

Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast)

CHAPTER XII

**EXCHANGE AND CONSERVATION OF INFORMATION IN THE
CONTEXT OF THE PROCEDURE FOR THE REFUND OF VAT TO
TAXABLE PERSONS NOT ESTABLISHED IN THE MEMBER STATE
OF REFUND BUT ESTABLISHED IN ANOTHER MEMBER STATE**

Article 48

1 Where the competent authority of the Member State of establishment receives an application for refund of VAT pursuant to Article 5 of Directive 2008/9/EC, and Article 18 of that Directive is not applicable, it shall, within 15 calendar days of its receipt and by electronic means, forward the application to the competent authorities of each Member State of refund concerned with confirmation that the applicant as defined in Article 2(5) of Directive 2008/9/EC is a taxable person for the purposes of VAT and that the identification or registration number given by this person is valid for the refund period.

[^{F1}Where the Member State of establishment becomes aware that a taxable person making a request for refund of VAT, in accordance with Article 5 of Directive 2008/9/EC, has tax liabilities in that Member State of establishment, it may request the consent of the taxable person for the transfer of the VAT refund directly to this Member State in order to discharge the outstanding tax liabilities. Where the taxable person consents to this transfer, the Member State of establishment shall inform the Member State of refund of the amount regarding which the consent is obtained and the Member State of refund on behalf of the taxable person shall transfer this amount to the Member State of establishment. The Member State of establishment shall inform the taxable person whether the amount transferred amounts to either a full or a partial discharge of the tax liability in accordance with its national law and administrative practices. However, the transfer of the VAT refund to the Member State of establishment shall not affect the right of the Member State of refund to recover the liabilities that the taxable person has in the latter Member State.

Where the tax liabilities in the Member State of establishment are disputed, the transfer of the refund amounts can be used by the Member State of establishment as a retention measure, with the consent of the taxable person, in so far as an effective judicial review is ensured in that Member State.]

2 The competent authorities of each Member State of refund shall notify by electronic means the competent authorities of the other Member States of any information required by them pursuant to Article 9(2) of Directive 2008/9/EC. The technical details, including a common electronic message by which this information is to be transmitted, shall be determined in accordance with the procedure provided for in Article 58(2) of this Regulation.

3 The competent authorities of each Member State of refund shall notify by electronic means the competent authorities of the other Member States if they want to make use of the option to require the applicant to provide the description of business activity by harmonised codes as referred to in Article 11 of Directive 2008/9/EC.

The harmonised codes referred to in the first subparagraph shall be determined in accordance with the procedure provided for in Article 58(2) of this Regulation on the

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010, Article 48. (See end of Document for details)

basis of the NACE classification established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2⁽¹⁾.

Textual Amendments

- F1** Inserted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EU) No 904/2010, Article 48. (See end of Document for details)

(1) [OJ L 393, 30.12.2006, p. 1.](#)

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