**Unofficial translation**

**Lao People’s Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

**Ministry of Finance No.: 3229/MOF**

**Vientiane Capital, Date 17 December 2009**

**Regulation**

***on***

**Financial Sources and Value-Added Tax Refund**

* Pursuant to the Law on Value-Added Tax (VAT) No. 04/NA dated 26 December 2006,
* Pursuant to the Prime Minister’s Decree on the Implementation of Value-Added Tax No. 270/PM dated 18 September 2009;
* Pursuant to the Guideline of the Minister of Finance No. 3111/MOF dated 27 November 2009 on the Implementation of Value-Added Tax.

**The Minister of Finance hereby issues the Regulation on**

**Financial Sources and Value-Added Tax Refund:**

1. **General Provision**
2. The objectives of this regulation issued to explain and advise on the processes and methods of conducting VAT refund, aiming to meet the management mechanisms in unity across the country, guaranteeing the benefit to the Government and the tax payers as stipulated in the Law on VAT.
3. The refunding of the VAT is a part of the VAT system’s components as resulting from specific VAT deduction Mechanism (input goods’ VAT deducted from output products VAT), in the case of export goods using zero VAT, in case of entry’s goods incomplete VAT deduction, during the process of business merging, separation and bankruptcy under the law and in the case under an agreement and treaty that Lao PDR has signed and became a partner. In actual VAT’s implementation mechanism permitting the deduction of input VAT from the output VAT. Since there is no VAT or even if there are but insufficient VAT in the output side due to part of the activities relating to VAT at the output goods carrying zero percent VAT, there wouldn’t be enough input VAT amount to be deducted. Therefore, it should be refunded to the tax payers who have remitted an input VAT in advance from the purchases they made.
4. Since the tax refund is important in the VAT system there is a need to accelerate execution of the system in compliance with the laws and regulations. The Tax Sector should pay efforts to emphasize the inspection of all VAT remitting units not only stressing on the tax refund requests. In actual practice, if we stress only on the exporters’ tax refund applications, the delivery of the VAT refund credits would be delayed, as in doing so would generate negative impacts to the export business causing the loss of international trade opportunities to Lao PDR’s exporters, no foreign investment attraction as well as causing other VAT payers to evade a lot of tax amount i.e the would-be monthly VAT remitters would falsify output and input VAT amount or faking both to remit less VAT and other related tax amount will be paid less as well.
5. The following process and regulations are aimed to operate the refunding in faster and timely manner by reducing the red tape to the minimum using specific rules based on risks assessment in selecting procedures to technically inspect the VAT refund applications. Since the process is part of the tax sector’s overall inspection policy, the following process and regulations should ensure that:
* The minimum 80% of the total number of tax refund applications will be effectively solved within 2 to 3 weeks after the applications receipt date,
* 95% of the remaining applications will be considered within not more than 3 months at the longest after the applications receipt date.
1. **VAT Refund Documents Inspection, Consideration and Rejection or Acceptance**
2. **Principles:** Having received the VAT remaining amount refund document, the tax sector should inspect requirements compliance in details (date, tax duration, signature, information regarding VAT remitters) and the determined time limit, the completeness and correct figures and information provided by the VAT remitters. If the detailed inspection has found problems, the sector should inform the VAT remitters to rectify before submitting the documents to be considered. Afterwards according to the specific regulations, certain important refund application information has to be analyzed in comparison with the established requirements in order to determine the risk level of revenue pertaining to the refund request. In accordance with the analysis results, the following three types of the refund request documents should be classified:
* High Risk Level
* Medium Risk Level
* Low Risk Level

The refund request documents found to be in **‘high risk level’** will be inspected before the refund decision. The inspection means that the **‘inspection is prior to the return of the money’**.

 The refund request documents found to be in **‘medium risk level’** will be inspected before the money refund decision.

The other refund request documents (found to have **‘low risk level’**) will not be inspected in details, the documents for the fund return will be immediately prepared and the actual money refund payment will be carried out as soon as possible.

Through the inspection prior to the refunding, if the refund application documents having **‘high risk level’ and ‘medium risk level’** have not found any problem at all then the actual money refund payment will be carried out as soon as possible. If some problems have been found during the inspection prior to refunding of the money, the refund application documents will be fully or partly rejected and the rejected documents parts will be subject to appropriate measures.

The tax sector where the businesses have been registered, shall conduct the process with their best efforts for actual fund reimbursement as soon as possible, at the latest three months after submission of complete and correct refund application documents.

In all cases, the tax officers can review the refunding decision which has been approved at any time, for example while conducting the inspection of the tax payers applying for the refund, the review has found that the refund documents are in correct, certain numbers are fully returned and some documents parts have been recollected and subjected to appropriate penalizing measures.

1. **The review of VAT refund applications by the tax sector** is a scrutiny of the money refund request carried out by the inspection unit in the tax office which received the refund applications, in accordance with the requirements, exact timing, the completeness and the correct figures after the notice and the VAT return, including the analysis and the classification of the applications’ types having high, medium and low risk levels and actual implementation.

The **‘scrutiny’** of the refund application in the tax sector consists of detailed examination of the documents as defined in the Article 32 of the VAT Implementation Recommendations, which the VAT payers should have in hand to certify that they are eligible for the money refunding requested. During the scrutiny the tax officers have to inspect that the tax payers who have submitted these documents relating to the application are truly eligible for the money refunding request and whether the documents show the needed information or not.

1. **Task Units and Working Groups Responsible for the Refund Execution**
2. The VAT notice is part of VAT refund process where the units and task-groups who receive preliminary the notice, in the department or the tax revenue management office at each level should inspect each notice. If in the notice, a request for refund has been stipulated and has been signed in the group B, the notice is considered to replace the tax refund request. It should then be sent to the inspection units and task-points after the notice and the refund, to carry out the selection of the necessary refund applications to be **‘audited’** or **inspected prior to the refund**, then audit the selected cases and execute the actual refund. However this happens in the case the refund request has been selected for inspection prior to the refund.

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| The **audit of the refund application** consists of detailed audit of the documents kept by the VAT remitters to certify that they have the right to request the refund. During the audit the staff will examine whether the VAT remitters are capable to submit all the VAT refund related documents on predetermined limit of time (ie suppliers’ bills, copies of the invoices issued to foreign purchasers, customs’ export goods documents, documents for the payment received from foreigners) and audit whether these documents show the required information (the payers’ tax identification number or “TIN”, address, date of the goods supply, goods destinations and services, prices etc.). **‘The inspection prior to the refund’** is the refund request inspection conducted at the business venue of the VAT remitters including the scrutiny of the specifically needed documents related to the refund application and of the related documents and the accounting entries as compared with the actual business activities of the tax remitters during the tax period where the refund has been requested.  |

1. **Proceeding refund application documents**
2. Since the VAT notice is part of the refund application process therefore every VAT notice has to be inspected to find out whether it has been signed, complete information is available, in compliance with the requirements and containing no error in the calculation. Apart from this since it is part the process, whether the VAT notice is the application of refund should be found. This is the case where an amount of money in the VAT notice is available in the line 51 and it has a ratio in the column 53 of group F and this is the case where information has been filled and signed in group B.

**Group F- VAT Amounts to Be Remitted, Brought Forwards for Deduction or Refund (Fixed Assets Not Included)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Monthly VAT amount [( 21+22) –(39+41)] | 44 |  | Monthly Credits[(39+41)-( 21+22)] | 48 |  |
| VAT Amount Brought Forwards for Deduction | 45 |  | Credits +Adjustment((45±46)-44 if (45±46)$>44$ | 49 |  |
| Previous Notice Adjustment  | 47 |  | Total Credits not Including Fixed Assets (48+49) | 50 |  |
| VAT Amount to Be RemittedNot Including Fixed Assets[44-(45±46)] | 46 |  | VAT requested for Refund in the month (48)x(53)% | 51 |  |
| % Gross Credits Linked to Export and Supplies to Foreigners [12+13] of Gross Taxed Revenues [17-14] | 53 | % | Total Credits not Including Fixed Assets Brought Forwards for Deduction | 52 |  |

1. In case the VAT notice has an amount of money to be refunded, the units and working groups inspecting it after the notice and money refund, should enter input information in the Excel program or the program for proceeding the related notice, stressing on the refund application process received by at tax office each level. A sample of the program is attached herewith. Related information recorded in the program includes the followings:
* The VAT Remitters’ identity Number,
* Name of the VAT Remitters,
* Ratio in the Column 53 of the Group F of the Notice,
* Tax Amount Requested to Be Refunded,
* Selection Results: “Direct Refund”, “Audit” or “Inspection for VAT Refund”,
* Date of the Letter Requesting documents or Refund Inspection Preparation,
* Date of “the Audit” or the Beginning and the End of “the Refund Inspection”,
* Results of the “Audit” or “Refund Application Inspection”,
* Dater of Decision for Refund or Part of Refund or Refund Rejection,
* Date of the Actual Refund.
1. When the basic information (VAT remitters’ identity number, name, ratio in % and amount of requested for refund) have been input in the specific computer, the inspection units or the working groups should begin proceeding the selection prior to the notice and refund by the Tax Department and the Tax Revenue Collection Management Office at each level as determined in section 9 -12. The first selection for instance: for the application received in February 2010 for the tax period of January 2010, the Implementation Regulation is determined in section 9 B only.
2. **Conditions and Regulation for Selection**
3. The refund application selection to proceed the refund should be practiced as follows:
4. First, the units or the working groups for the notice and refund post inspection in the Tax Department or the Revenue Collection Management Office at each level should inspect to find out whether there is the name of the VAT remitters in the selected list, if yes the VAT remitters name is there, it shows that the selection is ended;
5. If the VAT remitters submitting the refund application do not have their name in the list determined in section D, then the followings shall be carried out:
* The requested amount is less than 100 millions kip 1 the request is correct and will be certified but would be inspected afterwards. In principle, random selection as defined inn section D is still practicable to refund the requested amount without audit and inspection of the refund.
* Requested amount more than 100 million kips in the first request is in the selection requirement of post inspection for the return of VAT amount.
1. If the name of the VAT remitters who submitted the refund application is not in the list mentioned in the section D below and the requested amount is between 100 millions kip to 1 billion kip, if it is found that it falls at least within the requirements below, the refund application will be selected for inspection prior to the refund and will be inspected with the following conditions:
* The requested amount is on the average twice more than the past requests;
* The request by the VAT remitters who have recently legally changed the identity (changed from individual to a company limited..)
* The old request by the old VAT remitter who has been rejected (in whatever reason);
* The deployment for refund inspection in the past or the audit has shown that the request is not correct or there was tax evasion or fraud.
* The last VAT notice submitted by the VAT remitters indicated much immediately reduced business revenue;

The refund applicants have other types of tax debts;

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1 The minimum amount mentioned here could be changed periodically or the random selection in order to avoid the VAT remitters to know this amount and would adjust the application to avoid deeper inspection.

* The Tax Sector precedes court cases with the VAT remitters who have submitted the refund request documents (whether under any wrongdoing or not).

 If any above mentioned situation has been found, then audit has to be conducted.

1. Finally, depending on the units and working groups for post inspection to the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level, will execute the overall inspection policy (see section 4), the number of VAT remitters who have submitted the refund applications regardless of the amount of money for refund, will be ‘**randomly selected for the refund audit or inspection**’ for the **next** request. There should be a specific listing of VAT remitters to be **‘audited or refund inspection’** in enterprises in order to be used for information comparison in the next refund application received in the next tax period (next month).
2. Even though the refund request has been selected for inspection based on the above requirements, the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level can decide not to conduct the inspection of the refund due to, prior to that, the refund applicant has been selected for regular inspection. Similar case, even though the refund request has been selected for audit for the reason of no requirement compliance, the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level, can decide to carry out the refund inspection.
3. The selection process defined in section 11 and 12 should be proceeded between the dates 5 and 16 each month in particular the refund applications received by the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level. From the date 17 of the month till the date 4 of the next month. The process will be carried out weekly.
4. For the refund requests which have not been selected for the audit or inspection prior to the refund, should be proceeded in all manners possible in order not to delay actual refund based on pre-determined regulation from section 28.
5. **Additional Regulations for the Refund Request Selected for Refund Audit or Inspection**
6. As consequences from the process in section 11 and 12, a since there is a decision that the refund request be selected for the audit and refund inspection, the refund application documents determined for refund inspection should be sent to the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level and assigned to a working team having 2 inspection staff missioned in enterprises for refund inspection. For the refund requests determined for audit the chief of the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level, should assign the responsibility to one of their staff in such case.
7. As soon asbeing assigned, the staff of the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level, responsible for the audit and the inspection staff responsible for refund inspection begin to collect all available information and related to the VAT remitters who have submitted the refund application and coordinate with the VAT remitters to prepare. For the audit case, the preparation includes drafting a letter to inform the selected VAT remitters to send the documents and information certifying that their applications are correct (a sample of the letter is attached in the annex 1). For the case of refund request inspection in the enterprises, the preparation mainly consists of the notice regarding the inpection mission to the selected VAT renitters (a sample of the letter is attached in the annex 2) and the determination of the inspection date, time and venue.
8. **Audit’s Components and Procedures**
9. After the refund application has beenselected for audit, the staff of the units and working groups for post inspection of the VAT notice and refund in the Tax Department and the Revenue Collection Management Office at each level, should send the letter to the VAT remitters, informing them to submit the documents and evidences lined to their refund application as defined by the Law on VAT in particular the documents and records stipulated in section 25 below , to the Tax Sector. The contents of the letter to be acknowledged by the VAT remitters are as follows:
* If the documents submission is late then the VAT refund will be also late;
* If the concerned remitters do not submit the documents within 1 month from the date of the letter, the refund will be considered incorrect and will automatically rejected. Apart from that, they will not be allowed to bring forwards tax credits to be deducted in the next VAT notice.
1. While the staff waiting for the documents return from the VAT remitters, they have to prepare the audit by gathering information they have concerning the VAT remitters, composing of the law obedience history, specifically to review the previous refund applications information for instance the information received from the Customs Sector regarding imports and exports mentioned by the VAT remitters during the related tax period in the refund request.
2. After the VAT remitters has sent the required documents and records, the responsible staff must re-inspect them in details in the office comparing with the refund application and other available documents specifically concerning the information received from the Customs Sector (if available).
3. The responsible staff should ensure that the audit is conducted as fast as possible. In any case, when found out that the refund application is correct and has already been accepted, the actual refund to the VAT remitters has to be carried out within the limit of 3 months counting from the submission of correct refund request. The refund application is considered correct from the time the VAT remitters have submitted the due documents and evidences (see section 17) only if these documents certify the refund request correctness.
4. When the responsible staff have completed the audit of the documents and records as mentioned above they have to record brief conclusions in the report explaining how the summary have been obtained and gave opinions regarding the basic legal provisions concerning the refund request or part of them have been rejected. One of the conclusions could be as follows:
* In case of serious evasion or fraud the staff should verbally and urgently report to the head recommending continuing audit then the staff should draft written report. In this case the head of the Tax Office at each level, can order full scrutiny;
* The VAT refund request should be fully rejected, the staff should justify the reasons based on the related legal provisions in their inspection report. The rejection is also certified and explained in written form to the VAT remitters.
* The refund application have been partly rejected in this case, the staff should justify the reasons based on the related legal provisions in their inspection report. The rejection in certain number of applications have also been certified and explained in written form to the VAT remitters who submitted the applications. For specific parts which have been accepted it is allowed to use the normal regulations in order to render actual refund effective without delay (see section 30 and 31).
* For the certified refund application: should carry out under normal regulations to endure that the actual disbursement has been proceeded as fast as possible (see section 30 and 31).
1. **Contents and Inspection Procedures Prior to the Refund in Enterprises Offices**
2. Since the refund application has been selected for **‘refund inspection’** and assigned to the inspection team, the inspection staff should immediately communicate with the VAT remitters to prepare the actual field inspection staff deployment, each timed the date, time and venues are defined. While preparing, the inspection staff should prepare field inspection at site, collect all the documents related to the VAT remitters that can be found including their completed commitments history, in particular the information concerning the refund applications for each actual field inspection example: the information received from the customs relating to the VAT remitters exports and imports during the tax period corresponding to each refund application.
3. The site inpection stresses specifically on the refund application documents inspection. Therefore during the inspection, the staff should focus specifically on the refund request at the time; for the past tax period or the next month, they would not be subject to refund inspection due to the fact that those tax periods will be inspected in normal procedure. However if the VAT remitters submit monthly refund requests but are not selected for inspection each time, the tax chiefs at each level can decide whether the inspection of each retroactive refunds from their selection would include part or all of the past refund requests.
4. During the field inspection, the inspection staff should see whether the VAT remitters who submitted the refund request could certify that they have implemented the conditios of the refund at that time. The certification includes a set of documents and records showing the tax period they apply for the refund as follows:
5. Both VAT amount at the entry side which could be dedcuted and the gross payable tax sum has been correctly and fully declared in the VAT declaration sheet for the said period and the past period.
6. The ratio of the declaration in the comumn 53 group F of the VAT is a correct ratio of the gross revenue of the VAT remitters consisting of the supply of goods which have been exported and or the supply of goods and services produced in the foreign countries as per the Article 9 and 10 of the decree on VAT;
7. goods which have been exported have been really exported the goods and services produced in the foreign countries have really been produced in the foreign countries;
8. The payment for exported goods are processed through banking system or through other forms such as goods and services exchange. The payment of goods in other specific forms as determined by the law in compliance with the Article 22 Section 4 of Law onVAT.
9. The field refund request inspection deloyment is considered as a priority over other types of inspection. The inspection deployment consists of preliminary interview emphasizing on the collection of information regarding exports or the foreign supply which are normally within the range of refund. The survey of the place for business operation might be useful to gain some ideas about the company size and may some possibility that it is related to real exports. Finally there should be inspection of the documents and the accounts relating to the refund application being inspected. These documents and records normally compose of the followings (but there may be other documents and records of the same category):
10. Correct copy of the bills issued by the VAT remitters related to each good and service supply during the tax period;
11. The records of these supplies in the suppliers’ account compling with the Article 14 and 34 of the Law on VAT;
12. The VAT remitters documents and records should certify their rights of entry VAT deduction consisting of the followings:
* For imported goods, the foreign suppliers’ correct bills or the replacement documents containing the information as stipulated in the Article 35 of the Law of VAT and stated that they are the imported goods’ purchasers and the documents that the customs sector have correctly certified as per the Law on customs, defining that they are the goods importers and stipulated the payable VAT amount for exports or enabling it to be calculated.
* For the goods and services supplied to them within the Lao PDR by other VAT remitters established and registered in Lao PDR, the correct bills as defined in the Article 35 of the Law on VAT;
* For the services supplied to them in Lao PDR, by the foreign business operators who are established and registered in Lao PDR, the correct bills or documents should contain the information determined in the Article 35 of the Law on VAT;
* Apart from this, in the above mentioned case the VAT remitters must record each supply and import that they have deducted the entry VAT in the account they follow under the Article 14 and 34 in the Law on VAT;
1. For the export goods, the agreements for the sale of these goods or similar documents, the documents linked to transport showing that the goods have been transported from one location point in Lao PDR to other point outside Lao PDR or to the Customs warehouse or similar destination in Lao PDR by the suppliers or the representative agents, the payment documents showing that the supplied goods have been paid from foreign countries through banking system or through other forms as defined in the Article 22 section 4 of the Law on VAT (if comply with the conditions) and correct customs declaration documents showing that the goods are declared to the customs sector for exports or entered in the customs warehouse or in other place as allowed by concerned officers.
2. For the goods and services supply declared as proceeded in foreign countries, the documents showing that Lao PDR’s VAT remitters have branches located in foreign countries or participated in goods exposition or similar fairs in foreign countries, where they have sold goods or services in that place by using the goods and or services they purchased or have imported into Lao PDR. The transport documents and customs documents showing that the goods which are sold and been utilized in the services in foreign countries have been transported from the business operation venue in Lao PDR. For the contracts for the sale of goods and or services or similar documents, the bills issued in foreign countries and or other documents showing that the supply of goods and services has used goods from Lao PDR’s VAT remitters warehouses, has occurred or will occur in foreign countries as defined in the Article 9 and 10 of the VAT Implementation Recommendations. The documents showing that the goods and services have been supplied in foreign countries, have used and or include the goods and or services that the VAT remitters have **purchased and imported into Lao PDR.**
3. The inspection staff working in the refund inspection as fast as possible. If the refund application is certified and accepted the refund to the VAT remitters in the latest three months after the day the refund application have been submitted and accepted as complied with the regulations and laws.
4. When the inspection staff have summarized that the refund inspection has been completed then reported the inspection results, explaining and concluding their opinion regarding the basic legal requirements related to the refund request or when part of it has been rejected, the summary may be one of the followings:
5. During the inspection deployment, evidence of evasion and serious fraud have been found. In this case the inspection staff should verbally and immediately report to the responsible chief and continues to inspect, extending to other tax periods. Then the responsible chief can decide to broaden the inspection range to include other types of tax or can order the scrutiny.
6. In case the refund application has been fully rejected, the inspection staff should explain the reasons based on the law and regulations requirements. The rejection should be certified and explained to the VAT remitters. For the parts which have been accepted, it is allowed to use the normal regulations in order to render the actual refund effective without delay (see section 30 and 31).
7. The refund application is accepted: proceed with normal regulations to ensure that the actual refund is carried out as fast as possible (see section 30 to 31).
8. In principle, for the VAT refund inspection, the tax should be assessed. In case many errors have been found which would affect the payable tax, the inspection staff should consider that there is a necessity to carry out urgent normal inspection and should propose to the responsible chief to extend the inspection deployment range to normal inspection.
9. **Process of Issuing Decisions and Power to Approve and Proceed with VAT Refund**
10. The case of requirements as defined in section 5 and 6 of this regulation regarding financial sources and VAT refund, have the conclusions that can fully or partly accept the VAT refund applications depending on the level the refund applications have been sent. Therefore, implement the followings:

1. The VAT remitters under District Tax Office who should certify the VAT amount to be refunded then send them to the Provincial or Capital Tax Department Chief, to issue the decision for refund.
2. The VAT remitters under the management of the Capital or the Provincial Tax Department; it is the tax revenue collection management office to certify the VAT amount to be refunded. Then the documents should be sent to the Provincial or Capital Tax Department Chief to issue the decision for refund.
3. The VAT remitters under the Tax Department management: the tax revenue collection section to certify the VAT amount to be refunded. Then the documents should be sent to the Tax Department Chief to issue the decision for refund.

In the case the VAT refund application is subject to inspection or there is inspection prior to the refund, the chief of tax revenue collection in the Tax Department, the provincial, Capital and District tax Directors should certify the correctness of the submitted documents to certify the request for VAT refund within the range of their responsibility.

In every case, the VAT amount to be refunded have to be initially recorded by the responsible chief’s signature and the agreement relating to the VAT amount refund should be written in the agreeable form defined by the Tax Department.

After the acceptance of the VAT refund application, the tax revenue collection management section of the Tax Department and the provincial, Capital Tax Director will follow up the actual money refund.

In specific case as determined in the Article 24.3 in the law on VAT and the Article 34 section 3 of the VAT Implementation Recommendations, the decision related to the return of the VAT amount of money across the country should be carried out by the Ministry of Finance’s Minister or the Director of the Tax Department as assigned by the Minister**.**

1. **Preparation for Actual Refund to VAT Remitters according to Refundable Amount**
2. In case of refund is not selected for audit or inspection in the enterprises (see section 14) or after the audit or the refund inspection, the refund application is certified correct (see section 21 and 27); against two cases, the inspection units or working groups after declaration and refund made by the tax revenue collection management sections or offices at each level should draft the decision for refund together with the refund application documents and the results of the audit and the refund inspection deployment should be sent to the decision maker for consideration and signing as soon as possible (sample of the decision, see the document attached in the annex 3).
3. In the above stated categories in section 30 proceed as follows:
4. For the VAT remitters under the management of District Tax Office, have to send proposal to the Provincial and the Capital Tax Departments to carry out the VAT refund;
5. For the VAT remitters under the management of the Provincial Tax Departments, the Capital Tax Offices or the Tax Department should issue the decision to return the VAT amount of money to the remitters, the enterprises under the management of District Tax Offices should be paid attention as per the followings :
* The Provincial or the Capital Tax Departments Directors have the right to decide the VAT refund to the VAT remitters if the tax amount does not exceed 50,000,000 kip each request. If it is more than this amount the Tax Department Director General will decide.
* Tax Department Director General decides the VAT refund to the remitters if the amount exceeds 50,000,000 kip per each request.
1. The National Treasury at the Central, Provincial and Capital levels, will execute the VAT return within 15 working days after the date of the Tax Department or Tax Sections’ decision to refund the VAT.
2. **The Refund Sources Management**
3. The VAT refund sources as defined in the Article 36 of the VAT Implementation Recommendations are deducted from the State Budget Department and an account is opened in the National Treasury. The VAT amount refunded in the first year after the VAT establishment, the Budget Department was the one who provided the financing according to the Tax Department proposal, based on the agreement of the Ministry of Finance (MOF) Minister. For the next subsequent year in accordance with the Tax Department’s proposal through the Budget Department’s Director General, the MOF Minister decided the approval of the budget fund source for VAT amount return and categorized in the annual budget expenditures plan to submitted to the National Assembly’s approval.
4. The VAT return fund sources as defined in the Article 36 of the VAT Implementation Recommendations, the National Treasury Department in the Central or the Provincial, the Capital assigned by the National Treasury’s Director General, will manage and maintain, The VAT amount refund disbursement will conduct the procedures as determined in the Article 35 of the VAT Implementation Recommendations.

The Tax Department should quarterly summarize the details concerning the amount of business units having VAT amount at the entry side which are allowed to deduct correctly and fully remitted to the budget in reality. At the closing of the first year budget using the VAT if the sources of VAT refund remain, it will be brought forwards for the next year.

1. The function and responsibility of the Central, Provincial and Capital National Treasuries are to implement the VAT amount refund disbursement to the targets who will receive refunds as per the decision of the MOF Minister, the Tax Department Director General or Provincial or Capital Tax Departments Directors, within 15 working days from the date when the National Treasury has received the refund agreement. The VAT refund amount of money has been utilized from a specific treasury for VAT refund as per the MOF’s determination.

1. **Implementation and Effectiveness**
2. The Tax Department, Customs Department, National Treasury and Budget Departments and the Departments of the Provincial and Capital Tax, Regional Customs, Budget, National Treasury and other concerned parties are assigned to strictly and highly effectively implement this Regulation.
3. This regulation on conducting of the VAT refund is effective from 01 January 2010.

**Minister of Finance**

 **Somdy DOUANGDY**

**Annex 1. Printing Form No. 08 VAT. TAX**



**Lao People’s Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

**Ministry of Finance No…… /MOF**

**Tax Department/Provincial and Capital Tax Departments Date…..month…..year….**

**To.**: The VAT Remitters (Name, Address, VAT Number)

**Subject:** Consideration of VAT Refund Application

We have received the VAT refund application for the tax period:..

Under the Law on VAT, we, the tax sector has the function to see that you have correctly, fully fulfilled your commitments on time. Therefore, we would select your tax refund application for inspection.

It means that our Tax Sector’s officers will inspect your tax refund application comparing with the documents you should provide as per the regulations and laws in order to certify that your tax refund application is truly correct. You could see these documents in the following sheet at the back of this letter.

Please gather or send these documents to the Tax Sector as soon as possible. The faster, our staff could proceed your documents inspection, the faster you would receive the tax amount refund subject to the correctness of all the documents.

You will receive the inspection results immediately after it is completed. You will be able to come to get the documents from our office.

If you have questions regarding the above mentioned issues, please contact the working groups who receive a notice in our office or contact the telephone number..

 Best Regards,

 The Director General of Tax Department /

 Director of Provincial or Capital Tax Department

**Necessary Documents to be certified that The Tax Refund Application is Correct**

Normally, the documents consist of the following (other and similar documents could be utilized for certification in some cases)

1. Copy the correct bills who have issued for the each goods and service supply, pertaining in the tax period for the VAT amount refund application;
2. The records of these supplies are in the accounts you are holding in accordance with the Article 14 and 34 of the Law on VAT.
3. The following documents and records you should have, in order to certify your right to deduct the VAT at the entry side.
* For Import Goods: the correct invoices nor equivalent documents from your foreign suppliers

containing the information as required in the invoices being used in Lao PDR and stated that you are the import goods purchasers right through the import documents which have been certified correctly by the Customs Sector under the Law on Customs determining that you are importer and stipulated the payable VAT amount for import or rendered this amount could be calculated;

* For the goods and services supplied to you in Lao PDR by other VAT remitters, founded and registered in Lao PDR, the invoices must be prepared in accordance with the Article 35 of the Law on VAT;
* For the services supplied to you in Lao PDR by foreign business men who are not established and not VAT registered in Lao PDR, the correct invoices or equivalent documents containing the information defined in the invoices being used in Lao PDR.
1. For the export Goods: for the goods sale contracts or similar documents and for the transport documents from one location in Lao PDR to another location outside Lao PDR or to the Customs’ warehouses or similar destinations in Lao PDR by yourself or your representative agent, the payment documents showing that the supplied goods are paid from foreign countries through banking system or through other payment form as defined in the Article 22 Section 4 of the Law on VAT (if applicable) and the correct Customs declaration documents showing that they are correctly declared to the Customs for export or for the entry in the Customs warehouses or in other location as defined by concerned sector who performs similar functions.
2. For the services declared as supplied from abroad: the documents showing that the VAT remitters in Lao PDR have subsidiaries in foreign countries (have participated in goods exposition or similar fairs in foreign countries) where they have sold goods and or services in or in those places, using the goods and or services they purchased or imported in Lao PDR; the transport documents and the Customs documents showing the goods have been sold or used in the services abroad, are transported from the business venue in Lao PDR. For the goods and or services sale contracts or similar documents, the invoices issued abroad and or other similar documents show that the supply of goods and services, which have been used by the VAT remitters from the warehouses in Lao PDR, has occurred and will occur abroad as defined in the Articles 9 and 10 of the VAT Implementation Recommendations and the documents showing that the supplied goods and services abroad, might use and or include goods and or services purchased or imported into Lao PDR by the VAT remitters.

**Annex 2. Printing Form No. 09 VAT. TAX**



**Lao People’s Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

**Ministry of Finance No…… /MOF**

**Tax Department/Provincial and Capital Tax Departments Date…..month…..year….**

**To.**: The VAT Remitters (Name, Address, VAT Number)

**Subject:** Consideration of VAT Refund Application

We have received the VAT refund application for the tax period:..

Under the Law on VAT, we, the tax sector has the function to see that you have correctly, fully fulfilled your commitments on time. In this case, there is the selection of your tax refund application for inspection.

It means that our Tax officers will be deployed to visit your enterprise to proceed with the comparison between the tax amount refund application against your actual business activities for the tax period specifically to compare the documents you should have as per the law to certify that your tax refund application is truly right. You can look at the list of these documents in the back of this letter. Apart from this, in the back of this letter, you could read the summary of your rights and commitments as well as the tax officers’ rights and commitments linked to the VAT refund application inspection deployment.

Please contact the tax officers below to ask a question regarding this inspection deployment. Regarding the case, please remember that the faster the tax officers could begin to proceed with the tax refund application inspection, the faster you will receive the tax money that you have requested under the condition that all of your documents are correct.

We will inform you about the results of tax refund application inspection immediately after the inspection completion.

For the appointment of this inspection if you have any question about what has been mentioned above, please contact Mr. / Miss in our office or the telephone number…

 Best Regards,

 The Director General of Tax Department /

 Director of Provincial or Capital Tax Department

|  |  |
| --- | --- |
| The list of documents and records necessary to certify that your tax refund application is right(based on the Article 32 of the VAT Implementation Recommendations)Normal documents and records consist of the following (but other documents and/or similar documents could be used in certain cases):* Copies of correct invoices that you have issued for the goods and services during the tax period of the tax refund application;
* Records of supplies in the account that you must hold under the Articles 14 and 34 of the Law on VAT;
* The documents and records stipulated in the Article 27 of the Decree on the VAT Implementation that you should have to certify your right for the VAT deduction at the entry side, consisting of :
* For the imported goods, the correct invoice or equivalent documents from your foreign suppliers, containing the information defined in the invoices used in Lao PDR and identifying that you are the goods purchasers as well as import documents certifies as correct by the Customs under the Customs Law, which determines that you are the importer and states the payable VAT amount for import and enables the amount to be calculated;
* For the goods and services supplied to you in Lao PDR by other VAT remitters established or registered in Lao PDR, the correct invoices would be prepared according to the Article 35 of the Law on VAT;
* For the services supplied to you by foreign business men not established nor VAT registered in Lao PDR, the correct invoices containing the information as defined in the invoices being used in Lao PDR;
* Apart from the above cases, you must record the supplies and imports in the account that you must hold as determined in the Articles14 and 34 of the Law on VAT, in order to enable you to deduct the VAT amount at the entry side;
* For the exported goods: the sale contracts or similar documents, the documents linked to the transport showing that the merchandises have been

sent from one location in Lao PDR to another point outside Lao PDR or to the Customs warehouses or similar locations in Lao PDR, by you or your representative agent. The payment documents showing that the supplied goods have been paid abroad through banking system or other payment form as defined in the Article 22 Section 4 of the Law on VAT (if applicable). The correct Customs declared documents, indicate that the goods have been declared to the Customs Sector for export or for the Customs warehouses entry or other place as defined by the sectors performing rightly similar functions.* For the supplies subject to zero tariff: the goods and services sale contracts and similar documents certifying that the conditions for using zero tariff , under the Article 19 Clause 2 of the Law on VAT and the Article 18 of the VAT Implementation Recommendations, have been implemented
* For the services declared as supplied abroad: the documents showing that the VAT remitters in Lao PDR, have subsidiaries abroad (have participated in merchandises exposition or similar fairs abroad) where they have sold goods and/or services there, using the goods and/or services they purchased or imported into Lao PDR. The transport documents and the Customs documents showing that the goods are sold or utilized in the services abroad, have been transported from the business venue in Lao PDR. For the goods and/or services sale contracts or similar documents, the invoices issued abroad and/or other documents showing that the supply of goods and services which have been used in the VAT remitters warehouses in Lao PDR, has occurred or will occur abroad as determined in the Articles 9 and 10 of the VAT Implementation Recommendations and the documents showing that the supplied goods and services abroad, might use and/or include goods and/or services purchased or imported into Lao PDR by the VAT remitters. .
 | The VAT remitters Rights and Commitments Linked to the Tax Sector’s Officers Deployment for the Refund Application InspectionWhat are the VAT remitters Rights and Commitments Linked to the Deployment for the Refund Application Inspection?Your rights consist of :* Right to propose to the Tax Sector to completely, precisely supply the information on time about the tax system that you should follow and about the rights and commitments within the system
* Rights to propose to the Tax Sector, that you need the help correctly to ensure that you understand the implementation and the meaning of your rights and commitments under the Tax Law and Regulations.
* Rights to be justly and equally managed by the Tax Sector’s inspection officers;
* Rights to receive minimum intervention and maintained fully confidential;
* Rights to propose to have laws and regulations and tax policies implementation in unity, with reliability and transparency;
* Rights to request the tax inspection officers to carry out their functions with austerity and regards to others
* Rights to request that inspection should be just and no bias, carrying out as per the purposes;
* Rights to request to esteem technical confidentiality;
* Rights to request a notice to inform about the inspection memorandum and read out face to face with you (where you have to sign) about errors and other events of not obeying the laws and regulations which have been found in the course of inspection, regarding the tax amount, penalties and payable interests you have settle for the assessable wrong doing;
* Rights to appeal to the tax officers’ judgement in the inspection;

 Your commitments comprise of :* Helping the appointed tax officers and allow them to examine your ledger, documents and business venue in the course of inspection deployment;
* You should provide the requested information for the purpose of determining that your tax commitments or other tax payers’ commitments are correct;
* You should maintain and keep your ledgers and record books which are right in the period of 10 years, which will enable you to submit the notice for payable tax and the tax amount paid on time;
* You must understand the tax laws legislation so to enable you to carry out the activities related to VAT system in correct manner.

What are related to the VAT refund application inspection deployment? The deployment for VAT refund application inspection normally comprise of the examination of ledgers, documents and records linked to the VAT refund application. During the inspection deployment, the tax officers normally will emphasize on the specific VAT refund application at the time. What can I do in case I disagree with the inspection officers’ rejection of the VAT refund application after the inspection deployment. After the inspection deployment, if your VAT refund application is fully or partly rejected, you can submit an appeal to the Tax Sector where you are directly registered within 30 days after the date of the rejection notice. If you submit the appeal later than the above date limit, the Tax Sector will not consider the appeal. *You must understand the truth that as being in the position of a VAT remitter** *You cannot deny the tax inspection officers for not allow the tax officers to look at the ledgers, records and other documents linked to your tax commitments;*
* *If you are operating your business you cannot deny the tax officers to observe your business venue;*
* *You cannot deny the information providing as per the ax officers request;*

*Whatever the denial is, including not holding any account nor record and not maintaining and keeping the documents within the time limit of 10 years, which is considered as violation of laws and regulations, which will be penalized in many-fold compared with the unpaid tax amount or the tax amount wrongly requested, apart from this, it could end with the closing of the business operation and proceeded as a court case.*  |

**Annex 3. Printing Form No. 10/VAT. TAX**

**Lao People’s Democratic Republic**

**Peace Independence Democracy Unity Prosperity**

**Ministry of Finance No…… /MOF**

**Tax Department/Provincial and Capital Tax Departments Date…..month…..year….**

**The Tax Department Director General and the Provincial and Capital**

**Tax Department Directors’ Decision on The VAT Amount Refund**

- Persuant to the Article 24 of the Law of VAT, No. 04 /NA dated December 26, 2006; the Article 23 and 24 of the Decree on the VAT Implementation No. 270/PM, dated September 18, 2009.

- Persuant to the articles of the VAT Implementation Recommendation no………………………;

- Persuant to the Application No……… dated……… with attached documents for the VAT Refund from the enterprise

- Persuant to the…………………………. Department’s Director General’s Application.

 **The Tax Department Director General / Directors of the Provincial**

 **and the Capital Tax Departments Decide:**

**Article 1:** Approved the VAT refund to ……………………………….(Name of the enterprise) ……

The Tax Identification Number (TIN) : …………………………………………………………………

The sum of money:……………………………………………………………………………………….

(in words): ………………………………………………………………………………………………...

(Reasons): ………………………………………………………………………………………………..

**Article 2:** Assigned to the Central, Provincial and Vientiane Capital National Treasuries’ staff to disburse and transfer VAT amount of money refund to thye Enterprise as defined in ther Article 1 of this Decision. Accout Number:…… At the Bank: ……(Treasury Office) : ………………………….

**Article 3:** This Decision is in full efect from the date of tye signature onwards, the Enterprise Manager, the …………………….Department’s Directors, the Directors of the Planning and Information Department, the Director of Administration Department should acknowledge this Decision.

The condition for the utilization of this **Decision** has the following meaning: ………………………….

 Best Regards,

 The Director General of Tax Department /

 Director of Provincial or Capital Tax Department

Cc: -The Enterprise receiving the VAT amount.

* The Department Director:……………………
* The National Treasury.
* Provincial and Capital Tax Departments.
* A copy is kept in the Tax Department.



Selected for

Audit

Inspection

Prior to the Refund

 Audit

 Prior

 To

refund

 Prior to

Audit Prior

 to

 Refund

 Inspection

Department

The application

and Refund

documentation

Progress and

 Results of the

Process

Refund

Application

 Rejected

Refund

Application

Found no

 Problem

The application

and Refund

documentation

Progress and

 Results of the

Process

Notice

 Audit

 Working

 Groups

Progress and Process Results

VAT Remitters

Portfolio

 Selected

Information

Selection

 Conditions

Registered

 VAT Remitters

Refund

Application

 Rejected

Refunded Amount

 Refund

Working

 Groups

Selected for

Inspection prior

To Refund

Selection

Process

 Selected

Informa

tion

 Audit

Working

 Groups

Refund

Application

 Follow-up

 file

Basic Data

 Input

Table

(In the

Program)

 Progress

 and

 Results

 of the

 Process

Refund

Application

Found no

 Problem

The application

and Refund

documentation

Progress and

 Results of the

Process

**PROCESSING REFUND APPLICATION**

**Annex 4**