

How foreign persons should administer excise tax issues?

Dear Client,

Pursuant to the general rules of the Excise Tax Act¹ (hereinafter referred to as *ETL*) excise tax issues must be arranged electronically, therefore, tax returns, tax refund claims, notifications, notices, data supplies, any other claims, or statements of any kind in connection with excise taxes may be filed electronically to the National Tax and Customs Administration (NTCA).

At the same time, ETL² also allows for paper-based administration of some specific cases; this includes - among others - the excise tax issues of foreign persons.

In this information note, in addition to the general administrative rules, we present the rules for the administration of excise taxes by foreign persons.

I. Communication with NTCA

NTCA shall communicate with the taxpayer and the participants of the procedure³:

- in writing,
 - in writing
 - by way of electronic means⁴, or
- orally
 - in person,
 - by way of electronic means not considered as writing, i.e. e-mail.

Only an identified client can arrange a specific tax case at NTCA. As an e-mail is not suitable for identifying the taxpayer, only general, non-taxpayer specific information can be requested by e-mail.

II. Electronic administration

Electronic forms

Excise matters can be arranged electronically using electronic forms published on the website of NTCA (www.nav.gov.hu). Each form is accompanied by instructions for completing the form, which provide information on the form and a detailed description of how to complete the different sections, boxes and lines.

¹ Act LXVIII of 2016 on Excise Taxes.

² Types of cases that can also be arranged on a paper basis are defined in Subsection 2 of Section 84 of ETL.

³ Subsection 1 of Section 36 of Act CLI of 2017 on Tax Administration and the Regulation of Tax Administration (hereinafter RTA); Act CCXXII of 2015 on the General Rules for Trust Services and Electronic Transactions (GREAA Act).

⁴ As defined in GREAA Act.

The electronic forms and instructions for completion are available in Hungarian at the following link:

https://nav.gov.hu/nav/letoltesek/nyomtatvanykitolto_programok.

Please always install the latest update of the General Framework Form Filler Program (ÁNYK in Hungarian) before filling in any specific form (forms are called ÁNYK forms)!

Information on the installation of the General Framework Form Filler Program is available at the following link (in Hungarian):

<https://nav.gov.hu/nyomtatvanyok/letoltesek/anyk-keretprogram>.

Please read the help function of the Form Filler Program carefully before filling in a form!

If you have any questions regarding the application of the forms, please contact the county and the metropolitan tax and customs directorates of NTCA.

If you notice an error during the electronic submission, please report it to the e-mail address it.helpdesk@nav.gov.hu.

Electronic submission of forms - electronic filing

More information on the electronic submission of forms and the rules of electronic communication can be found in the following information notes on the NTCA website:

- *“Method of electronic submission of ÁNYK forms introduced by the National Tax and Customs Administration as well as reporting taxpayer representation - 2019”,*
- *“General rules of electronic administration with the National Tax and Customs Administration - 2019”,*
- *“General rules of electronic administration and communication in tax matters”,* and
- *“Communication of taxpayers obliged to open a “company gate” with the National Tax and Customs Administration after 1 January 2019”.*

The forms may be submitted by the taxpayer or a person authorized by the taxpayer.

Notification of the right of representation

If the form is to be submitted by the taxpayer's authorised representative, the right of representation shall be certified.

In the case of electronic submission, the right of representation shall be notified to NTCA in advance. Any form filed electronically to the authority may be accepted by NTCA only if the submitter's right of representation has been registered in advance.

More information on how to notify NTCA about taxpayer's representation can be found in the following information note on the website of NTCA:

- *“Method of electronic submission of ÁNYK forms introduced by the National Tax and Customs Administration as well as reporting taxpayer representation - 2019”.*

The EGYKE data sheet required for registration is available on the website of NTCA under the menu item “Programs for Form Filling”:

http://nav.gov.hu/nav/letoltesek/nyomtatvanykitolto_programok/nyomtatvanykitolto_programok_nav/adatbejelentok_adatmodositok/NAV_egyke.html

The contact details of the tax and customs directorates of NTCA can be found on the NTCA website under the menu item "Directorates".

Information on receiving forms by NTCA

The submitter of a form receives a so-called eBEV receipt about the ÁNYK form filed with the authority, which also contains the registration number received at NTCA.

NTCA will only send any other notification or request to the taxpayer if it becomes necessary during processing the form, for example, if the form is incorrect for any reason.

If the processing of the form is hindered by incompleteness or any completion error, we will notify you. In this case, please resubmit the form as described in the delivered system message or in the specific electronic file of the competent body.

If you have not received a request from NTCA, but would like to correct any of the data in the already submitted form, please make sure to mark the check box *“correction”* on the form containing the corrected data (if the given form allows this), and in the section *“reference case number”* also indicate the registration number indicated on the eBEV receipt for the form previously submitted (for the one to be corrected).

III. Paper based administration of issues

1. Forms standardized by NTCA

In cases where the rules require the use of forms standardized by NTCA, but where they allow paper-based administration of issues⁵, any notification, data provision, or application can be submitted using the forms standardized and published by NTCA available on its website.

Examples of such cases are: application for registration by the customs authority for eligible claims for refund of taxes on commercial gas oil, reporting bulk

⁵ In cases provided for in ETL and in Decree No. 45/2016 (XI.29.) of the Ministry of National Economy on the Implementation of Certain Provisions of Act LXVIII of 2016 on Excise Taxes (hereinafter referred to as IR).

movement/carriage of lubricating oil in transit through the domestic territory, application for authorization to lodge an excise guarantee as a full guarantor.

The forms can be completed in the following ways:

- a. after download of the form being filled in electronically, printed and signed with a pen, or
- b. after download of the form being printed empty, then filled in and signed with a pen,
- c. a pdf type document that is exactly the same as the downloadable form printed, then filled in and signed with a pen.

Forms that can be submitted by foreign persons - in pdf format (i.e. point c. above) - and instructions for filling in forms in English are available on the English language website of NTCA under Excise submenu point of the menu item "Customs/Excise" https://nav.gov.hu/en/intormation_on_customs_matters/Excise/Excise_forms_and_guidelines.

2. Any format

In certain cases, for example, if there is no regular form standardized for a case, or if it exists, but its use is not mandatory, a specific document may be submitted to NTCA in any format with an original signature.

Examples of such cases are: fulfilment of the obligation to make a statement, application for correction of a decision, application for the reduction of an excise fine, appeal.

However, we recommend the use of standardized forms for faster administration.

IV. Excise tax issues of foreign persons that may be arranged in paper format⁶

- 1. Tax return on the amount of excise taxes payable or refundable on controlled energy products, alcoholic products, beer, still and pearl wines, other still and sparkling fermented drinks, intermediate alcoholic products and on correction thereof by self-amendment**

You can only use the published form of **BEV_J02!**

- 2. Application for registration by the customs authority for eligible claims for refund of taxes on commercial gas oil**

You can only use the published form of **NAV_J21!**

⁶ The names of the cases listed here are the same as the names of the forms introduced by NTCA or the names of the types of cases that can be marked on the forms. The list includes only those types of cases that can be arranged by a foreign person, but some forms also provide for the arrangement of other types of cases in addition to those listed.

3. Reporting excisable activities

You can only use the published form of **NAV_J29!**

The following activities can be reported on the form:

- Reporting the total destruction or irretrievable loss of excise goods [Points e)-h) of Subsection 1 of Section 9 of ETL];
- Reporting the taking of stock/inventory [Points a)-b) and d) of Subsection 1 of Section 17 of ETL];
- Reporting excise goods produced by private individuals [Point a) of Subsection 1 of Section 133 of ETL];
- Reporting intention to use natural gas purchased for their own household as fuel for motor vehicles [Section 52 of ETL].

4. Application for the authorisation of activities pursuant to ETL

You can only use the published form of **NAV_J31!**

5. Reporting transportation / carriage

You can only use the published form of **NAV_J32!**

The following activities can be reported on the form:

- Reporting bulk movement/carriage of lubricating oils in transit through the domestic territory [Section 49 of ETL];
- Reporting receipt of still wine dispatched by a person established in another Member State under a tax suspension arrangement [Section 51 of ETL].

6. Application for authorization to provide an excise guarantee as a full guarantor

You can only use the published form of **NAV_J34!**

7. Application for acceptance of the excise guarantee offered/for modification of an excise guarantee accepted or set at a different amount

You can only use the published form of **NAV_J38!**

8. Application for the provision of excise guarantee for a single consignment as per Subsection 12 of Section 18 of ETL

You can only use the published form of **NAV_J40!**

9. Any other excise tax related reports, notifications, applications and statements

The following notifications can only be made on the standard form of **NAV_J42:**

- Reporting intention to purchase taxed excise products [Subsection 2 of Section 69 of IR];
- Reporting production in excess of or below the scale reported on the basis of Section 52 of ETL [Subsection 11 of Section 32 of IR];
- Reporting quantities of distillates in excess of what may annually be produced in private distillation (excess quantity) [Subsection 8 of Section 143 of ETL].

If you submit the following notifications, applications, statements on paper, you are free to choose their format (*please consult Point 2 of Chapter III - Paper based administration of issues*):

- Application of a registered trader for the authorisation of any acquisitions other than those defined by law [Subsection 2 of Section 40 of IR];
- Application of a registered retailer for the authorisation of any acquisitions other than those defined by law [Subsection 3 of Section 40 of IR];
- Application for an inspection visit [Subsection 2 of Section 49 of IR];
- Application for authorization to pay a site inspection fee in one amount [Subsection 7 of Section 49 of IR];
- Application for correction of a decision [Subsection 1 of Section 75 of RTA];
- Application for a supplementary decision [Subsection 4 of Section 75 of RTA];
- Justification request [Section 53 of RTA];
- Delivery complaint [Subsection 3 of Section 80 and Section 81 of RTA];
- Reporting a reason for exclusion [Section 33 and 34 of RTA];
- Filing a motion to present evidence, request for document access or comments as per RTA, and, any other applications/requests that may be filed during a procedure in excise tax issues based on RTA and *Act CL of 2017 on the Rules of Taxation* (hereinafter referred to as RTL);
- Request for a copy [Subsection 1 of Section 42 of RTA];
- Fulfilment of the obligation to disclose any data, fact or circumstance known to and/or shown in the records of the taxpayer and/or natural persons not treated as taxpayers upon instruction of the tax authority [Subsection 1 of Section 60 of RTA];
- Request for reimbursement of the amount of excise guarantee under free provision [Subsection 4 of Section 8 of IR];
- Fulfilment of the obligation to make a statement in one's own case [Subsection 2 of Section 59 of RTA];
- Presentation of documents, data disclosure [Subsection 1 of Section 61 of RTA];
- Fulfilment of the obligation to make a statement [Section 63 of Act CL of 2016 on General Public Administration Procedures (hereinafter: GPAP)];
- Presentation of documents, data disclosure [Subsection 1 of Section 65 of GPAP];
- Rectification in a legal remedy proceeding at the request of a second instance authority [Subsection 5 of Section 127 of RTA, Subsection 6 of Section 119 of GPAP];

- Application for the reduction / non-imposition of an excise fine [Section 101 of ETL].

At the same time, we recommend that you send in your notification, application or statement primarily using the **NAV_J42** form provided for that purpose.

10. Request for legal remedy (dispute resolution), complaints in excise issues

If you submit the following applications on paper, you are free to choose their format (*please consult Point 2 of Chapter III - Paper based administration of issues*):

- filing an appeal;
- request for supervision measure;
- objection against ordering seizure;
- objection to holding back package delivery.

At the same time, we recommend that you send in your application or objection primarily using the **NAV_J44** form provided for that purpose. Form NAV_J44 can only be submitted to NTCA electronically.

11. Request for the assessment of excise tax by the state tax and customs authority

If you submit your application on paper, you are free to choose its format (*please consult Point 2 of Chapter III - Paper based administration of issues*), however, we recommend that you send in your application primarily using the **NAV_J45** form provided for that purpose.

We thank you for your kind cooperation.

National Tax and Customs Administration