Value added tax VAT: refund to taxable persons established in another Member State

2010/0205(CNS) - 14/10/2010 - Final act

PURPOSE: extend the deadline for submission of a refund application under Directive 2008/9/EC laying down detailed rules for the refund of value added tax to 31 March 2011.

LEGISLATIVE ACT: Council Directive 2010/66/EC amending Directive 2008/9/EC 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.

CONTENT: Directive 2008/9/EC laying down detailed rules for the refund of VAT, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State, applies to refund applications submitted after 31 December 2009. In order to apply Directive 2008/9/EC, Member States are obliged to develop electronic portals via which taxable persons established in a Member State submit applications for the refund of VAT incurred in a State where they are not established. Those electronic portals should have been operational from 1 January 2010.

However, a number of serious delays and certain technical problems have affected the development and operation of the electronic portals in a limited number of Member States, thereby preventing the timely submission of certain refund applications.

Pursuant to Directive 2008/9/EC, refund applications are to be submitted to the Member State of establishment at the latest on 30 September of the calendar year following the refund period. Given that deadline, and the inoperability of some of the electronic portals, some taxable persons risk being unable to exercise their right to deduct VAT on expenses incurred in 2009. This deadline should therefore exceptionally be extended to 31 March 2011 for applications relating to refund periods in 2009.

In order to ensure that taxable persons will not be required to meet the deadline of 30 September 2010 in respect of applications relating to refund periods in 2009, the Council adopted this directive which provides for the **exceptional extension of the deadline for the submission of refund applications for expenses incurred in 2009 from 30 September 2010 to 31 March 2011**.

ENTRY INTO FORCE: 21/10/2010.