New rules on cross-border (individual) tax exemptions for small enterprises from 1 January 2025

I. The aim of the new regulation, summary of amendments

Under the EU-wide amendment[1] of the special VAT scheme for small enterprises (EU terminology: value added tax), if Member States introduce a scheme that corresponds in substance to (individual) tax exemption for small enterprises, they must allow taxable persons not established in their own territory but established in the Community to apply it from 1 January 2025, under the same conditions as taxable persons established in their own territory [hereinafter referred to as special scheme for small enterprises, i.e. SME scheme or cross-border exemption].[2]

For this purpose, the following chapters and rules - effective from 1 January 2025 - have been added to Chapter XIII (Individual tax exemption) of the VAT Act[3]:

1. Rules on the domestic application of the exemption by taxable persons established in the domestic territory (the regulation is essentially the same as the regulation in force before 1 January 2025, the amendment clarifies and supplements it in some elements).
2. Rules on the choice of exemption in another Member State of the Community by taxable persons established in the domestic territory.
3. Rules on the application of the exemption by taxable persons not established in the domestic territory.

For ease of reference, the value added tax under EU rules will be referred to as VAT.

Under the rules in force before 1 January 2025, a taxable person could only act as an exempt taxable person in the Member State where he/she was established for business purposes. Before the amendment to the VAT Directive for the SME scheme (applicable from 1 January 2025), small enterprises could therefore only benefit from the exemption under the SME scheme if they were established in the Member State where the VAT was due (i.e. where the goods or services were supplied). As a result, for transactions carried out in a Member State(s) in which they were not established, small enterprises had to register and fulfil VAT obligations (e.g. submit VAT returns, pay VAT, etc.) in each of those Member States, unless the national legislation required the customer to do so.

From 1 January 2025, a taxable person established in the European Union will be able to opt for an exemption in a Member State where he/she is not established, under certain conditions, by registering only in the Member State where he/she is established. In this respect, for the purposes of the application of the new rules on the exemption, the place

[1] Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises.
[2] Article 284 (1) to (2) of Council Directive 2006/112/EC on the common system of value added tax (hereafter: VAT Directive).
[3] Act CXXVII of 2007 on Value Added Tax.

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of establishment should be understood to be the place where the taxable person has his/her registered office or, failing that, where hs/she usually resides (hereinafter collectively referred to as "the place of establishment").

Therefore, under the new rules, from 1 January 2025

- on the one hand, a taxable person established in the domestic territory will be able to opt to act as an exempt taxable person in respect of transactions carried out in another Member State of the Community where he/she is not established and that Member State grants an exemption for small enterprises,
- on the other hand, a taxable person established in another Member State of the Community may opt for exemption in respect of his/her domestic activities even if he/she is not established in that Member State.

In both cases it is a condition that the taxable person's annual turnover does not exceed the threshold set by the Member State concerned and that his/her EU wide annual turnover does not exceed EUR 100 000.[4] (The application of a cross-border exemption is not conditional on the taxpayer also applying an exemption in the Member State of his/her place of establishment.)

As a result of the amendment, a taxable person established outside the Community will not be able to opt for an exemption either within the domestic territory or in any other Member State of the Community, even if he/she has a permanent establishment or usually resides within the territory of the Community.

The cross-border exemption is optional and can be applied in one or more Member States. Consequently, the following options for application may arise:

a) Application of the SME scheme only in the Member State of place of establishment (domestic SME scheme).

b) Application of the SME scheme only in one or more Member States other than the Member State of place of establishment (cross-border SME scheme).

c) Application of the SME scheme in the Member State of place of establishment and in the other Member State(s) chosen by the taxable person where the VAT is due (cross-border SME scheme).

Given that the rules for domestic exemption have not changed substantially, this information note primarily describes the rules for cross-border (individual) exemption.

II. Rules on the choice of tax exemption by taxable persons established in the domestic territory in another Member State of the Community

1. Conditions for opting for cross-border (individual) tax exemption; prior notification

A taxable person who is established in the domestic territory is entitled to opt for an exemption, as defined in Sections 195/A to 195/F of the VAT Act, in another Member

[4] Article 284 (2) of the VAT Directive; Section 195/A (3) of the VAT Act, Section 195/G (3) of the VAT Act.

State of the Community which provides for the application of an exemption (for small enterprises) corresponding in substance to Article 284 of the VAT Directive.[5] (Under this provision, a taxable person established in the domestic territory may opt for the exemption in the Member State which applies the special scheme for small enterprises to its own taxable persons.) It is important to note that the application of the exemption in a Member State other than the Member State of the place of establishment is not conditional on the taxable person opting for the exemption in the domestic territory.

The following rules of the VAT Implementing Regulation[6] and the VAT Act shall apply to the definition of establishment and residence.

The place where the taxpayer's business is located (established) is the place of central administration of the enterprise (where the functions of the business's central administration are carried out.).[7] [8] In determining the place of the central administration, account shall be taken of the place where the basic decisions concerning the general management of the undertaking are taken, the place where the undertaking has its registered office as per the statutes and the place where the meetings of the board of directors of the undertaking are held. If these criteria do not allow the place of establishment of the economic activity to be determined with certainty, the place where the basic decisions concerning the general management of the undertaking are taken shall take precedence. The mere presence of a postal address may not be taken to be the place of establishment of a business of a taxable person.

For the application of Directive 2006/112/EC, the 'permanent address' of a natural person, whether or not a taxable person, shall be the address entered in the population or similar register, or the address indicated by that person to the relevant tax authorities, unless there is evidence that this address does not reflect reality.[9]

It is important to note that a taxable person who has only a permanent establishment in Hungary may, from 2025, opt to apply the special rules for the application of the exemption from VAT only under the provisions on cross-border exemption (Subchapter 3 of Chapter XIII of the VAT Act), provided that he/she is otherwise established in the Community.

In addition, the right to opt for tax exemption in a Member State other than the Member State of establishment is subject to an EU and a Member State turnover threshold.

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[5] Section 195/A (1) of the VAT Act.

[6] Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (hereafter: VAT Implementing Regulation). Considering that the provision on the place of residence in the VAT Act (Section 259, point 11) of the VAT Act) states that if a binding legal act of the European Union provides otherwise than as provided therein, this binding provision shall apply, the different provision of the VAT Implementing Regulation as binding legal act shall apply for the determination of the place of residence. The definition of residence in the VAT Act is essentially the same as in the VAT Implementing Regulation (see footnote 8).

[7] Article 10 of the VAT Implementing Regulation.

[8] Point 19 of Section 259 of the VAT Act – 'registered office' shall mean the principal place of business and central management of the economic activity, except if otherwise provided for by any binding legislation of the European Union

[9] Article 12 of the VAT Implementing Regulation.

Hence, the cross-border exemption is optional if.

a) in either the calendar year preceding the calendar year in question,

b) or, in the calendar year concerned

the cumulative (aggregated) EU-wide turnover of the taxable person does not exceed EUR 100 000 and the cumulative (aggregated) Member State level turnover in the Member State concerned by the exemption does not exceed the exemption turnover threshold applied by that Member State.[10] That threshold set by the Member States shall be no higher than EUR 85 000.[11] The thresholds applied in each Member State are available on the following website: VAT rules for small enterprises – SME scheme - European Commission (europa.eu). This threshold in Hungary is from 1 January 2026 20,000,000 forints (i.e. twenty-million).[12]

Turnover in the Union: this shall mean the value of supplies of goods and services in the territory of the Community, exclusive of VAT, calculated in accordance with Subsection (3) of Section 188 of the VAT Act (taking into account all Member States, not only the Member State(s) in which the taxable person opts for cross-border individual tax exemption).
Turnover in a Member State: This shall mean the value of supplies of goods and services in a specific Member State, exclusive of VAT, calculated in accordance with Subsection (3) of Section 188.[13]

Section 188 (3) of the VAT Act defines the transactions the consideration for which is not to be taken into account when calculating the HUF 20,000,000 threshold for the domestic exemption. In view of Section 195/A (2) of the VAT Act, the consideration for the transactions listed below, as defined in Section 188 (3) of the VAT Act, shall not be taken into account in the calculation of the turnover in the EU and in a Member State:

- the supply or transfer of goods used by the taxable person as tangible assets for the purposes of his business and of intangible property used by the taxable person for the purposes of his business,
- the supply of building land not classified as tangible fixed asset and the sale of built-up real estate less than two years old not classified as tangible fixed asset,[14]
- the supply of goods and services, without the right of tax deduction, exempted from tax because they are in the public interest [Section 85 (1) of the VAT Act],
- tax exempt financial and insurance services (points a) to g) of Section 86 (1) of the VAT Act), if they are provided on an ancillary basis,

[10] Section 195/A (3) of the VAT Act.
[11] Article 284 (1) of the VAT Directive.
[12] Section 188 (2) of the VAT Act.
[13] Section 195/A (2) of the VAT Act.
[14] Real estate less than two years old is a built-up real estate which, at the time of sale, has not yet been put into use for its intended purpose, or has been put into use for its intended purpose but less than two years have elapsed between the date of its putting into use and the date of its sale (putting into use also means, in the case of an acknowledgement of putting into use procedure, the acknowledgement of putting into use by way of silence, or the issue of an official certificate attesting to the fact of construction in the case of a property built with a simplified declaration, or the issue of an official certificate attesting to the change of use of the property) – Section 86 (1) (j) of the VAT Act.

- the supply of goods and services by a taxable person with special status carrying out an agricultural activity in the scope of that activity.

With regard to the calculation of turnover under Section 188 (3) of the VAT Act, a change worth highlighting is that from 1 January 2025 - due to changes in the EU legal framework[15] - the turnover from the tax exempt intra-Community supply of so-called new means of transport within the meaning of the VAT legislation will also be included in the threshold for the right to opt for or apply the exemption.[16] Due to the harmonised nature of VAT legislation, this is true for all relations of the (individual) tax exemption (whether chosen/applied in the Member State of establishment or in a Member State other than the Member State of establishment). At the same time, a taxable person who has opted for an (individual) tax exemption cannot continue to act in an exempt capacity when supplying a new means of transport to another Member State of the Community.[17]

If the EU-wide cumulative (aggregate) amount of the taxable person's turnover in the EU for the current year exceeds the EU threshold of EUR 100 000, the taxable person cannot apply the cross-border tax exemption in any Member State. However, exceeding the EU threshold has no effect on the domestic (individual) tax exemption. In other words, if a taxable person exceeds the EU turnover threshold of EUR 100 000, but does not exceed the HUF 20,000,000 threshold for opting for the domestic tax exemption for transactions carried out within the domestic territory, then the taxable person continues to be entitled to apply the exemption in the domestic territory as the Member State of place of establishment or, if he/she has not yet opted for a domestic individual tax exemption, he/she may opt for it for the following year, even though he/she exceeded the EU turnover threshold in the previous year.

The tax exemption applies to the supply of goods and services by small enterprises[18], but not to purchases such as imports of goods or intra-Community acquisitions of goods where the value of the latter exceeds EUR 10 000 in a given calendar year.

In addition, under the relevant EU legislation[19], the cross-border (individual) tax exemption does not apply to.

- the supply of real estate of a series nature, and

- the supply of new means of transport

either.

The VAT Directive gives Member States the option to exclude transactions other than those mentioned from the scope of the cross-border tax exemption. The scope of these transactions may therefore vary from one Member State to another.

To be able to apply the (individual) tax exemption, the taxpayer shall submit a prior notification to the National Tax and Customs Administration (hereinafter: NTCA). The prior notification shall be submitted via the electronic interface developed by NTCA for

[15] Article 288 of the VAT Directive.
[16] Repeal of Section 188 (3) (b) of the VAT Act.
[17] Article 283 (1) (b) of the VAT Directive, Section 193 (1) (h) of the VAT Act.
[18] Article 282 of the VAT Directive.
[19] Article 283 of the VAT Directive.

this purpose, on the basis of which NTCA shall assign a unique identification number to the taxpayer, if the conditions are met, by the 35th working day following the receipt of the notification at the latest, and shall notify the taxpayer thereof electronically. The unique identification number includes the suffix EX. The NTCA will confirm the validity of the unique identification number with the suffix EX for each Member State concerned by the choice.[20]

Under the relevant EU rules, the NTCA and the authorities of the Member States in which the taxpayer wishes to apply the cross-border (individual) tax exemption will verify that the taxpayer meets the conditions of applying the exemption. The NTCA shall transmit the information/data electronically to the competent authorities of the Member States indicated by the taxpayer within 15 working days of the date on which the information becomes available.[21] The NTCA calculates, on the basis of the total value of the supplies of goods and services included in the taxable person's prior notification, whether the EU annual turnover threshold of EUR 100 000 has not been exceeded during the calendar year concerned or the calendar year preceding the calendar year concerned[22], while the Member State(s) granting the exemption will verify compliance with the threshold in the Member State(s) concerned for the calendar year concerned and, depending on the legislation of the Member State opting for the exemption, for one or two years preceding the calendar year concerned.[23] [24]

As a rule, Member States have 35 working days from the date of receipt of the notification to carry out the verification. If the 35 working day deadline is not met, the taxpayer may act in an exempt capacity from the 35th working day, unless the NTCA has informed the taxpayer, on the basis of an indication from the other Member State concerned, that a longer period is needed to process his/her application in order to prevent tax evasion and avoidance.[25]

A taxable person who applies the cross-border tax exemption shall be identified by a unique identification number only in the Member State where he/she is established.[26] Taxable persons established in the domestic territory who are entitled to act as tax exempt persons in another Member State of the Community shall use the unique identification number with an EX suffix issued by the NTCA in the Member States concerned by this exemption. The unique identification number with an EX suffix is a unique identifier for all Member States in which the taxable person acts in an tax exempt capacity.

By updating the prior notification, the taxpayer shall inform the NTCA in advance of any changes to the information provided in the prior notification, even if there is a change in the Member States in which the tax exemption is to be applied by the taxpayer (the taxpayer shall indicate the tax number with the suffix EX in the update[27]). In this case,

[20] Section 195/A (4) of the VAT Act.
[21] Article 37a. (1) of Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (hereafter: Regulation no. 904.).
[22] Article 37b. (1) of Regulation no. 904.
[23] Article 37b. (2) of Regulation no. 904.
[24] Second subparagraph of Article 284a. (1) of the VAT Directive.
[25] Article 284 (5) of the VAT Directive; Section 195/A (5) of the VAT Act.
[26] Article 284 (3) (b) of the VAT Directive.
[27] Section 195/A (9) of the VAT Act.

the competent authorities of the Member States concerned shall proceed in the same way as for the original notification.[28]

The exemption is applicable in another Member State of the Community from the date on which the taxable person is informed by the NTCA of the unique identification number with the EX suffix or of its validity in the Member State concerned by the exemption.[29] In the case of an update of the prior notification, if the taxable person fulfils the conditions, the validity of the unique identification number with EX suffix will be extended to the Member State(s) concerned by the update of the prior notification. In this case, the exemption may be applied in the newly affected Member States after notification of the taxpayer by the NTCA.[30]

For example, if a taxpayer established in the domestic territory wishes to apply for an exemption in Germany and France and makes a prior notification to the NTCA , and the German tax authority notifies the NTCA until the 30th day after the notification is submitted, that there is no obstacle to the application of the exemption, however, the French tax authority indicates that it wishes to carry out further verifications, the NTCA will issue and communicate to the taxpayer the unique identification number with the EX suffix, but will only confirm its validity for Germany, i.e. the taxpayer can only avail itself of the exemption in Germany. In this case, the taxpayer will also be notified by the NTCA of the fact that he/she cannot yet apply the exemption in France, even if 35 working days have elapsed since the date of submission of the notification. In France, the exemption will be applicable from the date on which the French tax authority confirms the applicability of the exemption and the taxpayer receives a notification thereof from the NTCA indicating the date from which the unique identification number with the EX suffix will be valid for France.

The afore-mentioned prior notification or an update to the prior notification shall contain the following information:

a) As regard the taxable person(s)

   aa) name,

   ab) activity,

   ac) legal form,

   ad) registered office or address of the taxable person,

   ae) domestic tax identification number(s) and, if available, the tax identification number(s) under Section 258 (3) (b) of the VAT Act - i.e. the tax identification number(s) issued by (an)other Member State(s) of the Community,

   af) electronic mail address (i.e. e-mail) and telephone number;

b) the Member State or Member States of the Community in which the taxable person intends to avail itself of the exemption

c) the annual amount on the aggregate of the turnover of the Member States for the calendar year preceding the year of the notification or any update thereof for all

[28] Section 195/A (6)-(7) of the VAT Act.
[29] Article 284 (5) (a) of the VAT Directive.
[30] Article 284 (5) (b) of the VAT Directive.

Member States of the Community, including the domestic territory, broken down by Member State;

d) the annual amount on the aggregate of the turnover of the Member States for the reference calendar year preceding the notification or any update thereof for all Member States of the Community, including the domestic territory, broken down by Member State;

e) the total value on the aggregate of the supplies of goods and services carried out by the taxable person in the domestic territory and in (an)other Member State(s) of the Community which has exercised the option under Article 288a (1) of the VAT Directive (i.e. in which the taxable person may not avail himself/herself of the exemption for two calendar years if the threshold is exceeded), in the second calendar year preceding the year of the notification, broken down by Member State.[31]

Based on EU technical requirements, from 19 January 2026, the prior notification or amendment to the prior notification must include the OSS identification number (active and inactive) assigned to the taxpayer by another Member State of the Community and the tax number, tax numbers (active and inactive) assigned to the taxpayer by another Member State or Member States of the Community, if the taxpayer has or had such numbers.

The amounts in points (c) to (e) shall be expressed in euros. For the conversion into euro of Member State and Union turnover in a currency other than euro, the taxable person shall use the exchange rate applicable on the first day of the calendar year concerned. The conversion shall be made by applying the exchange rate published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.[32]

The taxable person shall provide the amounts in points (c) to (e) for all 27 Member States, not only for Hungary and the Member States in which he/she wishes to apply the cross-border exemption. If the taxable person has not realised any turnover in respect of one or more Member State(s) in any of the years referred to in points (c) to (e), a 'nil' value must be entered in the prior notification in respect of that Member State(s) and those years.

If the taxable person informs the NTCA by updating the prior notification that he/she wishes to avail himself/herself of the tax exemption in a Member State or Member States other than the Member State or Member States specified in the prior notification, he/she is not obliged to provide the above information again if he/she has already provided this information in the course of reporting for each calendar quarter (as per Section 195/B).[33]

If, after the submission of the prior notification, but before assigning the unique identification number with the EX suffix, i.e. before the application of the cross-border

[31] Section 195/A (8) of the VAT Act.
[32] Section 195/C (1) of the VAT Act.
[33] Section 195/A (9) of the VAT Act.

tax exemption, the taxpayer discovers errors in the content of the data contained in the prior notification and corrects them by resubmitting the prior notification, the provisions applicable to the prior notification shall apply to the document correcting the prior notification (corrective notification), on the understanding that the 35 working days shall be calculated from the date of receipt of the corrective notification (in essence, a new prior notification) by the NTCA.[34]

If the taxable person initiates an update of the prior notification (including, in particular, a change in the scope of the Member State concerned by the choice of exemption) to the NTCA before the taxable person's choice has been assessed (confirmation of the unique identification number with the EX suffix) for all the Member States indicated in the original prior notification, the provisions for the corrective document apply, with the derogation that the relevant 35 working days start from the day following the assessment of the original prior notification.[35]

2. Data reporting

A taxable person who has opted for tax exemption in (an)other Member State(s) of the Community is required to report quarterly data on the consideration free of VAT, broken down by Member State, for transactions carried out in the same quarter both within the domestic territory and in other Member States of the Community.[36] The data reported shall cover all Member States, not just those for which the taxable person has opted for tax exemption, and the data shall be reported for each quarter. If no supplies of goods or services have been made in respect of that Member State in a given calendar quarter, the report of data must include 'nil' Member State turnover.[37] The data must be reported by the last day of the month following the reference calendar quarter using the electronic interface developed by the NTCA for this purpose.[38]

If the taxpayer's EU turnover on the aggregate for the actual year exceeds EUR 100 000, the taxpayer shall inform the NTCA of this within 15 working days (also using the electronic interface mentioned above) and at the same time shall report the turnover of the Member State from the beginning of the calendar quarter until the date of crossing the threshold for each Member State, broken down by Member State.[39]

The taxpayer is required to include the unique identification number with the EX suffix in both the regular and the special reporting for the crossing of the EUR 100 000 threshold.[40]

When reporting the data, amounts shall be expressed in euro. For the conversion into euro of Member State and Union turnover in a currency other than euro, the taxable person shall use the exchange rate applicable on the first day of the calendar year concerned. The conversion shall be made by applying the exchange rate published by the

[34] Section 195/A (10) of the VAT Act.
[35] Section 195/A (11) of the VAT Act.
[36] Section 195/B (1) of the VAT Act.
[37] Section 195/B (2) of the VAT Act.
[38] Section 195/B (3) of the VAT Act.
[39] Section 195/B (4) of the VAT Act.
[40] Section 195/B (5) of the VAT Act.

European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.[41]

EU legislation allows Member States to set different thresholds for different business sectors based on objective criteria (no threshold can exceed EUR 85 000 or the equivalent in national currency). If the reporting relates to a Member State that applies more than one threshold for the exemption, the Member State's turnover for that Member State should be reported broken down by the relevant calculation for those thresholds.[42]

As the date of submission of the prior notification is different from the date from which the taxpayer is eligible for the cross-border exemption, this may lead to duplication or incomplete reporting of data in the first quarterly reporting. To avoid this, the VAT Act provides as follows.

If the date of receipt by the NTCA of the notification (prior notification) pursuant to Section 195/A (4) and the start date for the application of the tax exemption on the basis of this notification fall in the same calendar quarter, the first reporting of data following the the start date for the application of the tax exemption shall not include the turnover data to be reported pursuant to Section 195/B (1) for the reference calendar quarter, which the taxpayer has already indicated in the notification (prior notification) pursuant to Section 195/A (4).[43]

If the start date for the application of the tax exemption falls on a date in the calendar quarter following the calendar quarter in which the notification ("prior notification") pursuant to Section 195/A (4) is received by the NTCA, the first data report following the start date for the application of the tax exemption shall also contain the turnover data - referred to in Section 195/B (1) - for the calendar quarter preceding the reference calendar quarter, which the taxable person has not submitted to the NTCA in his/her notification (prior notification) based on Section 195/A (4).[44]

If the taxpayer discovers an error in the quarterly data already reported or if the data are subsequently modified, the original quarterly data report must be resubmitted with the correct data content.[45]

3. Cancellation of a unique identification number with a suffix ’EX’

In the Member State, States of the Community other than Hungary, the taxable person may opt for tax exemption if he or she has a valid unique identification number with suffix ’EX’ for this / these Member State / Member States. The Act on VAT determines in which cases the tax authority invalidates the identification number with the suffix ’EX’, i.e. determines in which cases the possibility for the taxable person to act in a tax-exempt capacity with respect to the Member State(s) other than the Member State of

[41] Section 195/C (1) of the VAT Act.
[42] Article 284 (1) of the VAT Directive; Section 195/C (2) of the VAT Act.
[43] Section 195/B (6) of the VAT Act.
[44] Section 195/B (7) of the VAT Act.
[45] Section 195/B (8) of the VAT Act.

establishment ceases. The NTCA invalidates the unique identification number with the suffix 'EX' if

a) on the basis of the taxable person's quarterly or exceptional data disclosure, the aggregated amount of the Union turnover for the year in question exceeds EUR 100 000;

b) the Member State concerned with the tax exemption notifies the NTCA that the taxable person is not entitled to the tax exemption in that Member State or that the exemption is no longer applied in that Member State;

c) the taxable person has notified the NTCA that he or she no longer wishes to make use of the tax exemption in the Member State in which he or she has opted for the exemption; or

d) the taxable person has notified the NTCA - or it can be assumed for other reasons - that the taxpayer has ceased to carry on business in the Member State in which the tax exemption was selected.[46]

In cases under points (b) to (d), i.e. in cases other than those where the Union turnover threshold is exceeded, the NTCA will only invalidate the unique identification number for the Member State concerned, if the taxable person continues to apply the tax exemption in one or more other Member States in addition to this Member State.[47] The date on which the invalidation takes effect is determined by the legislation of the Member State concerned. If the taxable person exceeds the turnover threshold of the Member State, as a rule, he or she may not opt for a new tax exemption in that Member State for a period of one calendar year. However, the EU legislation allows the Member States to extend this period to two calendar years.[48]

In the case under point (a), i.e. where the taxpayer exceeds the Union turnover threshold of EUR 100 000, he or she cannot benefit from the cross-border tax exemption[49] in any Member State other than the Member State of establishment until the end of the calendar year following the year in which the threshold was exceeded, but this transition does not affect the domestic (as of the Member State of establishment) individual tax exemption, so the taxable person may continue to apply the individual tax exemption in Hungary if the Union annual turnover threshold is exceeded, or, if he or she has not previously opted for a individual tax exemption domestically, he or she may opt for it for the following year, even though he or she exceeded the Union turnover threshold in the previous year, if he or she meets the conditions for the option.

4. Administrative simplifications

[46] Section 195/E. of the Act on VAT
[47] Section 195/E. of the Act on VAT
[48] First subparagraph of paragraph (1) of Section 288 of the VAT Directive
[49] Section 195/F. of the Act on VAT

Under the EU rules, the taxable persons, who opt for an exemption in a Member State other than their Member State of establishment in respect of their exempt supplies of goods and services in the given Member State, are not obliged to:

a) register themselves as a taxable person for VAT purposes (i.e. in the Member State concerned they are not required to report the commencement, modification or cessation of their activities as a taxable person and the Member States concerned are not required to register these taxable persons under a unique tax identification number), such taxable persons need only be identified, for the exemption to apply, in the Member State in which they are established, by a unique identification number with the suffix 'EX'[50];

b) file a VAT return.[51]

If the taxable person does not fulfil or does not fulfil within the deadline his or her quarterly reporting obligation or does not fulfil or does not fulfil within the deadline his or her obligations to provide information and to provide exceptional information when the Union turnover threshold is exceeded, as described above, Member States concerned by the exemption may require the taxable person, who does not fulfil or does not fulfil within the deadline the mentioned obligations, to fulfil ,for example, his or her obligations to report and to submit VAT returns in the Member State(s) concerned.[52] However, the taxable person does not necessarily lose the right to continue to apply the cross-border tax exemption in the given Member State. The legislation of the Member State concerned determines which obligations the taxable person shall comply with in any given case.
Furthermore, Member States applying the exemption may also exempt taxable persons applying the cross-border individual tax exemption from additional administrative obligations (e.g. invoicing, record keeping, recapitulative statements). The scope of these exemptions is also determined by the legislation of the Member State concerned.[53]

5. Right of deduction

Under the relevant EU legislation, exempt taxable persons are not entitled to deduct VAT under Articles 167 to 171 and Articles 173 to 177 of the VAT Directive and cannot include VAT on their invoices.[54]

The right of deduction is available to the taxable person if they use the goods acquired or services used for such supply of goods or services carried out abroad, which, if they had been performed domestically, would have been a deductible transaction. However, the Act on VAT provides an exception to this rule and stipulates that the taxable person may

[50] Point b) of Article 284 (3) of the VAT Directive
[51] Article 284d. (1) of the VAT Directive
[52] Article 284d. (3) of the VAT Directive
[53] Article 292d. of the VAT Directive
[54] Article 289 of the VAT Directive

not deduct the input tax of the acquisitions for the fulfilment of those transactions which transaction was carried out in another Member State where he or she has chosen individual tax exemption. That is to say, if the taxable person has not opted for individual tax exemption domestically but has opted for individual tax exemption in another Member State of the Community, he or she cannot deduct the VAT charged on goods acquired or services used domestically for the fulfilment of the transaction in that other Member State, even though that transaction would give rise to a right of deduction if it was carried out domestically.[55]

The taxable person using a cross-border individual tax exemption, who has not opted for a individual tax exemption domestically, may deduct VAT on goods acquired and services used for his or her domestic transactions in accordance with the provisions of Chapter VII of the Act on VAT. If the taxable person applies also individual tax exemption in addition to the cross-border individual tax exemption, he or she shall comply with the rules laid down in Section 195 of the Act on VAT as well.

Furthermore, where a taxable person who has opted for a domestic individual tax exemption uses, utilizes his or her domestic acquisition during the period of the individual tax exemption for the purpose of carrying out such a transaction, the place of supply of which is in a Member State in which he or she has not opted for an exemption corresponding to the individual tax exemption, the taxable person in this case either not entitled to exercise the right of deduction in respect of the mentioned acquisition.[56]

6. The relationship between the SME system and the EU OSS scheme

The SME system and the OSS scheme can be applied in parallel, but both systems cannot be used simultaneously for transactions carried out in the same Member State. Only transactions carried out in Member States where the taxpayer has not opted for the SME scheme may be declared in the OSS. For example, if a Hungarian taxpayer – not established in Germany – provides services with a place of supply in Germany to non-taxable persons and applies the OSS, this taxpayer cannot opt for the SME scheme in Germany, and vice versa: the taxable person may opt for cross-border individual tax exemption for transactions carried out in Germany, and the SME covers services (unless German VAT rules exclude the transactions in question from the scope of the SME), but at the same time, the taxpayer may not apply the OSS to services provided to non-taxable persons with a place of supply in Germany for filing the VAT return and paying the VAT thereon, and, if intra-Community distance sales are also carried out, distance sales are also excluded from filing and payment under OSS. If the taxpayer has registered for the OSS under the EU scheme, the one-stop shop must be applied to all services provided in Member States other than Germany and to distance sales within the Community where the taxpayer has not opted for the SME system. For example, if the taxpayer in question

[55] Point a) of Article 121 of the Act on VAT
[56] Article 195 (6) of the VAT Directive

carries out intra-Community distance sales to Austria and has not opted for the SME scheme in Austria, the OSS must be applied to these transactions.

Under the EU OSS scheme, the quarterly tax return of the taxpayer may not include sales data for Member States in which the taxpayer applies cross-border individual tax exemption.

There are several variations possible with regard to the parallel application of the OSS scheme and the SME system. The relationship between the two systems is described in detail on the Community SME portal (https://sme-vat-rules.ec.europa.eu/index_en) in point 7.1 of the Explanatory notes under the Legislation/Guide menu item in all languages of the European Union, including Hungarian and English. In addition, information can be found in Section III of Information Booklet No. 98 entitled "VAT Rules Applicable to non-Union and Union One Stop Shop Schemes and to Platforms".

7. The relationship between the SME system and the IOSS

The application of the SME system and the import one-stop shop system, as well as the application of domestic individual tax exemption and the import one-stop shop system, are mutually exclusive. This is stipulated in two points of the VAT Act.

Under the VAT Act, IOSS may be applied by taxpayers whose registered office for their economic activities (palace of businsess) is located in Hungary, or whose registered office for their economic activities is located outside the Community but who have a permanent (fixed) establishment in Hungary.[57] However, under the relevant new provision of the Act, this option is not available to taxpayers who are under the scheme of domestic individual tax exemption in Hungary (i.e. individual tax exemption under Title 1 of Chapter XIII of the VAT Act), or to taxpayers who opt for cross-border indivudal tax exemption in another Member State of the Community (individual tax exemption under Title 2 of Chapter XIII of the VAT Act).[58]

The VAT Act stipulates that a taxpayer whose place of business is not located in Hungary but within the territory of the Community may choose to fulfill their tax filing and payment obligations for distance sales of products imported from a third country through the state tax and customs authority, provided that the taxpayer has commissioned an intermediary in accordance with Section 253/R.[59] However, under the relevant new regulation, this option is not available to taxpayers established in a Member State other than Hungary, or, failing that, resident in a Member State other than Hungary, who (which) opts for cross-border indivudual tax exemption in Hungary (tax exemption under Title 3 of Chapter XIII of the VAT Act) or applies tax exemption in

[57] Subsection 1 of Section 253/Q of the VAT Act.
[58] Subsection 7 of Section 253/Q of the VAT Act.
[59] Subsection 3 of Section 253/P of the VAT Act.

accordance with Article 284 of the VAT Directive in respect of a Member State of the Community other than Hungary.[60]

Given that the provisions referred to only exclude taxpayers applying individual tax exemption or cross-border individual tax exemption in line with Article 284 of the VAT Directive from fulfilling their VAT filing and payment obligations for imported distance sales through the import one-stop shop system, individual tax exemption may be applied to imported distance sales (to which the IOSS does not apply for the reasons detailed above) – if the taxable person carries out such a transaction. On the one hand, this means that the consideration excluding VAT of import distance sales supplied domestically must be included in the income threshold that allows for the choice of domestic individual tax exemption.[61] On the other hand, given that import distance selling is subject to individual tax exemption, the taxpayer cannot deduct the tax charged on the product purchased or service used to perform this transaction.

The relationship between the two systems is described in detail on the Community SME portal (https://sme-vat-rules.ec.europa.eu/index_en) in point 7.2 of the Explanatory notes under the Legislation/Guide menu item in all languages of the European Union, including Hungarian and English.

8. Legal remedy

The taxable person can appeal against a decision - formally taken by the NTCA - refusing to apply the cross-border tax exemption or excluding it from the SME scheme.

If the reason for the rejection or exclusion is that the Union turnover threshold is exceeded, the taxable person shall submit an appeal against the decision to the NTCA.

If the reason for the refusal or exclusion is that the Member State's turnover threshold has been exceeded, or if the information is otherwise originated from the authority of the Member State concerned by the exemption, the taxable person shall file the appeal to the competent authority of the Member State concerned. If the taxpayer submits such an appeal to the NTCA, the NTCA will transfer the application to the Member State concerned by the exemption within eight days calculated from the receipt, while informing the taxpayer at the same time.[62]

[60] Subsection 6 of Section 253/P of the VAT Act.
[61] Subsection 2 of Section 188 of the VAT Act.
[62] Article 122 (6) and (7) of the Act CLI of 2017 on the order of tax administration procedures (hereinafter referred to as Air.)

III. Rules on the domestic application of the individual tax exemption by the taxable persons not established domestically

1. Conditions for choosing the individual tax exemption

A taxable person who is established or, failing that, domiciled in another Member State of the Community (hereinafter referred to as a foreign taxable person or taxable person) is entitled to opt for a individual tax exemption in Hungary - with the exception provided for in Articles 195/G-195/K of the Act on VAT - in accordance with the rules applicable to domestic individual tax exemption.[63] Accordingly, foreign taxable persons may opt for individual tax exemption in Hungary if their cumulative turnover does not exceed the EU turnover threshold of EUR 100,000 in the calendar year preceding the calendar year in question and in the calendar year in question and their domestic turnover does not exceed the threshold for domestic individual tax exemption, which is raised from HUF 18,000,000 to HUF 20,000,000 on 1 January 2026, either in the year preceding the current year or in the current year, either actually or reasonably expected.[64] The threshold will continue to rise in the coming years, reaching HUF 22,000,000 in 2027 and HUF 24,000,000 in 2028.[65]

If the foreign taxpayer continued to apply individual tax exemption in Hungary in 2025 and the tax exemption ceased because the foreign taxpayer exceeded the threshold of HUF 18,000,000 applicable in 2025 for the selection of individual tax exemption with its sales, but did not exceed HUF 20,000,000, then, pursuant to the *transitional provisions of the VAT Act*[66], the *rule of the VAT Act restricting the return in relation to exceeding the threshold*[67] does not apply, i.e. the foreign taxpayer may still opt for tax exemption in Hungary for 2026.

EU turnover: the amount calculated without tax, in accordance with Section 188 (3) of the Act on VAT, of the consideration for supplies of goods and services made by the taxable person in the territory of the Community.
Domestic turnover: the amount calculated without tax, in accordance with Section 188 (3) of the Act on VAT, of the consideration for supplies of goods and services made by the taxable person domestically.[68]

With regard to the turnover to be calculated in accordance with Section 188 (3) of the Act on VAT, it should be noted that as of 1 January 2025, the turnover from the tax-

[63] Section 195/G (1) of the VAT Act.
[64] Section 195/G (3), Section 188 (2) and Section 377 (1) of the VAT Act.
[65] Sections 15 and 16 of Act LXXXIV of 2025 on Measures to Reduce the Tax Burden on Businesses.
[66] Section 377 (2) of the VAT Act.
[67] Section 195/K (6) of the VAT Act. Pursuant to this provision, if the tax exemption of a foreign taxpayer in Hungary ceases because the foreign taxpayer has exceeded the threshold specified in Section 188 (2) of the Tax Act, the foreign taxpayer may not opt for individual tax exemption in Hungary until the end of the second calendar year following the year in which the threshold was exceeded.
[68] Section 195/G (2) of the VAT Act.

exempt intra-Community supply of new means of transport will be included to the threshold that entitles the taxable person to opt for the tax exemption.[69] This change is the result of an amendment in the EU legislation, so the new rule will apply in all Member States. However, a taxable person who has opted for the individual tax exemption cannot continue to act in his or her personal tax-exempt capacity when he or she supplies a new means of transport to another Member State of the Community.[70]

The taxable person shall declare his or her choice related to the individual tax exemption in that other Member State of the Community in which he or she is established or - in the absence thereof - in which he has his or her permanent address (hereinafter together referred to as "the place of establishment").[71] The detailed rules for submitting, amending and updating the prior declaration shall be determined by the legislation of the Member State in which the taxable person is established, in accordance with the relevant EU rules.[72]

The taxable person is entitled to opt for the individual tax exemption in Hungary from the day on which the competent authority of the Member State of establishment has communicated to him or her the unique identification number with the suffix 'EX'[73] with validity for Hungary, or has confirmed it regarding Hungary, but not later than as of the 35th working day from the date of receipt by that authority of his or her declaration of his or her choice of the exemption in Hungary.[74] An exception to the latter shall be made where the competent authority of the Member State of establishment informs the taxable person within the aforementioned 35 working days that a longer period than 35 working days is necessary to carry out controls in order to prevent tax evasion or avoidance. In this case, the individual tax exemption can be applied domestically from the date of the actual communication of the unique identification number with the suffix 'EX' to the taxable person (whether or not this takes place after the initial 35 working day deadline) or, if he or she has already exercised this option in another Member State, then it can be applied from the date of its confirmation in respect of Hungary.[75]

2. Data disclosure

The rules for reporting by foreign taxable persons are similar to those for reporting by resident taxable persons who opt for a tax exemption in another Member State of the Community, given that they are based on the same EU rule, except that the details of the quarterly and exceptional reporting (including the currency to be used and the values to

[69] Repeal of point b) of Section 188 (3) of the VAT Act.
[70] Point h) of the Section 193 (1) of the VAT Act.
[71] Section 195/G (4) of the VAT Act.
[72] Articles 284-284a. of the VAT Directive
[73] Article 284 (3) of the VAT Directive
[74] Section 195/H (1) of the VAT Act.
[75] Section 195/H (2) of the VAT Act.

be taken into account for the calculation of the turnover) are determined by the legislation of the Member State of establishment.

For each calendar quarter, the taxable person shall provide the competent authority of the Member State of establishment - indicating the unique identification number with the suffix 'EX' - with information on the following:

- the total value of goods and services supplied in the Member State of establishment during the given calendar quarter, or „0", if there were no supply of goods or services;
- the total value of goods and services supplied in each Member State other than the Member State of establishment during the calendar quarter concerned, or „0", if there were no supply of goods or services, broken down by Member State.[76]

The data disclosure shall be filed to the competent authority of the Member State of establishment by the last day of the month following the calendar quarter concerned.[77]

If the taxable person's Union turnover exceeds EUR 100 000, the taxable person shall inform the competent authority of the Member State where he or she is established within 15 working days and at the same time provide information on his or her national turnover from the beginning of the calendar quarter concerned until the date of the transition for each Member State, broken down by Member State.[78]

3. Cessation of the individual tax exemption

The individual tax exemption of the foreign taxable person ceases if

a) the taxable person notifies the competent authority of its place of establishment that he or she no longer wishes to apply the individual tax exemption in Hungary;
b) the taxable person's aggregated Union turnover for the given tax year exceeds the threshold of EUR 100 000;
c) the taxable person exceeds the threshold for the domestic individual tax exemption (HUF 20,000,000) in the calendar year in question;
d) the taxable person has declared - or for some other reason, it can be assumed - that his or her domestic activities have ceased;

[76] Article 284b (1) of the VAT Directive
[77] Article 284b (2) of the VAT Directive
[78] Article 284b (3) of the VAT Directive

e) the Member State in which the taxable person is established invalidates the taxable person's unique identification number with the suffix 'EX' for reasons other than points a)-d).[79]

The domestic individual tax exemption of the foreign taxable person will cease from the following dates under the Act on VAT.

If the taxable person declares that he or she no longer wishes to apply the individual tax exemption domestically, the individual tax exemption will cease to apply from the first day of the calendar quarter following the date on which the Member State in which he or she is established receives the declaration. By way of derogation, if the declaration is received in the last month of the calendar quarter concerned, the individual tax exemption shall cease to apply from the first day of the second month of the calendar quarter following the calendar quarter in which it is received.[80]

If the taxable person exceeds the Union turnover threshold of EUR 100 000, he or she may still act in a personal tax-exempt capacity in respect of those supply of goods or services for which the consideration exceeds the Union turnover threshold, provided that this consideration of the supply of goods and services does not exceed the domestic threshold of HUF 20,000,000. The taxable person may not act in a personal tax-exempt capacity in respect of his or her transactions carried out thereafter. If the taxable person's consideration for the same transaction exceeds the Union and domestic turnover thresholds, the individual tax exemption cannot apply to that transaction in which the taxable person exceeds the turnover threshold. If the Union threshold is exceeded, the foreign taxable person may not opt for a individual tax exemption either in Hungary or in any other Member State other than the one in which he or she is established until the end of the calendar year following the year in which the threshold is exceeded.[81]

If the individual tax exemption ceases to apply because the domestic turnover threshold is exceeded, the tax exemption can no longer be applied to transactions with the consideration of which the taxable person exceeds HUF 20,000,000.[82] In this case, as a rule, the foreign taxable person may not opt for individual tax exemption in Hungary until the end of the second calendar year following the year in which the threshold was exceeded.[83] However, pursuant to *the rule stipulated in the transitional provision of the VAT Act*[84], if the consideration for the foreign taxpayer's sales in 2026 exceeds the threshold of HUF 20,000,000 entitling them to opt for tax exemption, required for 2026, but does not exceed HUF 22,000,000, the foreign taxpayer may still opt for tax exemption

[79] Section 195/K (1) of the VAT Act.
[80] Section 195/K (3) of the VAT Act.
[81] Section 195/K (4)-(5) of the VAT Act.
[82] Section 191 (2) of the VAT Act.
[83] Section 195/K (6) of the VAT Act.
[84] Section 378 (2) of the VAT Act.

in Hungary for the calendar year of 2027, provided that all the other conditions are met, even if the period specified in Section 195/K (6) has not yet expired.

If the taxable person has announced the termination of his or her activity or for other reasons it can be assumed that his or her domestic activity has ended, the individual tax exemption ceases on the day when the taxable person's domestic economic activity ends. Under the Act on VAT, the economic activity of the taxable person can be considered to have ended, in particular, if the taxable person does not fulfil his or her obligation to provide data for two consecutive calendar quarters.[85]

4. Administrative simplification

The foreign taxable person is exempt from some of the tax obligations that would otherwise apply to taxable persons, and benefits from certain reliefs as well.

A taxable person established in another Member State of the Community who has opted for a domestic individual tax exemption is exempt from the domestic reporting obligation in respect of this exempt activity.[86] However, if he or she becomes liable to register on the basis of other activities in which he or she is not allowed to act in a personal tax-exempt capacity[87] (e.g. the supply of goods used as tangible assets, the supply of immovable property which has been built up for less than two years and which is not a tangible asset, the intra-Community acquisition of goods where the consideration for such transactions exceeds the sum of money equivalent to EUR 10 000, the supply of new means of transport to another Member State), then in this regard he or she is not exempt from the reporting obligation under the Act on the Rules of Taxation[88] (however, this does not in itself affect the foreign taxable person's entitlement to the individual tax exemption).

The foreign taxable person is also exempt from the obligation to file a domestic tax return in respect of the transactions covered by the cross-border individual tax exemption.[89]
For the supplies of goods and services made in his or her personal tax-exempt status to which the domestic invoicing rules apply[90], the foreign taxable person may issue an invoice with simplified data content[91] (see in detail information booklet No.18 "Basic rules for issuing invoices and receipts"). When the taxable person - in his or her personal tax-exempt status - is obliged to issue a receipt under the rules of the Act on VAT, he or

[85] Section 195/K (7) of the VAT Act.
[86] Section 257 (6) of the VAT Act.
[87] Section 193 of the VAT Act.
[88] Section 16 of Act CL of 2017 on the Rules of Taxation.
[89] Subsection (1) and subpoint ba) of point b) of subsection (2) of Section 257 of the VAT Act.
[90] Section 158/A of the VAT Act.
[91] Point e) of Section 176 and point c) of Section 176 (2) of the VAT Act.

she shall indicate on the receipt his or her unique identification number with the suffix 'EX'.

A further relief for foreign taxable persons using the domestic (individual) tax exemption is that they may also fulfil their obligation to supply information - i.e. invoice data supply - on invoices issued and documents treated as invoices issued in respect of transactions carried out for consideration in Hungary in their capacity as exempt persons by supplying data in accordance with the legislation of the Member State in which they are established, the content of which corresponds to Article 284b of the VAT Directive.[92] Accordingly, if the taxable person fulfils the quarterly data supply (reporting) obligation, he/she is exempted from the reporting obligation under Annex 10 of the Act on VAT.

5. Right of deduction

As a general rule - in accordance with the relevant EU regulations and the corresponding Hungarian regulations - a taxable person using the individual tax exemption is not entitled to deduct the VAT charged to him or her in domestic purchases made during the individual tax exemption period.[93] At the same time, there are transactions in respect of which the taxable person cannot act in his or her personal tax-exempt capacity.[94] In some such cases, the Act on VAT provides the right of tax deduction to the personal tax-exempt taxpayers.[95] Such a case is, for example, the supply of new means of transport used as a non-tangible asset, in connection with which the taxpayer is obliged to pay VAT[96], but the regulations allow for the deduction of the VAT charged on the purchase[97]. However, the Act on VAT also stipulates that a foreign taxpayer who has chosen domestic individual tax exemption may not exercise the right to deduct tax even in relation to those domestic procurement transactions that he or she uses for transactions carried out in another Member State, in which Member State he or she has not otherwise chosen the tax exemption corresponding to the individual tax exemption.[98]

6. Legal remedy

The taxpayer may appeal against a decision formally taken by the authority of the Member State where the taxable person is established, rejecting the application of the cross-border tax exemption, or excluding the application of the SME system. If the reason for the rejection or exclusion is the exceeding of the domestic turnover threshold or

[92] Section 257/G (3) of the VAT Act.
[93] Article 289 of the VAT Directive, Section 195 (1) of the VAT Act.
[94] Section 193 of the VAT Act.
[95] Section 195 (2)-(4) of the VAT Act.
[96] Point h) of Section 193 (1) of the VAT Act.
[97] Point f) of Section 195 (2) of the VAT Act.
[98] Section 195 (5) of the VAT Act.

otherwise information from the domestic tax and customs authorities, the appeal must be submitted to the NTCA.[99]

The article on the rules of the SME scheme "Cross-border personal (individual) tax exemption as of 1 January 2025" written by the colleagues of the NTCA, is available on the website adovilag.hu by clicking on the following link: „Határon átnyúló alanyi adómentesség 2025. január 1-jétől". (This information is available only in Hungarian.)

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[99] Section 122 (8)-(9) of Air.