

CHAPTER 20

REFUNDS AND REPAYMENT SUPPLEMENT

20.1 Refunds

Refunds of VAT can take two forms; firstly HMRC will make a refund of VAT when the output tax is less than the input tax on a VAT return. In such a case there will be a negative figure calculated on the VAT return and this figure will be refunded to the trader, usually when the VAT return is submitted.

[VATA 1994,
s.80](#)

The trader may also get a refund of VAT he has overpaid at an earlier point in time. An overpayment may have occurred if he incorrectly classified something as standard rated when it should have been zero-rated, etc. Thus the VAT he paid over and above the amount due will be refunded to him.

20.2 Refund of VAT shown on a VAT return

Once a VAT return showing VAT repayable to the taxpayer is submitted, the refund due will be automatically dealt with by the VAT Central Unit. They will issue instructions to issue a cheque or make a refund payment into a notified Bank account. If the time taken to sort out the repayment exceeds the set limit, repayment supplement will be added to the repayment.

[VATA 1994,
s.80](#)

20.3 Repayment Supplement

Repayment supplement is added to a repayment if **the Commissioners fail to issue a repayment within 30-days.**

[VATA 1994,
s.79](#)

Provided certain conditions are met, repayment supplement is the **greater of £50 or 5% of the repayment of tax due.**

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The 30-day period begins on the **later** of two dates;

- the day after the last day of the prescribed accounting period to which the claim relates; or
- the date the VAT return is submitted.

Repayment supplement is denied if the repayment on the return turns out to be incorrect and thus no repayment supplement will be given to the trader for his repayment. The definition of "incorrect" is that the return is overstated by more than £250 or 5% of the correct repayment (whichever is greater).

No repayment supplement is paid if the VAT return was submitted late.

20.4 Protective claims

Legally there is **no such thing as a “protective” claim**. However, HMRC accept that, with a **four-year time limit** for making claims, it is important for businesses to **protect their positions** when submitting claims subject to long-term litigation. Where therefore

- an Appeal Body has not resolved an issue, or
- an issue has been decided in favour of HMRC but is subject to appeal,

HMRC policy is to inform businesses that they do not consider that a valid claim can be made in light of the current litigation but, to avoid a **needless appeal**, the claim submitted will be **held on file** and **reconsidered** in light of any judgment which subsequently supports the validity of the claim.

Once the claim has been **reconsidered** it is either **paid or rejected**. If rejected, the business may **lodge an appeal**.

HMRC will not follow this course of action in all cases. For example, they will reject speculative claims submitted on the basis that future litigation of benefit to their claim may be undertaken by an unconnected party, i.e. for a claim to be valid either the claimant must be prepared to defend the basis of the claim before an Appeal Body or there must already be on-going litigation.

20.5 Compensation by HMRC in cases of official error (statutory interest)

Where, as a result of an error by HMRC, a person has:

- a) accounted for **output tax** which was **not due** and as a result HMRC are **liable to repay** an amount to him; or
- b) **failed to claim** input tax to which they are entitled or;
- c) otherwise **paid to HMRC** any VAT that is **not due** and which HMRC are **liable to repay**; or
- d) **suffered delay** in receiving repayment of an amount due from HMRC e.g. DIY Builders' Scheme, but excluding interest due;

then HMRC must **pay interest** for the applicable period. The applicable period begins with the date on which HMRC received payment of the relevant return if the amount was due by way of return or the date HMRC would have authorised payment on which the interest is payable.

[VATA 1994, s.78](#)

20.6 Security

“Security” is where HMRC ask for money up front, normally because the trader has defaulted in the past. Security can be provided in cash or by guarantee from an approved financial institution and is usually required within 30 days from the date of HMRC's notice requiring security.

[VATA 1994, Sch 11 Para 4](#)

[VATA 1994,
s.48\(7\)](#)
[VATA 1994,
s.83\(6\)](#)

There are three situations in which HMRC may require a person to give security.

- 1) as a condition of making a VAT credit to a person if it appears necessary for the protection of the revenue. It will be held until HMRC consider the risk to collection no longer applies;
- 2) as a condition of allowing that person to supply goods or services by way of a taxable supply; In practice HMRC will normally seek security on protection of revenue grounds if the person concerned has a bad VAT history. Businesses that are run by disqualified directors or undischarged bankrupts are also likely to be subjected to a requirement to give security;
- 3) where a person has failed to act upon HMRC's direction requiring him to appoint a VAT representative.

The amount of security that HMRC generally ask for is 6 months estimated VAT liability. This can be reduced to 4 months.