

HUNGARY

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AT A GLANCE

Name of the tax	Value Added Tax
Local name	Általános Forgalmi Adó
Date introduced	01/01/1998
Date of membership in EU	01/05/2004
Administered by	Nemzeti Adó és Vámhivatal

VAT rates

Standard	27%
Reduced	5%, 18%
Other	0%

VAT Number format National format:
12345678- VAT code: 1,2,3,4,5-territorial code
EU format: HU 12345678

VAT return periods	monthly, quarterly, yearly
Thresholds registration	none
Recovery of VAT by non established Businesses	refundable, yes

HISTORY OF VAT

In Hungary, VAT was fully introduced in 1988. Hungary joined the European Union on 1 May 2004. At the same time, VAT rates changed from 0% to 5%, from 12% to 15%; 25% remained unchanged. A 5% tax was levied on, among other things, medicines, medical aids and books, which were previously classified at 12%. 15% tax was levied on, among other things, food, fuel, catering and passenger transport.

From 1 July 2009, two rates were created from the previous 20% VAT rate, one increased to 25% and the other introduced a reduced VAT rate of 18% for certain products. From 1 January 2012, the 25% VAT rate was increased to 27%, making Hungary the highest in the European Union and the fourth highest in the world for the general VAT rate.

SCOPE OF VAT

The most common cases with Hungarian VAT are:

- supplies and services, which are performed in Hungary by a company
- import of goods (import VAT)
- intra-community acquisition

REGISTRATION

A foreign company or natural person that does not have a place of business in Hungary must apply for a tax number in Hungary if:

- the place of performance of the transaction is Hungary, and
- he is liable to pay tax

Chapter II of the VAT Act provides for rules on the place of supply in accordance with EU legislation (VAT Act). Without explaining these rules in detail, we would like to point out that the fact that the place of performance of a given transaction is Hungary does not automatically mean that the foreign company carrying out the transaction is obliged to apply for a Hungarian tax number.

If it is established that the place of performance of a transaction is Hungary, the next step is to examine who is liable to pay the tax.

If the conditions for reverse charge are fulfilled, it is the buyer, not the seller, who is liable to pay the tax. In such cases, the foreign company can avoid VAT registration in Hungary because, although the place of supply is Hungary, the Hungarian tax liability is borne by the buyer instead of the foreign company.

VAT RATES

27%: The standard rate of tax on goods and services supplied by the taxable person is 27% of the taxable amount.

- The application of a lower rate of 5 or 18 per cent is provided for in the annexes to the VAT Act¹⁵ and the scope of exempt supplies due to the public interest or other special nature of the activity is listed in Articles 85-87 of the VAT Act.

0%: Daily newspapers (publications appearing at least four times a week) are subject to the 0% rate

5%: The range of products subject to the 5 percent rate is defined, with some exceptions, by heading or ISO code in the Annex to the VAT Act. Examples of products subject to the 5 percent rate are books, sheet music, periodicals, other newspapers (published at least once a year), certain health products, medical aids, certain pork, cattle, sheep, goats, poultry, eggs and dairy products, fish for human consumption, and imports of works of art listed in Part I of Annex 8 to the VAT Act.

5%: Some services are also subject to the 5 per cent rate, such as district heating, a certain range of performing arts services, internet services, food and non-alcoholic beverages catering services in the catering industry (the latter is defined by reference to a TESZOR number and designation in the VAT Act) and commercial accommodation services.

18%: Products subject to 18% VAT, such as certain foodstuffs, are defined by reference to a tariff heading and by description in the relevant annex, while the statistical classification of services providing admission to an occasional outdoor event, also subject to 18% VAT, is not referred to in the VAT Act

PLACE OF SUPPLY RULES

Place of performance for sales of goods

General rule

If goods are not dispatched or transported by consignment, the place of performance of the supply of goods is the place where the goods are physically located at the time the supply is made. Specific rules on the supply of goods are set out in Articles 26-35 of the VAT Act.

Place of performance for the provision of services

General rules

1. In the case of services supplied to a taxable person, the place of supply is the place where the customer is established for business purposes or, in the absence of such establishment, the place where he has his permanent address or usually resides.
2. In the case of supplies of services to a non-taxable person, the place of supply shall be the place where the supplier is established for business purposes or, in the absence of an establishment for business purposes, the place where he has his permanent address or usually resides.

Specific rules on the supply of services are set out in Articles 38-49. of the VAT Act.

TIME OF SUPPLY RULES

For VAT purposes, the time of supply of the transaction is of great importance, as VAT is normally due at the time of supply.

As a general rule, the date of supply is the date on which the transaction is completed, i.e. when the contractor has carried out the work or delivered the product(s) ordered.

In the following cases, the date of supply should be different from the main rule:

- advance payment VAT is accounted for when it is actually realised;
- when partial deliveries are stipulated, the completion of each partial delivery shall be deemed to be the completion of the supply;
- in the case of services supplied to a public authority, the date on which the decision fixing the remuneration becomes final is deemed to be the date of supply;
- special provisions apply in the case of continuous performance.

RECOVERY OF INPUT VAT

The refund of value added tax (VAT) is based on a number of rules. Taxable persons can reclaim negative, i.e. overpaid or accounted for, VAT in their VAT return if the conditions are met.

Conditions for VAT refunds

The Tax Office will grant a claim for a tax refund if the amount of the negative difference is equal to or more than the amount of the negative difference:

- HUF 1 million for a taxable person required to file a monthly return,

- HUF 250,000 for a taxpayer required to file a quarterly return,
- HUF 50,000 for a taxable person required to file an annual return.

The amount of VAT refundable can be requested either in the form of a refund to the bank account of the company or a credit to the tax current account (or a combination of both). If the taxpayer has a tax debt, the tax authority will deduct it from the amount to be paid.

Input deductible VAT incurred after 1 January 2016 can only be deducted in the current return in the year in which the right of deduction arises and in the calendar year thereafter; deductible VAT incurred before this period can be claimed through a self-control.

Deadline for VAT reclaim

The deadlines for reclaiming VAT vary depending on whether the taxpayer is filing a VAT return for a monthly, quarterly or annual period:

- for monthly taxpayers, by the 20th of the month following the month in question,
- for quarterly taxpayers, by the 20th of the month following the quarter,

quarterly taxpayers must file their return and claim the tax back by 25 February of the year following the year in question.

To be eligible for a refund, certain statutory conditions must be met and the tax to be accounted for must be paid or refunded by the prescribed deadline. Taxable persons must submit their tax returns and VAT refunds electronically, except in certain special cases.

Detailed rules on VAT refund can be found in the VAT Act and on the Tax Office website. Taxpayers are advised to follow the deadlines and rules to ensure that they can successfully account for or claim back the amount of VAT reclaimed in due time.

COMPLIANCE OBLIGATIONS

How long do I have to issue the invoice?

As a general rule, the invoice is issued until the transaction is completed in accordance with the VAT Act - in the case of an advance payment, until it is received, credited or acquired - but **not later than the reasonable within a reasonable period of time**.

Taking into account the reasonable time as defined in the VAT Act:

(1) until the transaction is completed in accordance with the VAT Act, **the invoice must be issued without delay** in the case of reimbursement of the consideration by **cash or a cash substitute means of payment**;

2. in the case of a supply of goods or services for which the consideration **is reimbursed otherwise** than in accordance with point 1, i.e. either not in cash, by a means of payment other than cash or

after performance, and the invoice includes or should include tax passed on, **the invoice must be issued within 8 days of performance, i.e. no later than the 8th day.**

3. In the case of intra-Community supplies of goods exempt from tax, the invoice must be issued no later than the 15th day of the month following the month in which the supply is made.

There are several ways to fulfil the VAT return obligation:

a) generally by submitting the form provided for this purpose: in this case, the tax return must be submitted on form. The VAT return must, with some exceptions, be submitted electronically. The A60 form is to be filed for the community trade connection, and can only be submitted electronically.

or

b) by using the so-called eVAT system;

c) (M2M) from tax records consisting of documentary data transmitted by the tax authorities

by approving a draft return compiled from a taxable information register.

The return on the net amount of VAT

- to the taxable person required to submit a **monthly VAT return by the 20th** of the month following the month in question,

- to the taxable person required to submit a **quarterly return by the 20th** day of the month following the quarter,

- to the taxable person required to submit an **annual return by 25 February** of the year following the year in question.

Payable taxes must be paid by that date, and reclaimable taxes may be claimed back from that date, provided that it is subject to the legal conditions set out above are fulfilled.

SPECIAL CASES

1. **A taxpayer engaged in agricultural activity** has a special status for this activity and is therefore, as a general rule, not liable to pay tax, has no obligation to file a return, and cannot exercise a right of deduction. A taxable person with this special status is entitled to a compensatory supplement on the supply of goods or services in addition to the purchase price as part of the consideration.

2. As a general rule, a reseller, a taxable person engaged in **the second-hand goods trade**, determines the taxable amount on the basis of the margin, i.e. the difference between the selling price and the purchase price, after the supply of goods which meet the conditions of the special scheme. This is the method based on **individual records**.
However, a reseller may choose to determine the total taxable amount on the basis of the aggregate margin of products subject to the same rate over the tax period. **This is the global inventory method**. This choice must be notified in advance to the NAV. If you have opted for the global method, you may not deviate from it until the end of the calendar year following the year of your election. The global inventory method cannot be used for goods with a purchase price of more than HUF 50,000.
3. Special scheme for the taxation of **travel services** is in fact a margin tax, the essence of which is that VAT paid by the travel agency must be reduced by
 - the amount of advances and participation fees paid by the travellers and
 - payments made by other persons to the travel organiser on behalf of the traveller (sales and) services supplied to the traveller, and tax shall be assessed and paid on the 'margin'.

RIGHTS OF THE TAX PAYER AND THE VAT AUTHORITIES

The tax payer can change the VAT returns with self revisions.

The tax authority is obliged to act in the matter within its jurisdiction and by territorial designation. If it fails to do so, its superior authority shall, on request or of its own motion, instruct it to do so. The tax administration procedure is initiated by request or ex officio.

The taxpayer has the right to make a statement or to refuse to make a statement during the procedure.

The tax authority decides on the merits of the tax case by decision, and on other issues to be decided in the course of the procedure by order. The tax authority shall communicate the decision to the taxpayer and to the person to whom it applies and whose right or legitimate interest is affected. There is an independent appeal against the decision of the tax authority. There is an independent legal remedy against the decision of the tax authority if this is permitted by law, otherwise the right of legal remedy against the decision may be exercised in the context of a legal remedy against the decision or, failing this, against the order terminating the procedure.

EU DECLARATIONS

As a general rule, the recapitulative statement (A60) must be submitted at the same frequency as the VAT return.

Irrespective of the frequency of the VAT return to which he is subject, a taxable person must change from a quarterly recapitulative statement to a monthly recapitulative statement if

- his supplies to the Community or

- of his purchases in the Community

for the quarter concerned, net of value added tax exceeds a sum of money equivalent to EUR 50,000.