

VAT refund procedure legal update

Regulation for refund of value added tax (“VAT”) paid by individuals, who are consumers, for goods (except for oil and gas products) purchased from persons engaged in retail trade or public catering in the territory of the Republic of Azerbaijan (“Regulation”) has been adopted by the Decree of the President of the Republic of Azerbaijan dated March 21, 2020.

The Regulation consists of 6 parts and includes the following:

1. General provisions;
2. Basic concepts;
3. Registration of consumers;
4. Organization of VAT refund;
5. VAT refund procedure;
6. Procedure for return of goods by consumer after VAT refund.

1. General provisions

This Regulation regulates the procedure for refunding VAT paid by individuals, who are consumers, for goods (except for oil and gas products) purchased from persons engaged in retail trade or public catering activities in the territory of the Azerbaijan Republic in accordance with Article 165.5 of the Tax Code of the Republic of Azerbaijan.

VAT is refunded to consumer by transfer to a bank card (or account).

If consumer is a foreigner or a stateless person, VAT is refunded in accordance with this Regulation only if those persons have a bank card (or account) in the national currency.

The authorized bank shall refund the VAT paid on the purchased goods within 30 (thirty) days from the date of submission of consumer's application to the portal.

2. Basic concepts

The basic concepts in this Regulation have the following meanings:

Seller – VAT payer engaged in retail trade or public catering activities in the territory of the Republic of Azerbaijan;

Consumer – an individual who purchases goods from the seller;

Unified database – unified system managed by the operator which integrates the information necessary for the refund of VAT paid on goods purchased to consumers;

Authorized bank – a bank or banks determined by the Ministry of Economy of the Azerbaijan Republic in coordination with the Ministry of Finance of the Azerbaijan Republic and the Central Bank of the Azerbaijan Republic;

Card organization – service center (banks and other legal entities engaged in processing activities) that provides transmission, collection, processing, clearing of information on card transactions, as well as maintenance and issuance of cards or representation, branch or other unit of the international card organization in the Republic of Azerbaijan;

Portal – information system for registration of appeals of consumers for refund of VAT paid on purchased goods;

Operator – a resident who organizes and manages the operation of software, a portal and a single database that allows consumers to transfer information on VAT refunds paid for goods purchased from persons engaged in retail trade or public catering activities in the territory of the Republic of Azerbaijan.

3. Registration of consumers

Consumer wishing to participate in the VAT refund process registers on the **portal** via the following information:

- personal Identification Number code (PIN) of the identity document; or
- mobile phone number.

An electronic cabinet is created for consumer during registration. Information on confirmation of registration is sent to consumer's mobile phone or e-mail address.

4. Organization of VAT refund

VAT refund is organized by the operator.

Operator shall:

- organize VAT refunds and manage the portal;
- organize the creation of infrastructure, including software and a single database, its integration into electronic information systems used by the State Tax Service under the Ministry of Economy, the authorized bank (banks) and card organizations for the purpose of application in the Republic of Azerbaijan the system of VAT refund;
- ensure constant maintenance of the software, security of the collected data and uninterrupted exchange of information.

5. VAT refund procedure

Consumer can pay for the purchased goods both *in cash or non-cash methods*.

By entering the information on the purchase of goods into the cash register connected to the electronic information system of the State Tax Service, Seller must present the check to consumer. If consumer pays for goods in a non-cash method through a POS-terminal and a POS-terminal is not integrated with the cash register, consumer must be issued an extract from the POS-terminal along with the cash register check.

No later than 90 (ninety) days from the date of receipt of the cash register check, consumer shall submit to the portal an application for a refund of the amount of VAT and information on the cash register check. The application received on the portal is activated 14 (fourteen) days after the date of issuance of the check.

Consumer is notified by checking the compliance of the information on the cash register check entered into the system with the information in the database of the State Tax Service, and confirmation of the cash register check is immediately reflected in the consumer's electronic cabinet.

Information on the amount of VAT to be refunded shall be transferred to the authorized bank within 5 (five) days through a single database.

The authorized bank shall refund the amount of VAT to be returned to the consumer's bank account within 10 (ten) days by transferring it to the bank card (or account) in the national currency.

The refundable amount consists of 15% of the VAT paid by non-cash transfer, 10% of the VAT paid in cash.

Upon completion of the refund of the relevant part of the VAT amount, the following procedures are carried out:

The authorized bank shall enter the information on the refunded VAT amount into a single database within 5 (five) business days after the completion of refund procedure not exceeding 30 days (see Part 1).

The State Tax Service shall hold a reconciliation with the authorized bank on the amount returned every month no later than the 10th day of the following month and a reconciliation act (opinion) shall be signed between the parties.

The State Tax Service shall submit an opinion to the Ministry of Finance of the Republic of Azerbaijan within 5 (five) working days after signing a reconciliation act for refund of VAT amount to the authorized bank.

The Ministry of Finance within 8 (eight) working days after receipt of the opinion and the reconciliation act shall ensure the transfer of this amount to the authorized bank by reducing the actual VAT income received by the state budget through the Ministry of Economy.

In general, it can be concluded that **the VAT refund is made in the following order:**

- Consumer receives a check after purchasing the goods, and this check is activated in the portal after 14 days of issuance of the check;
- Consumer enters the information into the portal within 90 days from the date of receipt of the check;
- The information is checked in the database and the confirmation of the check is reflected in the electronic cabinet;
- Information on the amount to be refunded is transmitted to the Bank within 5 days;
- The bank transfers refunded VAT amount within 10 days:
 - 15% of VAT paid in non-cash;
 - 10% of VAT paid in cash.

6. Procedure for return of goods by consumer after VAT refund

Consumer may apply to Seller for the return or replacement of the goods after VAT refund for the purchased goods. Seller demands from Consumer the cash register check obtained during the purchase of goods, and based on this cash register check, the return of VAT to the consumer is checked on the portal.

If it is determined that VAT is refunded on the basis of the presented cash register check, Seller shall return the money to the consumer, deducting the amount of VAT refunded to consumer from the value of the goods paid by consumer on the basis of the cash register check.

Seller cancels the cash register check on the returned goods connected to the electronic information system of the State Tax Service and submits a declaration to the State Tax Service (taking into account the amount of VAT deducted from the funds returned to the consumer) for the relevant period.

GRATA International, Azerbaijan
baku@gratanet.com