Stricter conditions for VAT refunds on the horizon

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The current draft of a regulation, published by the Romanian tax administration ANAF, amends and supplements the legal framework for processing VAT returns with credit balances and refund options.

In the future, ANAF is to decide, based on a risk analysis using an expanded list of indicators (risk criteria), whether a refund application will be decided with or without a prior audit. This particularly concerns companies that regularly apply for refunds or deal with large amounts.

Enhanced risk criteria

The most important innovation is the establishment of criteria which, based on ANAF experience, indicate the risk of an unjustified refund. A risk criterion does not prove fraud, but it may result in a more detailed review of the application by ANAF and, where applicable, a prior audit.

Relevant criteria include, among other things, connections of managing directors, shareholders or partners to persons recorded in the special register of high-risk persons, entries in the tax record certificate, including joint and several or asset-related liabilities, as well as criminal matters. Corrections that significantly affect the VAT credit are also taken into account. These are not clear thresholds, but rather circumstances that may justify an additional review.

ANAF may also check whether the information from the VAT return matches the data from other systems such as E-Factura, E-Transport, E-Kassenbon, and whether the input VAT reported corresponds to the invoices reported by the suppliers. Failure to submit informational returns, repeated corrections, VAT debts, circumstances such as insolvency, tax inactivity or the cancellation of the suppliers' VAT ID numbers are also considered relevant aspects.

Processing steps

The processes related to the processing of VAT returns with a credit balance and refund option can be summarized as follows:

1. The company submits the VAT return and selects the refund option for the VAT credit;
2. The ANAF reviews the data and risk indicators; in doing so, it may request additional documents from the applicant to clarify the tax risk. Depending on the results of the risk assessment, the following may then occur:

    a. the announcement of a VAT audit (upon identification of a tax risk) or

    b. a favorable decision subject to review (in the case of low tax risk).

3. After processing, ANAF issues a refund decision for the full or partial refund or for its rejection.
4. Subsequently, the approved refund amount is transferred to the taxpayer's account, or, where applicable, offset against their tax liabilities.

It should be noted that assuming a tax risk does not automatically imply fraud, but merely the need to examine more closely the circumstances under which the VAT credit arose.

Inclusion in the special registry of high-risk individuals is not permanent either. The draft provides for the possibility of removal from this list if the grounds for classification as high-risk no longer apply.

Procedure for special cases

A new provision concerns ANAF's right to suspend a refund decision issued subject to review by means of a revocation decision. This measure is relevant when circumstances subsequently arise that require the refund decision to be reviewed again. Approved refunds cannot therefore be revoked automatically, although ANAF is introducing procedures for cases in which the law permits revocation.

Entry into force

If the order is adopted as proposed, it should apply from the August reporting period or the third quarter of 2026. It would also cover refund applications whose processing had already begun at the time it entered into force, but not those that had already been forwarded to the audit department for prior examination.

Conclusion

Given the relevance of VAT refunds for maintaining liquidity, tax compliance is of increased importance. The timely submission of returns, well-founded corrections and consistency between the company's own records and the reports submitted to the authorities are decisive. Accounting records, invoices and tax filings must present a consistent picture.

Although a documented application does not rule out an audit, it can reduce administrative effort and risks as well as accelerate the VAT refund.

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