



JA Del Río

VAT refund management: Best practices and Key Learnings



Presenters



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Agenda

I. Activities that accrue VAT balances in favor.

II. Management of the VAT refund process.

III. Court rulings relevant to VAT refunds.

IV. Suggested documentation and review for a VAT refund.

V. Additional information requirements.

VI. Questions and answers.



**Activities that accrue
VAT balances in favor.**

Where or why are balances in favor generated?

There may be several reasons why VAT balances in favor are generated:

01	02	03	04
The company is partially exporting or fully exporting goods or services. 	The company sells goods which are subject to a 0% tax rate. 	The company purchases goods at 16% and sells at 8% (border). 	VAT on purchases of goods of foreign residents that are delivered in the country (withholding) and changes to importation regime of the goods, or final importation regime (particularly for companies operating under IMMEX). [Decree for the Development and Operation of the Maquiladora Export Industry] 

Where or why are balances in favor generated?

There may be several reasons why VAT balances in favor are generated:

05



Significant investments in companies, whether they are already operating or newly created.

06



Companies in pre-operational periods that incur significant expenses and investments.

Where or why are balances in favor generated?

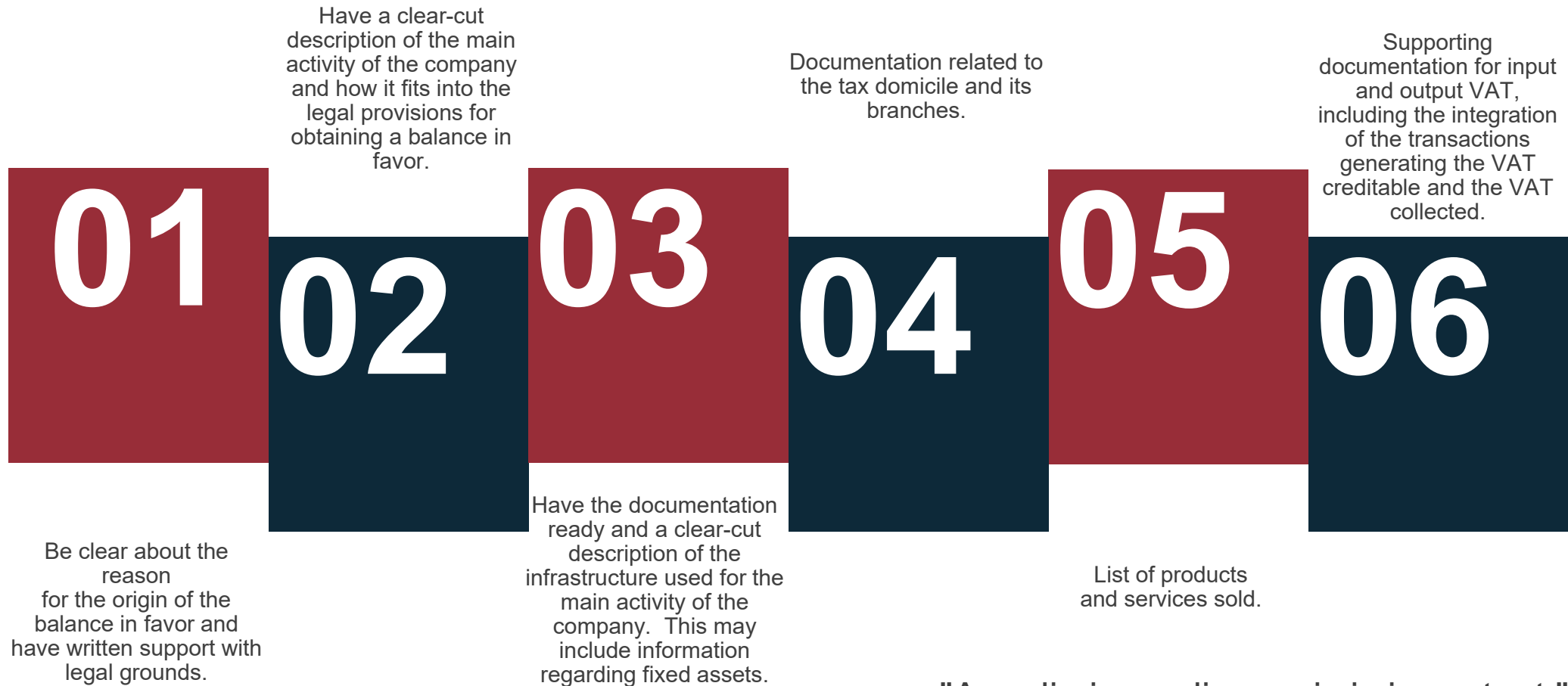
It's important to avoid requesting improper refunds, since the Tax Administration Service, (SAT), has announced that it will audit companies that do so.

01	02	03	04
 When the taxpayer carries out exempt activities	 When the taxpayer carries out activities not subject to the Value-Added Tax Law	When the taxpayer makes civil settlements as a form of discharging obligations, which may have VAT implications.	When the creditable VAT comes from expenditures that do not comply with tax requirements for Income Tax deduction or non-deductible expenditures.



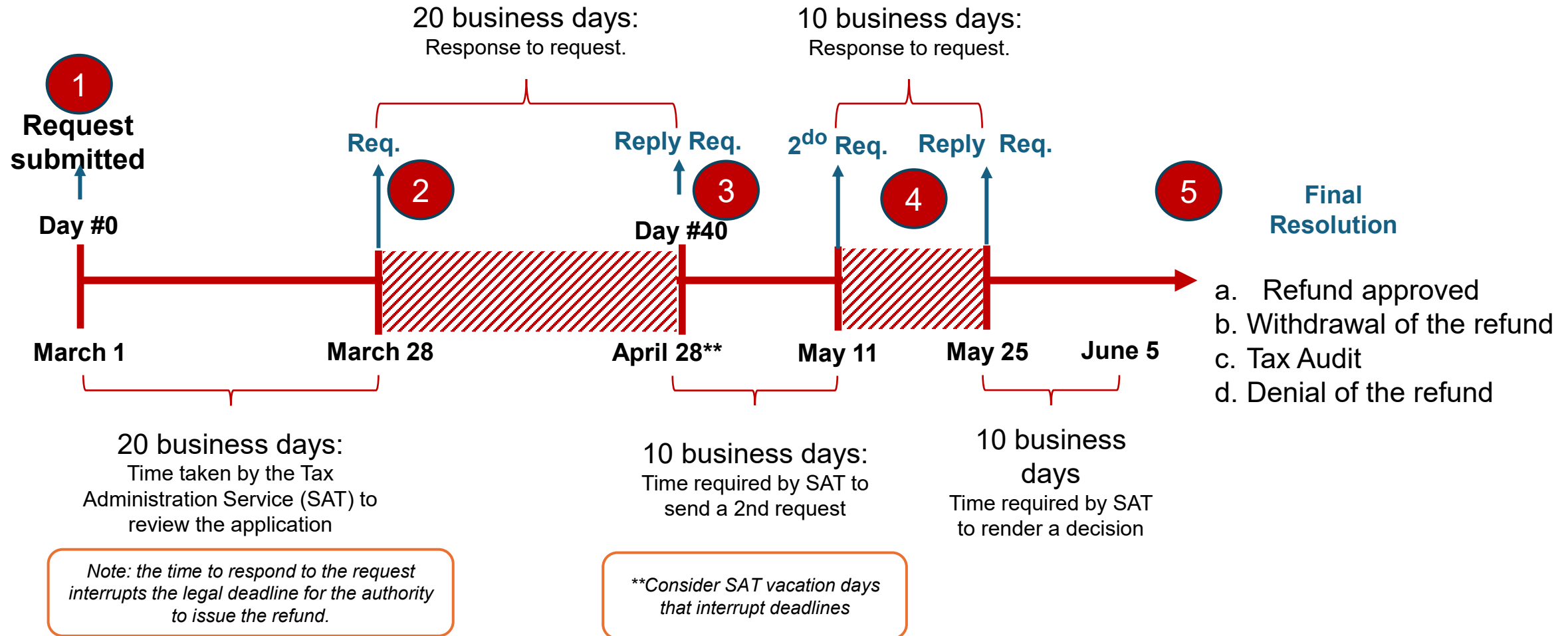
Transaction management of VAT refund

What do I need to have before requesting my VAT balance in favor?



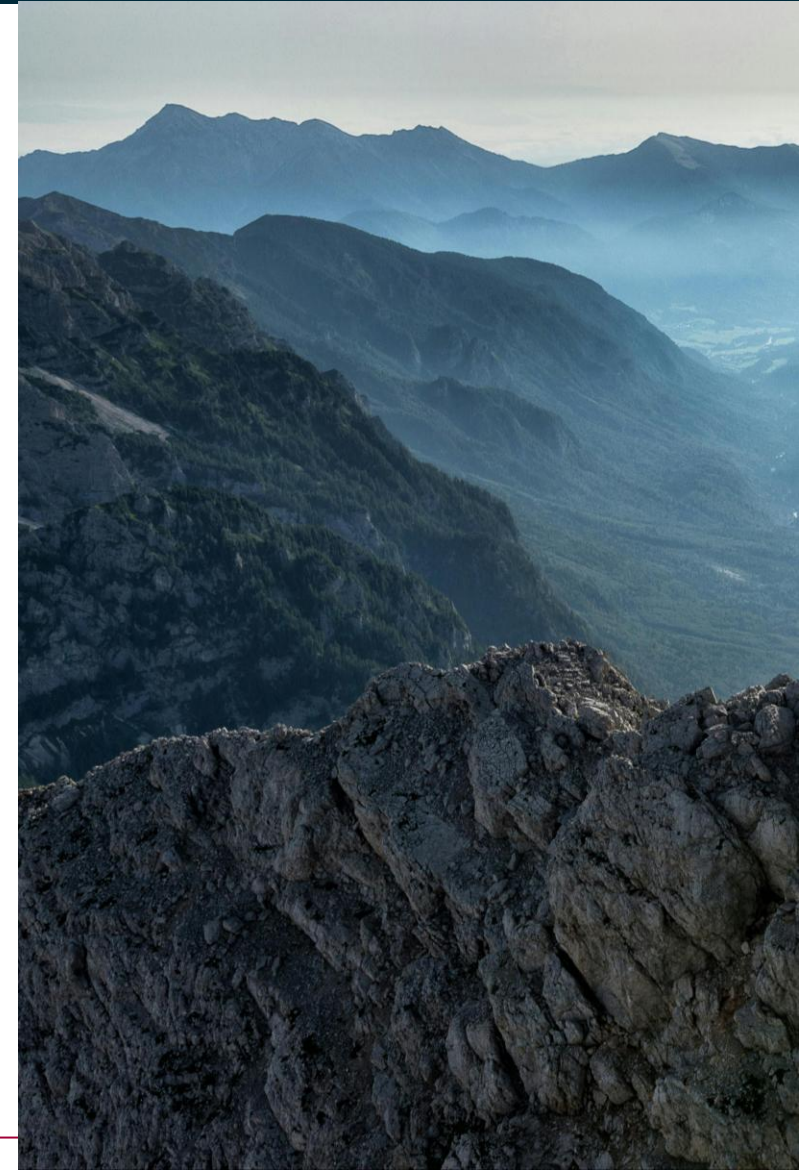
"A preliminary diagnosis is important."

VAT refund process timeline



What happens when there is no prior assessment or review?

- In response to the request, errors in calculation, lack of supporting information, and transactions that were not considered are discovered.
- The foregoing will occur:
 - Withdrawal of the procedure. The time elapsed is lost and the procedure must be restarted.
 - It may be revealed that the credit balance is inadmissible, since the credit balance is not correctly justified.
 - If the procedure is resolved with these omissions, SAT may withdraw or even deny it, putting the balance in favor at risk.
 - For denials, there are additional attorney fees.



What happens when there is no prior assessment or review?

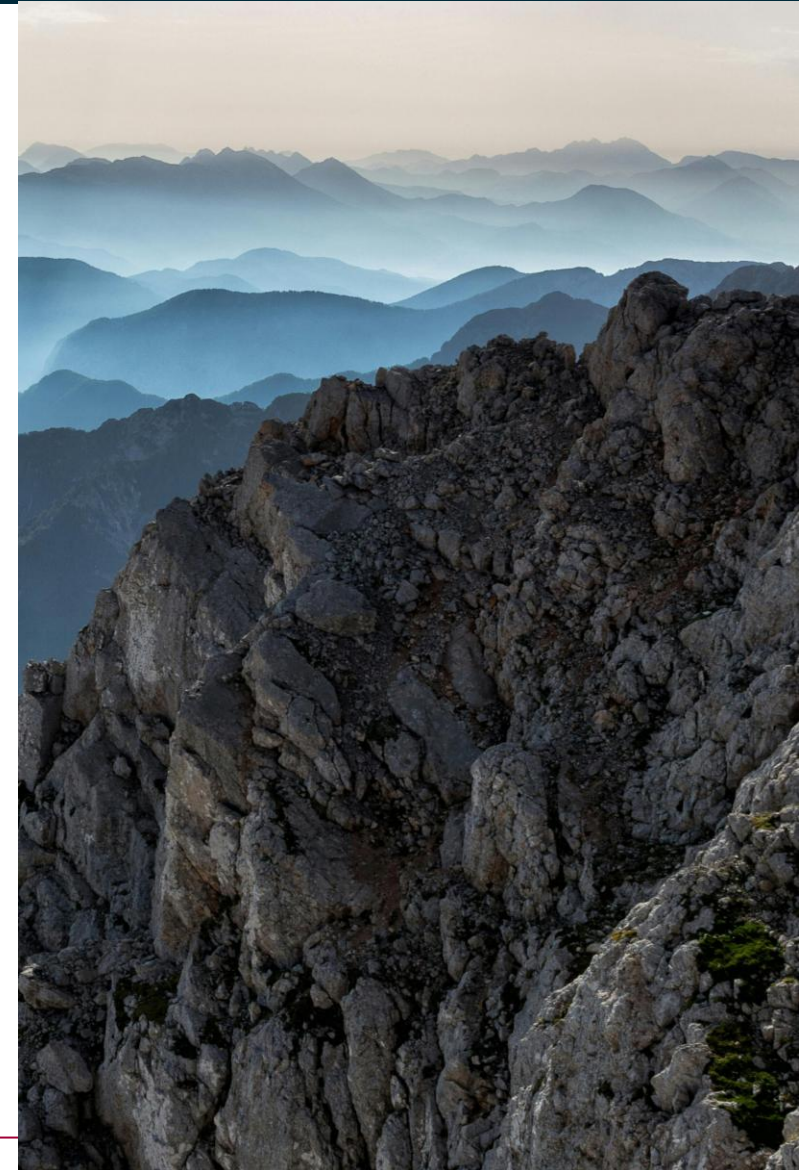


- Errors are often detected later on in the monthly VAT return, such as:
 - Entering the value of acts or activities in a different field, which can create confusion for the authorities.
 - VAT withholdings paid and credited.
 - Not separating creditable VAT from expenses from that of investments.
 - Special mechanisms such as Virtual VAT related to the import of services.

Be prepared for the actions of the tax authority during the processing deadlines.

- Sometimes it is advisable to look up for a meeting with the audit team of the Mexican Tax Authorities in order to explain the reasons for the credit balance. However, it must be done after responding to the request for information. This helps them to fully understand the particular circumstances for the VAT balance in favor.
- Sometimes the tax authority requests information “out of records” through phone calls.
- Sometimes the tax authority contacts the legal representative to ask for a withdrawal of the VAT balance in favor totally or partially.
- It may happen that the authority does not issue a resolution within the period indicated by the Federal Tax Code (CFF).¹

¹ 40 working days





Court rulings relevant to VAT refunds

Case law regarding refunds

VALUE-ADDED TAX. CIVIL OFFSETTING IS NOT CONSIDERED AS A FORM OF PAYMENT AND CANNOT GIVE RISE TO A REQUEST FOR A BALANCE IN FAVOR OR VAT CREDITABLE (LEGISLATION IN FORCE IN THE 2019 AND 2020 FISCAL YEARS).

On May 12, 2023, a case law was published in the Federal Weekly Judicial Gazette, which must be considered mandatory as of Monday, May 15, 2023.

- To this end, the tax authority establishes that civil offsetting is not a form of tax payment, but rather a way of determining the moment at which the consideration is understood to have been effectively collected and for which the tax is payable.

VALUE-ADDED TAX. ACTS OR ACTIVITIES THAT ARE NOT SUBJECT TO THIS TAX CANNOT BE PART OF THE MECHANISM FOR ITS CREDITING.

On August 22, 2025, a ruling issued by the First Chamber of the Supreme Court of Justice of the Nation was published in the Federal Weekly Judicial Gazette, which must be considered mandatory as of Monday, August 25, 2025.

1. The tax authority establishes that those who carry out acts or activities not subject to VAT, among others, those carried out abroad, do not incur the tax and therefore must not be included in the crediting mechanism.
2. In this regard, the tax authority states that taxpayers who perform acts not subject to VAT are NOT required to pay the tax and cannot benefit from the credit. For this reason, taxpayers who find themselves in this situation must be regarded as end consumers.

Case law regarding refunds

TAX REFUND. IN ORDER FOR THE AUTHORITY TO MAKE A SECOND REQUEST FOR INFORMATION OR DOCUMENTS TO VERIFY THEIR ORIGIN, THE TAXPAYER MUST HAVE FULLY COMPLIED WITH THE FIRST REQUEST (INTERPRETATION OF ARTICLE 22, PARAGRAPH SEVEN, OF THE FEDERAL TAX CODE).

On June 27, 2025, a ruling issued by the Second Chamber of the Supreme Court of Justice of the Nation was published in the Federal Weekly Judicial Gazette, which must be considered mandatory as of Monday, June 30, 2025.

1. This framework reinforces legal certainty for taxpayers and establishes clear limits on the actions of the tax authority during refund procedures, which ensures greater security and transparency in the exercise of their rights.
2. If the taxpayer does not comply with the first request—as per the framework of the authority—then the authority may withdraw the refund process without granting the possibility of submitting the documentation in a second request.

Case law regarding refunds

REQUEST FOR REFUND OF CREDIT BALANCE. IF THE TAXPAYER DOES NOT APPEAL THE DECISION THAT DENIES THE REQUEST ON FORMAL GROUNDS, THEY CANNOT SUBMIT IT AGAIN.

The Second Chamber of the Supreme Court of Justice of the Nation ruled that a taxpayer cannot resubmit a request for a credit balance refund if the first request was denied by the tax authority on formal grounds and was not appealed.

Article 22 of the Federal Tax Code establishes the procedure for requesting refunds, which allows the authority to request additional information. If the taxpayer does not submit the documents correctly, and if the request is rejected on formal grounds, then the only way to correct this situation is to appeal the decision, either through administrative appeals or tax litigation.

Allowing a new application without having exhausted these means would violate the principle of legal certainty, as it would imply that the taxpayer can correct or improve his/her application without facing the consequences of not having exercised his/her procedural rights in a timely manner.

Case law regarding refunds

A timely appeal is crucial



- If the authority rejects a refund request on formal grounds (e.g., missing documents or errors in the information), then the taxpayer must appeal that decision through the available legal remedies (administrative appeal, tax trial).
- Uncontested = losing the right to submit another request for the same balance in favor.

There is no second administrative opportunity



- Once the tax authority has ruled on the application denying the balance in favor, a new application cannot be submitted on the same grounds, even if formal errors are corrected or additional documentation is added.

The right to a refund does not expire, but the recourse does



- Even if there is a right to receive the overpayment, that right must be exercised correctly. If an appeal is not made, the legal right to demand it is lost.

Contradiction of Criteria Project 8/2025

01



Subject matter.

The contradiction concerns criteria on whether the concept of a "virtual return" (use of V5 customs declaration in IMMEX operations) means that the sale is effectively considered to have taken place outside of national territory, in which case it would be subject to withholding tax/domestic VAT, or whether, on the contrary, it must be considered an operation within the country and, therefore, subject to VAT withholding by the purchaser or intermediary.

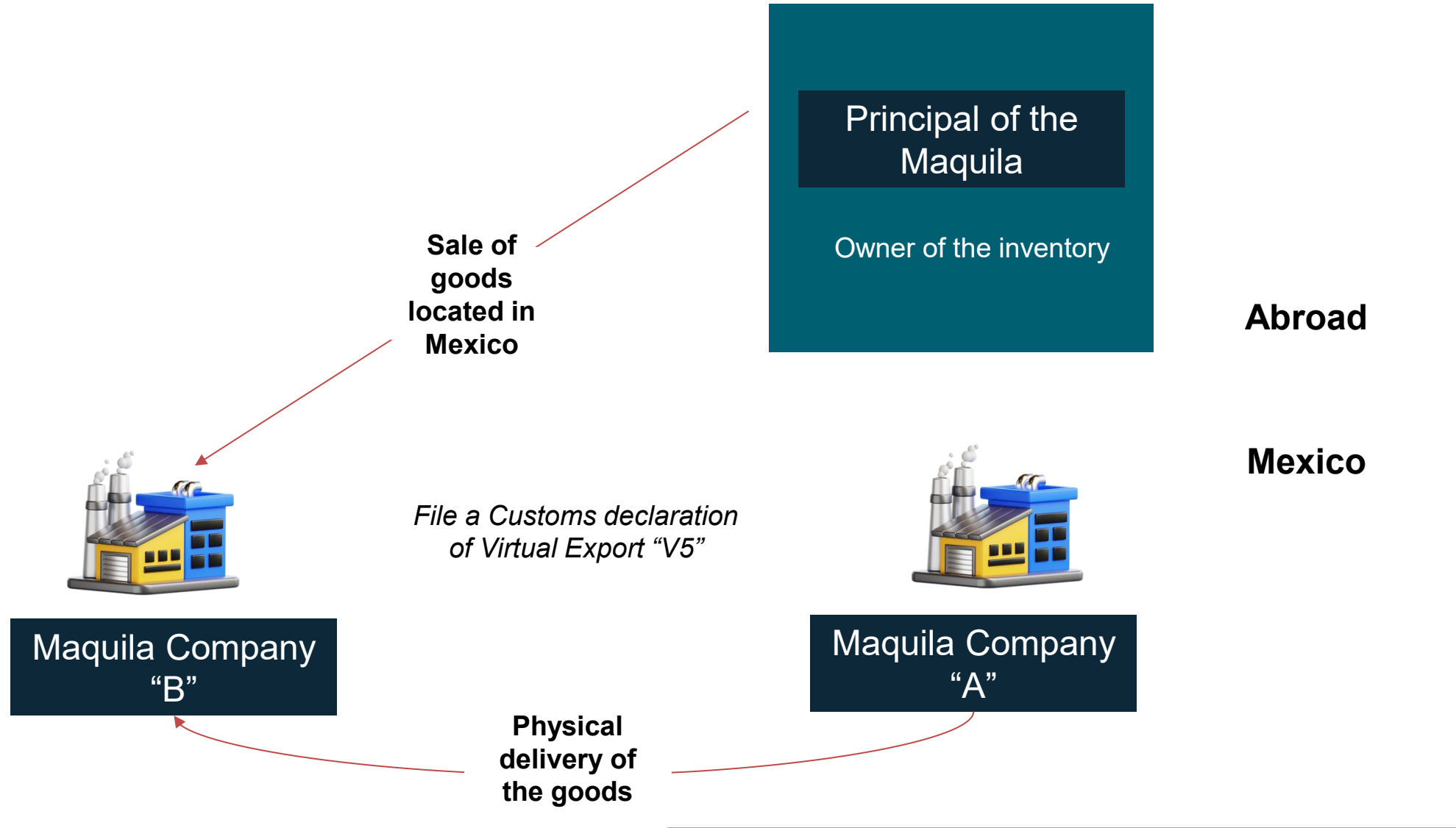
02



What the presentation proposes (in general).

Minister Yasmín Esquivel Mossa's presentation examines the constitutionality and fiscal effects of the presumption of a virtual return, and assesses whether this presumption, created in the General Foreign Trade Rules, (RGCE), can replace internal VAT liability or whether allowing it would create a mechanism for tax evasion. The project contains technical and legal analysis regarding customs, VAT, and budgetary effects.

Contradiction of Criteria Project 8/2025



Contradiction of Criteria Project 8/2025

03



The Plenary Court of the Central-North Region held that the obligation for the Mexican purchaser to withhold VAT does not apply, as it understood that the sale took place "outside national territory" because of the presumed return.

04



The 14th Circuit Court held that the presumed virtual return must be understood as a customs/administrative facility, but the fact that the goods never left the country implies that the transaction is considered to have taken place in Mexican territory, and therefore the purchaser is liable for tax (VAT withholding).

Contradiction of Criteria Project 8/2025

05

Conflicting criteria.



- One criteria holds that the fiction of virtual return produces sufficient effects to treat the transaction as having been carried out abroad (VAT withholding would not apply).
- The opposing criteria maintains that physical delivery/use in national territory imposes the obligation to withhold and pay VAT, thus preventing the presumption from it being used as a tax exemption.

06

Practical implications:



- If the presumption is recognized as sufficient: greater legal certainty for IMMEX operators who have used V5; then the ability of SAT to demand withholdings for these transactions would be limited.
- If the presumption is rejected for tax purposes: SAT could demand withholdings and VAT adjustments, thereby increasing fees and the risk of retroactive collection. That is why the discussion has a high economic and budgetary impact.



Documentation and suggested review for a VAT refund

What do I need to have before requesting my VAT balance in favor?

Documentation and integration of VAT collected

01	Working paper of the bank statement deposits where the deposits are classified by income, transfers, refunds, unrecognized deposits, and other deposits.	05	Reconciliation of VAT collected and indication of the ledger accounts that integrate it.
02	For Income deposits, identify their Tax Invoice, (CFDI), along with the tax invoice ID, date, line item, among other data.	06	For exports, integrate the customs declarations with their respective income invoices. For maquiladoras, indicate that the export covers the value of the finished product, but the act to be declared is the transformation service.
03	Services that are or may be subject to registration in the Registry of Providers of Specialized Services and Specialized Works (REPSE) – obtain and maintain supporting documentation and discrepancies in the information.	07	Working paper of the bank statement withdrawals where the withdrawals are classified by payment to suppliers, transfers, returns, unrecognized charges, and other expenditures.
04	Contracts with major customers or, where applicable, documentation supporting the consideration in addition to the income invoice.		

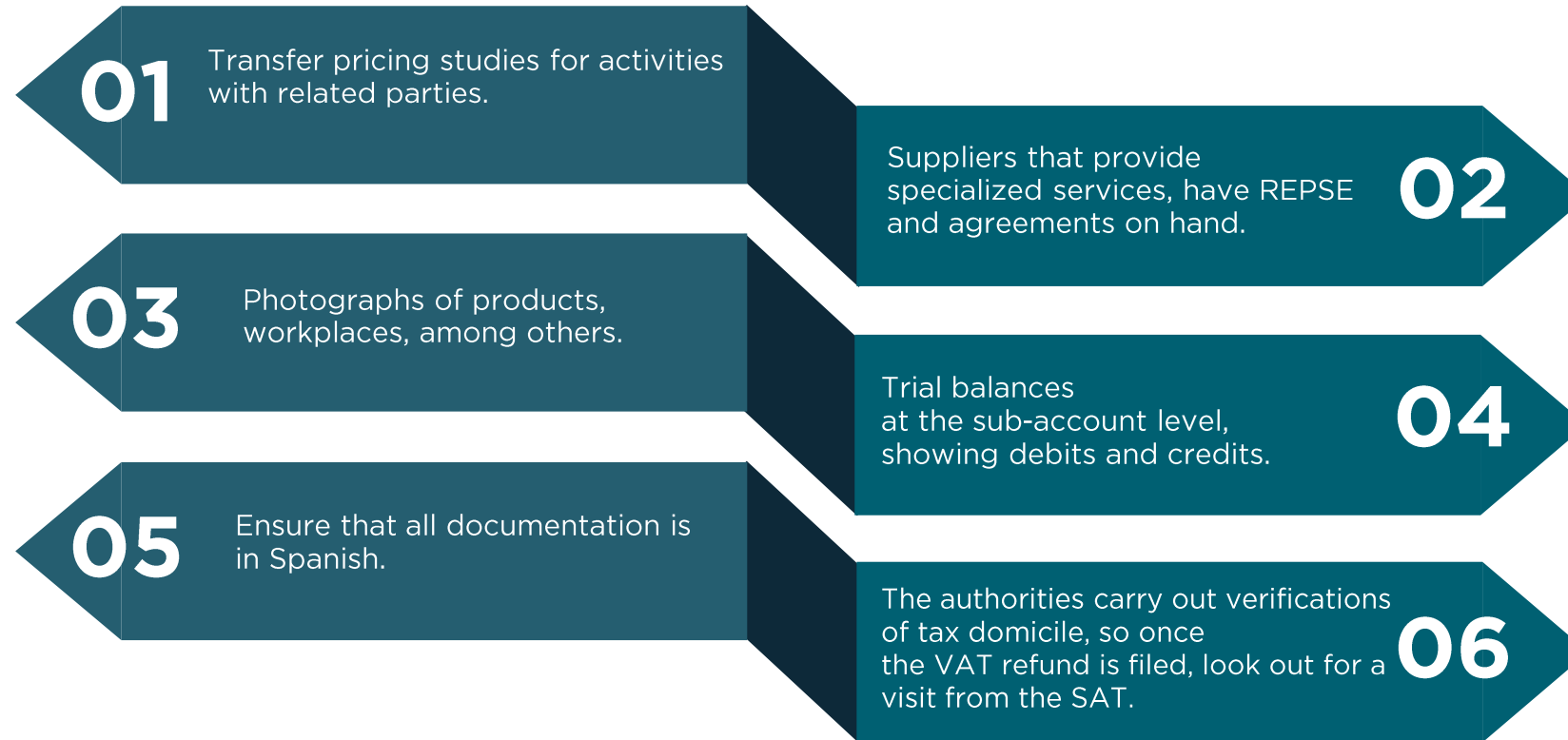
What do I need to have before requesting my VAT balance in favor?

Documentation and reconciliation of creditable VAT.

08	For payments to suppliers, identify the Tax Invoice (CFDI), along with the tax invoice ID, date, line item, among other data.	12	Import declarations (Pedimentos).
09	For payments to suppliers subject to a 0% VAT rate, it is also recommended to prepare a working paper.	13	It is recommended that a thorough review be conducted of to confirm that the suppliers are not listed in the 69-B list or listed as non located taxpayers. If you have any such suppliers, the suggestion is to not consider the VAT creditable for this payments.
10	Contracts with main suppliers or, where applicable, documentation supporting the consideration in addition to the income invoice.	14	Explanation of the business reason to realize such payments. (Strict indispensability).
11	Accounting reconciliation of creditable VAT and indication of the ledger accounts that integrate it.		

What do I need to have before requesting my VAT balance in favor?

Other relevant transactions and documentation:

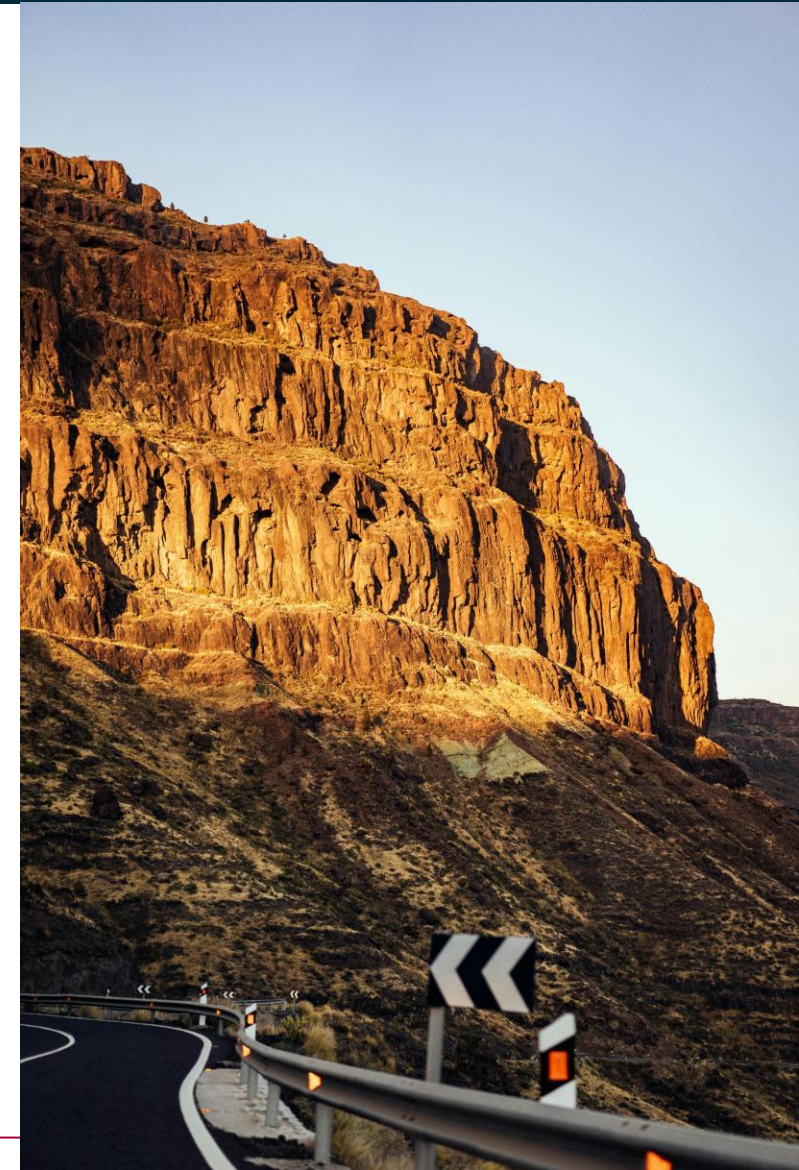


* This is illustrative but not exhaustive.

Types of VAT credit balance refunds for taxpayers with unique activities

1. Taxpayers in the Agricultural sector
2. VAT generated by fixed asset investment projects
3. Taxpayers who produce and distribute products intended for human and animal consumption.
4. Taxpayers who produce and distribute patented medicines
5. Pre-operational period

The additional requirements for requesting these VAT refunds can be found in procedure 10/ of the Federal Tax Code, (CFF), in the annexes of the 2025 Periodic Amendments to the Tax Law, (RMF).





**Additional information
requirements.**

Recommendations for the requirement

Suggestions:

1. Have the file ready of the balance, since many questions from SAT will arise from the documentation it contains.
2. Respond days before the deadline, since this gives SAT the opportunity to review the process more quickly and not dismiss it due to internal doubts.
3. We suggest that you clarify each point, even if the authority's questioning is repetitive and/or does not apply. The authorities do this in order to observe any inconsistencies or contradictions on the part of the taxpayer.
4. Use clear, technical language.
5. Make an index of attachments where the requested documentation will be attached.
6. Number all digital files.
7. Close the document without leaving any doubt as to what is being asked and expressly requested in the requirement.



Situations to consider when receiving a decision from SAT

For a partial refund or withdrawal:



- Review the reasons for which the full amount is not being refunded.
- Ensure that in the resolution, the amount that is not being refunded has been withdrawn or denied.
- If the application is rejected, a refund may be requested in a new procedure, addressing the observations made by the authority.
- In the event of a denial, you will have to appeal.

For a denial and/or rejection:



- Review the reasons for the denial.
- The appeal must be made within 30 business days from the day following the date on which the notification of the decision denying or limiting the refund takes effect, by means of an appeal for revocation with SAT or in a nullity proceeding.



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Let's talk!

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