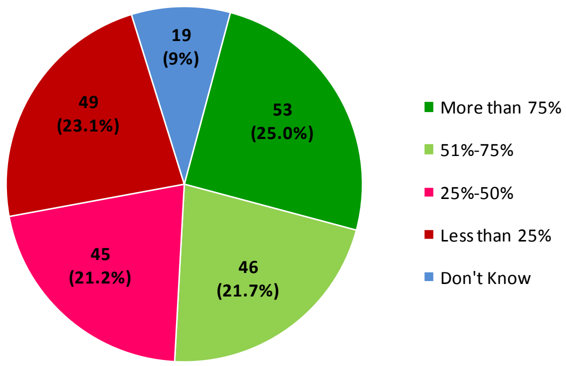
Table 11		
Why have you stopped claiming VAT in certain countries? (106 responses – multiple choice)[23]		
Option	Number of votes	In % (of 106 responses)
The amounts incurred are not worth the trouble	76	71.7%
The administration is too difficult to handle	73	68.9%
Those countries do not offer a refund procedure	48	45.3%
Those countries do not allow businesses from your country to reclaim VAT (e.g. because of a lack of reciprocity agreement with your country)	37	34.9%
All previous claims from Your Business have been rejected	20	18.9%
VAT relief is provided by other means (e.g. zero-rate)	7	6.6%
Other	6	5.7%
Total	267	

Highlight 16

About half of businesses have stopped claiming VAT in some countries, citing "the amounts incurred are not worth the trouble" and/or "the administration is too difficult" as the key reasons.

5.4. Efficiency and Cost of Refund Claims

Figure 16a: Overall, what percentage of the foreign VAT does Your Business actually recover?



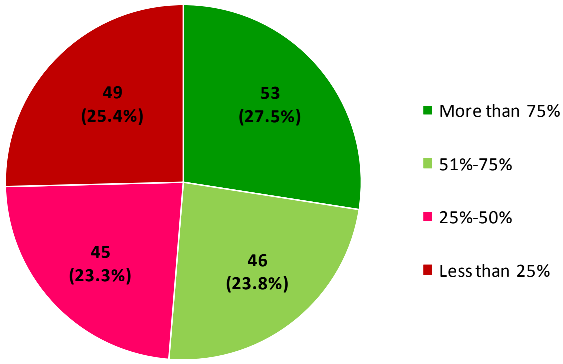
112. For the percentage of foreign VAT recovered, Figure 16a shows an interestingly balanced experience between businesses. Figure 16b (overleaf) shows the same data, having excluded businesses that do not know.

113. First of all, the 50% recovery mark splits businesses into virtually equal halves: half reclaim 50% or less of the foreign VAT they incur whilst the other half recover more than 50%.

[23] This question allowed for multiple choice responses, so each respondent may have chosen more than one reason. With a total of 267 votes, the average here is actually 2.5 votes per respondent.

114. At the top and bottom of the scale, the experience is also evenly spread: a quarter claim to recover more than 75% of the foreign VAT they incur, whilst the other quarter claim to recover less than 25%.

Figure 16b: Overall, what percentage of the foreign VAT does Your Business actually recover? (exc. Don't Know)



Highlight 17

Half of businesses recover 50% or less of the foreign VAT they incur and a quarter recover less than 25%.

115. Costs incurred by businesses in reclaiming foreign VAT are analysed at Figures 17a and 17b, measured in percentages of the foreign VAT recovered. Businesses were asked to include all costs, i.e. both internal (e.g. salaries) and external (e.g. specialist company or other professional fees).

Figure 17a: Overall, as a percentage of the foreign VAT recovered, what is the cost to Your Business?

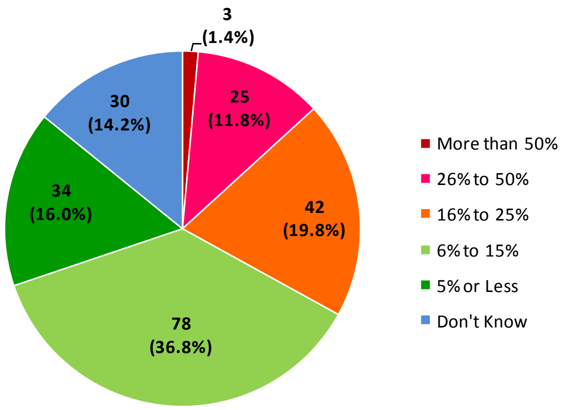
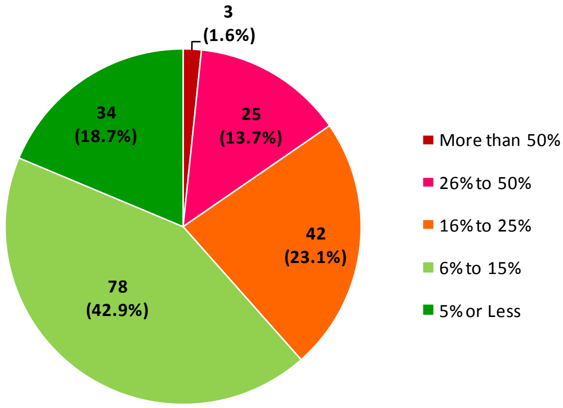


Figure 17b: Overall, as a percentage of the foreign VAT recovered, what is the cost to Your Business? (exc. Don't Know)



116. For over half of the businesses (in dark and light green), the costs incurred to obtain refunds are 15% or less of the amounts reclaimed. However, for more than a third (in pink and orange), the costs are between 16% and 50% of the amounts recovered.

117. Only a very small minority (in red) estimate that their recovery costs exceed 50% of the VAT recovered.

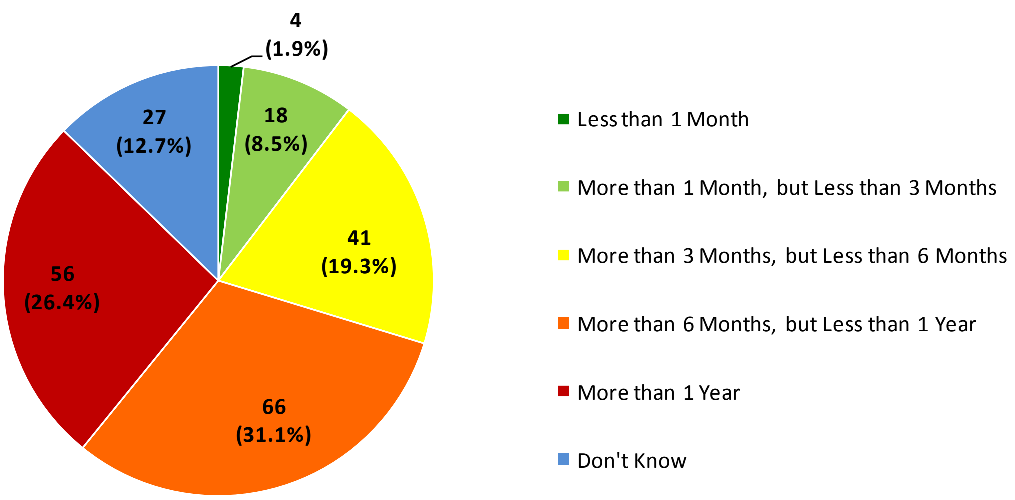
Highlight 18

Over half of businesses incur costs to obtain refunds that are 15% or less of the amounts recovered. However, for more than a third of businesses, the costs are between 16% and 50% of the amounts recovered.

118. Figure 18 shows that, according to businesses, 57.5% of foreign VAT claims take more than 6 months to be refunded (in red and orange) and half of those (26.4% of the total – in red) take over a year.

119. Only 29.7% (from dark green to yellow) are refunded within 6 months, while a low 10.4% are paid within 3 months.

Figure 18: How long does it generally take for Your Business to be refunded the money?



120. The results are in line with businesses' comments of section 5.1 which provide the reasons for procedures being particularly easy or particularly difficult.

Highlight 19

According to businesses, tax authorities take a long time to pay, with well over half of all claims taking 6 months or more to be refunded, and half of those taking over a year.

121. 34% of the respondents (out of 212 businesses that replied to the question) have appealed against a denial of a refund claim by a tax administration. 89% of them have been successful at least sometimes.

Highlight 20

When they do so, businesses seem to be successful in appealing against denied claims, as 89% of those concerned confirm that they have been successful in at least some of their cases.

5.5. Impact of Refund Procedures on Business Decisions

122. Figure 19 shows that, around one-third of businesses (36.0% – in red, pink and yellow) give consideration to foreign VAT implications prior to engaging in operations or transactions with a particular jurisdiction, whereas 50.3% (in green) do not.

Figure 19: Does the potential of incurring foreign VAT influence your decision to do business in that country?

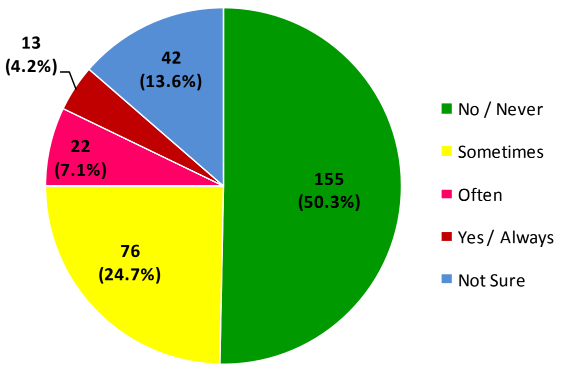
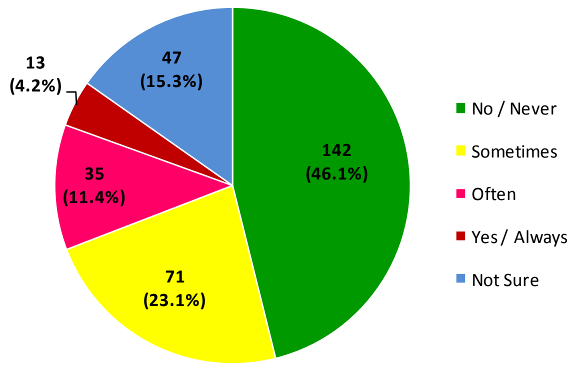


Figure 20: Have you ever implemented alternative legitimate means to avoid the payment of foreign VAT or going through refund procedures?



123. Figure 20 reveals that nearly half of businesses (46.1% – in green) have never implemented alternative structures to avoid incurring foreign VAT or going through refund procedures. On the other hand, 38.7% (in red, pink and yellow) admit to having done so.

Highlight 21

In terms of doing business in a particular jurisdiction, over a third of businesses are influenced by the potential to incur foreign VAT and nearly 40% have implemented legitimate alternatives to avoid paying it or going through refund procedures.

6. Suggestions for the Future

124. Amongst the improvements in the refund procedure that would make the most difference, standardisation and harmonisation are the top two for businesses, as shown in Table 12 below.

Table 12		
With regard to refund procedures, which of these things might make a difference to you - what would you like to see more or less? (308 responses – multiple choice) [24]		
Option	Number of votes	In % (of 308 responses)
More Standardisation of procedures across countries	131	42.5%
More Harmonisation of legislation across countries	119	38.6%
More electronic filing procedures	118	38.3%
Quicker repayments from tax authorities	108	35.1%
Clearer guidance from tax authorities	72	23.4%
More standardisation of claim forms across countries	62	20.1%
Less Paper - based procedures	57	18.5%
Better communication between my business and tax authorities	56	18.2%
Less use of tax representative	40	13%
Payment of interest on late payments received from the tax authorities	29	9.4%
More flexible/extended deadline to submit the claim	25	8.1%
Ability to appeal against decisions made by tax authorities	8	2.6%
Follow up request for information	5	1.6%
Clearer time limits	3	1.0%
No preference	15	4.9%
Other	14	4.5%
Total	862	

125. The main areas of difficulties for businesses to obtain refunds emerge more clearly when comparing Tables 8 and 7 of section 5.1 with Table 12 above.

126. From Table 8, it appears that the main difficulties encountered were:

a. Communication with tax authorities is difficult/guidance is unclear (121+102=223 votes);

b. Actual repayments are made with long delays (133 votes);

c. Procedures and claim forms are specific to each country (lack of harmonisation) (117 votes); and

d. Refund procedures are still paper-based (115 votes).

[24] This question allowed for multiple choice responses, so each respondent may have chosen more than one thing. With a total of 862 votes, the average here is actually 2.8 votes per respondent.

127. From Table 7, it appears that the main reasons that businesses find refund procedures easy were:

a. Communication with tax authorities is easy/guidance is clear (80+69=149 votes);

b. Actual repayments are made quickly (66 votes);

c. Procedures are harmonised (32 votes); and

d. Refund procedures are electronic (31 votes).

128. Related to this, when asked which things would make a difference to the claiming of refunds, 308 respondents cited the following as the main ones (Table 12):

a. More harmonisation of legislation, procedures and claim forms across countries (in yellow, 131+119+62=250 votes);

b. Less paper based procedures/more electronic filing procedures (in blue, 118+57=175 votes);

c. Clearer guidance from individual tax authorities on their procedures/better communication between my business and the tax authorities (in green, 72+56=128 votes); and

d. Quicker repayments from tax authorities (in red, 108 votes).

129. From the correlation between the 3 tables, it transpires that businesses would like to see:

- Improved communication with tax administrations, including in terms of administrative guidance (clarity of the rules), interaction with individual businesses (taxpayer service) and actual means of communication (use of modern communication technologies);
- Harmonisation and standardisation of the rules, procedures and forms; and
- Quicker repayments from tax authorities.

Highlight 22

In order to improve the procedures, businesses would like to see:

- **Improved communication with tax administrations, including in terms of administrative guidance (clarity of the rules), interaction with individual businesses (taxpayer service) and means of communication (use of modern communication technologies);**
- **Harmonisation and standardisation of the rules and procedures; and**
- **Quicker repayments from tax authorities.**