



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value added tax

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VAT IN THE EUROPEAN COMMUNITY

**VADEMECUM FOR THE ELECTRONIC
REFUND PROCEDURE TO TAXABLE
PERSONS NOT ESTABLISHED IN THE
MEMBER STATE OF REFUND BUT
ESTABLISHED IN ANOTHER MEMBER
STATE (COUNCIL DIRECTIVE 2008/9/EC)**

NOTE

**THIS DOCUMENT COLLATES A RANGE OF
BASIC INFORMATION ON THE
APPLICATION OF THE REFUND
ARRANGEMENTS IN THE MEMBER
STATES WHICH HAS BEEN OBTAINED
FROM THE TAX AUTHORITIES
CONCERNED.**

**THIS DOES NOT REFLECT THE VIEWS OF
THE COMMISSION OF THE EUROPEAN
UNION, NOR DOES IT SIGNIFY APPROVAL
OF THE LEGISLATION.**

HUNGARY

VADEMECUM FOR THE ELECTRONIC REFUND PROCEDURE TO TAXABLE PERSONS NOT ESTABLISHED IN THE MEMBER STATE OF REFUND BUT ESTABLISHED IN ANOTHER MEMBER STATE

General

1. WHERE COULD A NON ESTABLISHED TAXABLE PERSON (NETP) FIND INFORMATION ON YOUR LAWS AND GUIDELINES?

General information:

National Tax and Customs Administration (Nemzeti Adó- és Vámhivatal)

1054 Budapest, Széchenyi u. 2.

Hungary

<http://www.nav.gov.hu/>

<http://en.nav.gov.hu/>

Contact:

http://nav.gov.hu/nav/nav_kapcsolat

<http://en.nav.gov.hu/contact>

NETP contact:

Nemzeti Adó- és Vámhivatal
Kiemelt Adó és Vám Főigazgatóság
Kiemelt Adózók Adóigazgatósága
1077 Budapest
Dob utca 75-81.
Hungary

Postal address: 1410 Budapest, Pf: 138. Hungary

Tel.: 0036-1-461-3300

Some laws, rules:

Act CXXVII of 2007 on Value Added Tax (VAT Act):

http://njt.hu/cgi_bin/njt_doc.cgi?docid=111467.266629

<u>VAT rate</u>	
27 %	General VAT rate from 01. 01. 2012. (25 % until 31. 12. 2011.)

18 %	Reduced VAT rate from 01. 07. 2009. (like milk, some milk products, some cereal products, commercial quarters services, etc.)
5 %	Reduced VAT rate (like some medicines, medical aids, books, newspapers, domestic cattle, domestic swine etc.)
0 %	Reduced VAT rate (relating to the supply of goods and services funded under the ISPA pre-accession programs carried out directly to the beneficiary, to the extent of financing received from the Cohesion Fund.)

Other laws, acts: http://en.nav.gov.hu/tax_laws

2. ELIGIBILITY FOR A REFUND

To be eligible for a refund the applicant must be a taxable person established in the EU making taxable supplies in his own Member State (the Member State of Establishment). He must have incurred VAT on expenses in a Member State in which he has no establishment (the Member State of Refund), and he must have made no supplies within that Member State other than reverse charge supplies, or certain exempt transport services, during the refund period.

3. WHAT CAN BE REFUNDED

VAT relating to business activities carried out outside the Member State of Refund if those activities would be subject to tax or exempt with a right to deduct in the Member State of Refund if they had been made there, and VAT relating to supplies on which the reverse charge is applicable in the Member State of Refund.

4. WHAT CAN NOT BE REFUNDED

VAT incurred which relates directly to activities which are exempt without the right to deduct.

VAT incurred on expenses on which there are restrictions on the right to deduct in the Member State of Refund.

See the Articles 124-126. of VAT Act.

According to the main rules such expenses are i.e.: supplies of motor fuels, supplies of fuels other than motor fuels if used in connection with the operation of a passenger car, supplies of other goods, if used in connection with the operation of a passenger car, supplies of passenger cars, supplies of motorcycles above 125 cubic centimeters of displacement capacity, supplies of yachts, supplies of vessels, if suitable for sports or entertainment purposes, supplies of residential properties, supplies of goods and materials for the construction or remodeling of residential properties, supplies of foods, supplies of beverages, taxi services, parking services and highway toll services (with the exception of the cases concerning the land vehicles with the total weight exceeding 3.5 tons), services of restaurants and other public catering services, entertainment services,

telephone services, mobile telephone services, Internet-protocol-based voice transmission services, 50 percent of the VAT may not be deducted in connection with supplies of services used in connection with the operation or maintenance of a passenger car etc. In detail – including exceptions – see: http://njt.hu/cgi_bin/njt_doc.cgi?docid=111467.266629

5. PROPORTIONAL DEDUCTION

Where the taxable person is only able to deduct a proportion of his input tax because he makes taxable and exempt supplies, that person can only have the amount refunded according to the rules on proportional deduction in his Member State.

Procedures in the Member State of Establishment

6. WHAT IS THE APPLICATION PROCEDURE?

Taxable persons established in Hungary can initiate the VAT refund from any other Member State by using the 14ELEKAFA¹ application form. The application form, the control program and the filling out instructions in Hungarian and in English can be downloaded from „Nyomtatványkitöltő programok” menu on www.nav.gov.hu homepage. The application form can solely be submitted electronically through the www.magyarorszag.hu portal.

http://en.nav.gov.hu/taxation/for_foreign_enterprises

7. ARE THERE ANY PARTICULAR REQUIREMENTS FOR AN AGENT TO BE ABLE TO SUBMIT A CLAIM ON BEHALF OF THE APPLICANT?

According to the Hungarian rules of taxation a taxable person with legal entity or other organization having the rights of a legal entity may be represented at the Tax Authority by an authorized agent, which has special qualifications, especially a tax advisor, a tax expert, certified tax expert, auditor, a lawyer, a person who is authorized to provide accounting services.

For detailed information see the homepage:

http://en.nav.gov.hu/taxation/for_foreign_enterprises/vat_agents

http://en.nav.gov.hu/taxation/for_foreign_enterprises

8. CONTENT OF THE APPLICATION:

The application should contain the following information:

¹ From 01.04. 2015. 15ELEKAFA application form

- the applicant's name
- the applicant's VAT identification number or tax reference number
- the applicant's full address including country code (the address which is on record in Member State of Establishment)
- e-mail address
- a description of the applicant's business activity for which the goods and services are acquired via NACE v.2 codes
- the refund period covered by the application
- declaration by the applicant that he has supplied no goods and services deemed to have been supplied in Member State of Refund during the refund period, with the exception of the supply of specific transport services and services ancillary thereto or supplies to which the reverse charge mechanism is applicable in Member State of Refund
- bank account details including IBAN and BIC codes

In addition, the following details of each invoice or importation document

- name and full address of the supplier;
- the VAT identification number or tax reference number of the supplier except in the case of importation
- the prefix of the Member State of Refund (except in the case of importation)
- date and number of the invoice or importation document
- taxable amount and amount of VAT expressed in the currency of Member State of Refund
- the amount of deductible VAT calculated expressed in the currency of Member State of Refund
- where applicable, the deductible proportion expressed as a percentage
- nature of the goods and services acquired according to the codes 1 to 10
- Where requested, further information on the nature of the goods and services acquired according to the sub-codes of 1 to 10. (the list of the codes used by the Member State of Refund can be checked by using the 14ELEKAFa form services²)

² From 01.04. 2015. 15ELEKAFa application form

9. THE CIRCUMSTANCES UNDER WHICH A MEMBER STATE OF ESTABLISHMENT WILL NOT SEND AN APPLICATION TO THE MEMBER STATE OF REFUND.

- If the details in point 8 above are not filled in.
- The applicant is not a taxable person during the whole of the refund period.
- The applicant only carries out exempt supplies in the Member State of establishment during the refund period.
- The applicant is covered by the exemption for small businesses.
- The applicant is covered by the flat rate scheme for farmers.

10. MINIMUM REFUND LIMITS

- the equivalent of 400 EUR in national currency, that is 100 000 HUF, if the refund period is between 3 months and less than a calendar year
- the equivalent of 50 EUR in national currency, that is 13 000 HUF, if the refund period is of a calendar year, or the remainder of a calendar year.

11. TIME LIMIT

The application must be submitted to the Member State of Establishment by 30 September of the calendar year following the refund period. The application is only considered as submitted if the applicant has filled in all the required information.

12. IS AN APPLICANT ABLE TO CORRECT AN ERROR ON AN APPLICATION WHICH HAS BEEN FORWARDED TO A MEMBER STATE OF REFUND?

Yes, the applicant can correct an application which has already been forwarded to a Member State of Refund. In the third block of sheet 14ELEKAFK-K-01³ – which can be submitted through the portal www.magyarorszag.hu – the bar code of the previous refund application to be rectified must also be mentioned, and the corrected application can be filed with the rectified data. If the application affected by correction contained data, which was not affected by correction, the applicant has to repeat the data published on the application affected by correction. If the applicant wants to upload more corrected applications for the same refund period, always the initial barcode of the last sent application from the same period has to be indicated. Every single correction overwrites the applications sent previously.

The applicant can cancel its submitted refund application. The applicant has to fill in the sheet 14ELEKAFK_K-01⁴ as a corrected application, that is in the third block of the sheet 14ELEKAFK_K-01⁵ the bar code (document number) of the previous refund

³ From 01.04. 2015. 15ELEKAFK application form

⁴ From 01.04. 2015. 15ELEKAFK application form

⁵ From 01.04. 2015. 15ELEKAFK application form

application to be rectified must also be mentioned and the applicant has to send it without the sheet 14ELEKAFA_SZ⁶electronically to the state tax authority.

Procedures in the Member State of Refund

13. ARE COPIES OF INVOICES REQUIRED?

Yes, copies of invoices or import documents are required if the amount of purchase or that indicated in import information hits the thresholds provided for in Article 10. of the Directive 2008/9/EC or goes beyond that, namely the taxable amount of one of these documents in the case of fuel is equivalent to EUR 250 (that is 63 000 HUF) or in other cases to EUR 1000 (that is 300 000 HUF) or more.

14. THE MAXIMUM SIZE LIMIT FOR AN ATTACHMENT HAS BEEN AGREED AT 5 MB. WHAT IS THE APPLICANT TO DO IF THEY EXCEED THIS LIMIT?

We suggest not to scan the invoices/importation documents in colour but in black-and-white, and only those documents should be attached to the application, which contain the largest amounts. The applicant should provide the other missing documents according to the query sent by the tax authority (mostly via e-mail), when additional information is required.

15. AS A MEMBER STATE OF REFUND, DO YOU REQUIRE ADDITIONAL DOCUMENTATION FOR CLAIMS SUBMITTED BY AN AGENT?

No, if the communication during the electronic refund procedure is performed only via the e-mail address notified in the application forwarded by MEST.

16. CAN PAYMENTS BE MADE TO AGENTS?

Yes, but the payment accounts of the agents have to be opened in a Member State of the Community. Where a transfer is made to the payment account of a person, other than a taxable person established in another Member State of the Community, the power of attorney made out jointly by such person and the taxable person established in another Member State of the Community shall be enclosed on paper or by way of some other verifiable means of the like.

17. HOW WILL THE MEMBER STATE OF REFUND COMMUNICATE WITH THE APPLICANT?

Primarily via direct e-mail or through the www.magyarorszag.hu portal, or for lack of these via postal matter. The tax authority always and directly sends information about how to communicate to the e-mail address notified in application.

The tax authority may only accept petitions coming from the e-mail address that had been indicated by the applicant on the VAT refund application. If the petition coming

⁶ From 01.04. 2015. 15ELEKAFA application form

from an e-mail address that had not been indicated by the applicant in the VAT refund application, the petition will not be processed and an error message will not be sent. In case the applicant wishes to change the given email address later, a request for modification needs to be submitted through the Member State of establishment with indicating the changed email address.

For detailed information see: http://en.nav.gov.hu/taxation/for_foreign_enterprises

18. TIME LIMITS FOR THE PROCESSING OF AN APPLICATION

The Member State of Refund has four months from the date of receipt of an application to notify the applicant of its decision to approve or refuse the application, or to ask for further additional information. Where additional information is required, it has a further two months from receiving that information. Where it has asked for further information, it shall, in any case, notify the applicant of its decision within 8 months of the receipt of the application.

Where the refund application is approved, payment should be made within 10 working days.

19. PROCEDURE FOR SENDING ADDITIONAL INFORMATION TO THE MEMBER STATE OF REFUND

Member States can ask for additional information from persons other than the applicant. In all cases, the information should be provided to the Member State of Refund within one month of the date on which the request is received by the addressee.

Additional information can be provided in Hungarian, English, German and French. The official language is Hungarian.

20. THE REFUND PERIOD

According to the Article 16. of Directive 2008/9/EC an application for VAT refund should relate to a time period that cover at least three consecutive months within the same calendar year, and at most, one full calendar year. The VAT refund application can relate to a period being shorter than three months if it covers the year-end (may be e.g. only cover November-December, or December).

21. NUMBER OF APPLICATIONS ACCEPTED PER YEAR.

An application should relate to a time period covering at least three consecutive months within the same calendar year (refund period), and, at most, to one full calendar year. If the year-end period is shorter than three months, the refund period can be shorter as well (November-December, December).

For a given VAT refund period more than one VAT refund application may be submitted. A VAT refund application submitted for the same refund period may also cover the amount of VAT charged during the given calendar year, for which no VAT refund application has been submitted previously. In a calendar year up to five applications may be submitted.

22. WHAT IS THE PROCEDURE FOR APPEALING AGAINST A DECISION? ARE THERE ANY TIME LIMITS FOR APPEALS?

There is a possibility to provide an appeal within 15 days from the communication of the decision. The appeal has to be lodged to the first instance tax authority, which has made the decision. The decision contains exact instructions concerning the right and procedure of an appeal. The time limit for reconsideration is 30 days from receiving the appeal. The appeal can include new facts and evidences. In case of an appeal filed by an agent the right of acting on behalf of the applicant has to be proved by an original power of attorney (authorization). As to the requirements for an agent: see point 7.

23. INCORRECT APPLICATIONS

If an amount has been recovered in a fraudulent or incorrect way, Member States may recover those amounts.

