



31 March 2021 marks the deadline for UK traders looking to request a refund of VAT borne in Spain in 2020

Tax Alert



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31 March 2021 marks the deadline for UK traders looking to request a refund of VAT borne in Spain in 2020.

Brexit has brought with it an amendment of the deadline by which UK traders must request a refund of any VAT borne on goods and services acquired in Spanish VAT Territory in 2020: they now have until 31 March 2021.

The UK's exit from the European Union (EU) and its resulting "third country" status have had significant effects for both Spanish traders seeking to recover VAT borne in the UK (see our tax alert [here](#)) and their **UK counterparts seeking to do likewise**. With this in mind, we recall the key aspects to be taken into account, in both cases, for the purposes of requesting a refund of VAT borne before and after 1 January 2021.

Refund of Spanish VAT for UK businesses

First of all, traders or professionals established in the UK, and not established in Spain, that acquired goods and services in VAT Territory **in 2020** may only request a refund of the VAT borne in such Territory until **31 March 2021** ([article 51.3 of the Withdrawal Agreement](#)). Refunds must be requested using the form available for the purpose on the website of the relevant administration of the state in which the applicant is established (United Kingdom) per the procedure applicable to Member States ([Council Directive 2008/9/EC](#)).

Also, in this case, according to the information available on the State Tax Authority website, the reciprocity requirement, the obligation to appoint a representative and certain additional limitations and conditions will not apply. The authorities may however request that the applicant demonstrate that it is the taxable person and furnish the relevant invoices.

Secondly, as of **1 January 2021**, traders and professionals established in the UK, and not in Spain, may no longer request refunds of the VAT borne on acquisitions or imports of goods or services in VAT Territory via the procedure they had been using until now (article 119 of the VAT Law), but must observe the specific procedure for traders and professionals not established in VAT Territory, the European Community, the Canary Islands, Ceuta or Melilla, regulated in article 119 bis of the VAT Law.

Under the above procedure, VAT refunds are subject to compliance with two additional requirements: **(i)** the prior appointment of a representative resident in VAT Territory; and **(ii)** reciprocity with the state in which the applicant is established, which must be acknowledged by resolution of the Director-General of Taxes of the Ministry of Economy and Finance.

In this connection, 5 January 2021 saw the publication in the BOE of the [Resolution of the Directorate-General of Taxes](#) on the existence, albeit with certain limitations, of reciprocity between Spain and the United Kingdom as regards applications for refunds of VAT borne in VAT Territory.

As regards Northern Ireland, for as long as the specific Northern Ireland Protocol remains in force, refunds of the VAT borne in VAT Territory on acquisitions or imports of goods shall be governed by the provisions of article 119 of the VAT Law.

Refunds of UK VAT for Spanish businesses

- Traders and professionals established in mainland Spain and the Balearic Islands, and not in the UK, which acquire goods and services **in the UK in 2020** may only request a refund of the VAT borne there **until 31 March 2021**. Such refunds must be requested by filing **form 360** via the STA website, according to the procedure applicable to Member States.
- Traders established in mainland Spain and the Balearic Islands, and not in the UK, that acquire goods and services in the UK **as of 1 January 2021** and wish to apply for a refund of the VAT borne on such acquisitions may no longer file their requests electronically via the STA website in line with Council Directive 2008/9/EC, but will have to do so via the British tax authority according to own national legislation.

Please do not hesitate to contact KPMG Abogados' Indirect Taxation team if you wish to discuss any of these matters.

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