INSTRUCTIONS FOR COMPLETING

Forms **22ELEKAFA_ K and 22ELEKAFA_ SZ**

to claim the value added tax refund from any member state of the European Community by taxpayers specified in Subsection (1) of Article 185 of Art.

WHAT CAN YOU READ IN THIS INSTUCTIONS FOR COMPLETING?

I. General Information

1. What is the bundled Form 22ELEKAFA for?

This Form is designed for the value added tax (hereinafter: VAT) refund claims of the domestic (Hungarian) taxpayers who used the goods or services from another member state of the European Community in the year covered by the application.

2. To whom does it apply?

The Form can be filed to the National Tax and Customs Administration (NTCA) by those domestically established taxpayers (claimants) who/which are entitled to the refund of the VAT charged in another member state of the European Community.

3. How can the Form be submitted?

The Form **has to be submitted by electronic means** to the NTCA.

You can find more detailed information about the electronic submission of the Form and data sheet and the electronic contact on the website of NAV (www.nav.gov.hu) in these document:

- ➢ *„Elektronikus űrlapok benyújtásának módja, képviselet bejelentése"* information document *and*
- ➢ *„Az elektronikus ügyintézés és kapcsolattartás általános szabályai adóügyekben 2022*. information leaflet*"*

The declaration of the reperesentative's entitlement

The application may also be submitted by the taxpayer's representative. To do this, the right of representation must be declared in advance to the NTCA. The NTCA can only accept the electronically submitted application if the applicant has registered his or her right to represent himself in advance.

More detailed information about the declaration of the representation can be found on the website of NAV (*www.nav.gov.hu*)

➢ *„Elektronikus űrlapok benyújtásának módja, képviselet bejelentése"* information document.

4. Where can the Form be found?

The Form 22ELEKAFA is not commercially available. It is **available electronically at** the website of NAV in the Form Filling Framework Programme (ÁNYK). Nyomtatványok ÁNYK-hoz - Nemzeti Adó- és Vámhivatal (gov.hu)

The form filling programme (which is running in ÁNYK) and the belonging filling in instruction of the Form) can be found as follows:

➢ www.nav.gov.hu → *Form Finder→ Advanced search of the programmes → 22ELEKAFA bundled Form*

at the following link: 22ELEKAFA - Nemzeti Adó- és Vámhivatal (gov.hu)

In order to fill in the Form correctly it is important to check the VAT refund claim before filing it electronically by means of the software programme "22ELEKAFA"!

5. What is the deadline of submission?

The claimant can submit the VAT refund claim charged in the member state of refund electronically filing this Form until September 30 of the calendar year following the refund period. This means that the claim for 2021 calendar year can be submitted until 30. September 2022.

The compliance with the deadlines is controlled by the member state of refund after the receipt of the VAT refund claim.

6. What kind of parts does the bundled Form have?

The Form consists of two parts:

the 22ELEKAFA_K and the 22ELEKAFA_SZ Forms. These Forms cannot be filed separately but only together; you can download them only together.

Parts of the 22ELEKAFA_K Form:

22ELEKAFA_K- main page	data of the claimant
22ELEKAFA_K- 01 page	detailing sheet (data of the contact person, refund period, declaration)
22ELEKAFA_K-02 page	detailing sheet (data on further activities)

Parts of the 22ELEKAFA_SZ Form:

22ELEKAFA_SZ- main page	data of invoices, importation documents
22ELEKAFA_SZ- 01 page	details of invoices (codes of goods and services, designation, language code)
22ELEKAFA_SZ-02 page	details of the importation documents (codes of goods and services, designation, language code)

7. Additional information, assistance

If you have further questions related to the data sheet or the certain taxation rules please do not hesitate to contact us on the following availabilities!

On the Internet:

➢ on the website of NAV: https://nav.gov.hu

Via E-mail:

➢ on the form that can be found on the following address: https://nav.gov.hu/ugyfeliranytu/keressen_minket/levelkuldes/e-ugyfsz

On the Phone:

➢ on the info line of NAV

o from in-country on the phone number 1819,

o from abroad on the phone number +36 (1) 250-9500.

➢ via the Client information and administration system (ÜCC) of NAV[1]
o from in-country on the phone number +36 (80) 20-21-22,

o from abroad on the phone number +36 (1) 441-9600.

The Info line of NAV and the ÜCC can be reached between 08:30 and 16:00 from Monday till Thursday and between 08:30 and 13:30 on Fridays.

In person:

➢ countrywide at the customer services of NAV. Search engine for customer services: https://nav.gov.hu/igazgatosagok/ugyfelszolgalat-kereso/ugyfelszolgalatok_nyitvatartasa

8. Which legal provisions shall be taken into account?

- Act CL of 2017 on the Rules of Taxation (Art.);
- Act CLI of 2017 on the Regulation of Tax Administration Proceedings (Air);
- Act CXXVII of 2007 on Value Added Tax (Áfa tv.);
- Decree 32/2009 (XII. 21.) PM of the Ministry of Finance on questions related to the refund of value added tax by taxpayers not established in the Republic of Hungary and the right of the domestic taxpayers to claim the value added tax refund from other member states of the European Community (PM Decree);
- Council directive 2008/9/EC (Directive) on the rules of the refund of value added tax, provided for in directive 2006/112/EC, to taxable persons not established in the member state of refund but established in another member state;
- Commission implementing regulation (Regulation) 79/2012 (31 of January 2012) laying down detailed rules for implementing certain provisions of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax.

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II. Detailed information

1. Who can use the Form 22ELEKAFA?

The Form can be filed by those claimants who/which apply for the refund of the VAT charged in another member state of the European Community.

Claimant is a person who (which) in the period concerned by the refund have. – established their business inside the domestic territory or in the absence of such a place of business had their permanent address or usually resided inside the domestic territory.

No claimant is entitled to file a refund application who (which)
a)   carries out only activities based upon the 85-86. § and 87. § a) point of the Áfa tv. that do not ensure the entitlement to exercise the right of vat deduction; or
b)   have opted for individual exemption; or
c)   qualify as taxpayer practicing only agricultural activities.[2]

2. Correction of the application

The correction of the refund application can be done by the claimant.

In the third block of the sheet **22ELEKAFA-K-01** the bar code (document number) of the previous refund application to be rectified must also be mentioned; the corrected application can be filed with the rectified data.

In case of correction made by the claimant all new data have to be filled in on the VAT refund application affected by correction. If the application affected by correction contained data, which was not affected by correction, so the claimant has to repeat the data published on the application affected by correction.

If the claimant files more corrected Vat Refund application concerning the same period, it is important to indicate the barcode of the last sent application concerning the given period. Every single correction overwrites the applications sent previously. It is important to act by the correction circumspectly.

3. Cancellation of the application

If the claimant would like to cancel the submitted refund application it can do it in the following way.

The claimant has to fill in the sheet 22ELEKAFA_K-01 as a corrected application, that is in the third block of the sheet 22ELEKAFA_K-01 the bar code (document number) of the previous refund application to be rectified must also be mentioned and the claimant has to send it without the sheet 22ELEKAFA_SZ electronically to the NTCA.

4. Formal requirements for the application

It is important to pay attention to the correct and accurate completion of the application form.

Data shall only be entered into the fields with white colour, the framework software used for the filling of the form does not allow data input into other fields.

Filling out of the single data field of the Form

<u>Filling out of the 22ELEKAFA_K Form main page</u>

Main page Field (A)

The data relevant for the applicant and the member state of refund must be indicated in the field Identification (A) of the Forms main page.

As a first step the claimant has to select the country code of the member state of refund.

The member state of refund is another member state – except Hungary – of the European Community where the claimant entitled to tax refund was charged the VAT in connection with the sale of goods, provision of services by other taxable person from that member state or in connection with importation of goods into this member state. [3]

One refund application is designed to contain the data of the tax refund from one member state; so the claimant wishes to reclaim the VAT from several member states at a time then it needs to complete several applications equalling the number of member states from which the claimant wishes to claim the refund. The software used for completion contains the list of country codes.

As a Member State of refund Northern Ireland has to be marked with prefix XI, Ceuta – the former owner of the prefix XI – has to be marked with prefix XC in the Form.

Because of the Brexit from 01.04. 2021. applications for GB as a Member State of refund can not be submitted neither on the Form 'ELEKAFA nor the rectification declaration form ('ELEKAFA_KIIGYNY) as usual, because the United Kingdom has to be considered as a third country.

Pursuant to the VAT Refund EU/UK Withdrawal Agreement and IE/NI Protocol the Northern Ireland enjoys special status in aspect of the value added tax even after the end of the transition period (31. 12. 2020.)

That means, Northern Ireland (XI) has to be handled as a Member State of the European Union in terms of supplies of goods, the United Kingdom – including – Northern Ireland has to be handled as a reciprocated third country in terms of provision of services. Taxable persons established in the United Kingdom shall be entitled to a refund of vat charged domestically on a **reciprocal basis** for transactions completed after 31 December 2020.[4]

The refund of VAT charged on services in Hungary shall be requested in Form „IAFAK" for VAT refund applications and adjustment statements for non-established taxable persons in Hungary and non-taxable legal persons established in another Member State of the Community and taxable persons registered in one-stop schemes.

From 01. 04. 2022., for the vat refund period 2021. the taxpayers established in Hungary can apply for the refund of vat charged after the supplies of goods in Northern Ireland (XI) according to the rules of the European Union. The vat refund claim can be submitted on the Form 22ELEKAFA to the NTCA in the usual manner.

(The Form 'ELEKAFA is independent of the year, the form or the year of its transmission is not to be sent to the Member State of refund; the year denomination in the name of the form serves statistic purposes exclusively.)

After this it is important to give the claimant's tax number, name and seat, phone number and the claimant's e-mail address.

It is compulsory to fill in the claimant's e-mail address even if the claimant has provided a contact person on the detailing sheet 22ELEKAFA_K-01.

It is important **to pay attention to providing this e-mail address accurately**, as **the member state of refund will contact the claimant using this e-mail address** or the one provided by the claimant on detailing sheet K-01 to communicate its decision or ask for the removal of deficiencies. **Please provide one e-mail address only!**

If the claimant is filing the refund application as member of a VAT group or for a period when it was member of such a group which stipulates that at the time of the filing of the refund application the group member is considered as domestically established taxpayer[5], so the group member is entitled to file the refund application. In this case you also need to indicate the group VAT number.

Main page Field (B)

Field (B) is designed to contain the data on the claimant's main business activity.

The code of the claimant's main business activity can be selected from the drop-box showing the so-called harmonised NACE codes, selecting a field from the drop-list also automatically enters the text into the corresponding field.

The languages accepted by the member states are the following.

Country	1. language	2. language	3. language
Austria (AT)	DE - German	EN –English*	-
Belgium (BE)	FR - Français	NL - Nederlands	DE- Deutsch, 4. language: EN – English
Bulgaria (BG)	BG-Bulgarian	EN –English	-
Croatia (HR)	HR - Croatian	EN - English	-
Cyprus (CY)	EL-Greek	EN- English	TR-Turkish
Czech Republic (CZ)	CS-Czech	-	-
Germany (DE)	DE - German	EN- English	-
Denmark (DK)	DA - Danish	EN- English	DE- German
Greece (EL)	EL - Greek	EN- English	FR - French
Estonia (EE)	ET - Estonian	EN- English	-
Spain (ES)[6]	ES- Spanish	EN- English*	-
Finland (FI)	FI - Finnish	SV - Swedish	EN- English
France (FR)[7]	FR - French	EN- English	-
Northern Ireland (IE)	EN- English	-	-
Ireland (IE)	EN- English	GA-Irish	-
Italy (IT)	IT - Italiano	-	FR - Français
Lithuania (LT)	LT - Lithuanian	EN - English	-
Luxembourg (LU)	FR - French	DE- German	EN- English
Latvia (LV)	LV - Latvian	EN- English	-
Malta (MT)	MT - Maltese	-	-
Netherlands (NL)	NL - Dutch	EN- English	DE- German
Poland (PL)	PL - Polish	EN - English	-
Portugal (PT)	PT – Portuguese	-	-
Romania	RO - Romanian	-	-
Sweden (SE)	SV - Swedish	EN – English	DE- German
Slovenia (SI)	SL - Slovenian	EN – English	-
Slovakia (SK)	SK-Slovak	-	-

*only by the characterization of the products purchased/services in case of the use 10. „Other code" in accordance with article 9 section (1) of the VAT Directive.

It is also possible to give information on other business activities; sheet 22ELEKAFA_K-02 is designed to contain this information. The claimant has to indicate

the code(s) of that (those) business activity(ies) for which the claimant is using the provided services, purchased and imported goods for which the claimant paid in the member state of refund.

Main page Field C

In field (C) the claimant must give the data necessary for the bank transfer of the tax that should be refunded. Here the claimant must give the IBAN number and BIC (SWIFT) code of the bank account, name and address of the account-holding bank as well as the name and type of the account holder (claimant or agent).
The claimant must also indicate the currency code for the amount to be refunded.
In case of Greece in the field „A" the claimant must indicate „EL" as the country code of the Member State of Refund, but in the field „C" by giving the country of the account-holding bank and the IBAN number the claimant must indicate „GR" as country code.

The tax amount to be refunded can be transferred to the claimant's bank account but can also be transferred to the account of a third person (agent) in accordance with the rules of the member state of refund in the national currency of the member state of refund.

According to the information from the following member states the amount to be refunded can not only be refunded to the claimant's bank account but can also be transferred to the account of a third person after a power of attorney is presented:

Austria (AT), Belgium (BE), Croatia (CR), Cyprus (CY), Czech Republic, Germany (DE), Denmark (DK), Greece (EL), Estonia (EE), Spain (ES)[8], France (FR)[9], Northern Ireland (XI), Ireland (IE), Lithuania (LT), Luxembourg (LU), Latvia (LV), Malta (MT), Netherlands (NL), Poland (PL), Romania (RO), Sweden (SE), Slovenia (SI), Slovakia (SK).

To find information on the manner how the power of attorney must be made please consult the tax administration of the member state of refund directly. The internet addresses of the member states' tax administration websites can be found on the www.nav.gov.hu homepage under the "További honlapok" /"Adóhatóságok honlapjai az Európai Unió tagállamaiban és a Magyarországgal szomszédos államokban" menus.

Filling out of the sheet 22ELEKAFA_K-01:

The first block is designed to contain the contact person's data.
Not only the person otherwise authorised (person registered via the 'T180 Form and the EGYKE Form) and thus able to file the refund application electronically can be named as contact person but any other person who is effectively handling the claimant's tax refund case by the member state of refund.

If the claimant would like to handle the case with the help of a contact person then it must give all type of information concerning the contact person asked by the form, namely

1. the contact person's name,
2. address, (country code),
3. personal identification number.

The types of the personal identification number can be the following:

1. tax ID number;
2. VAT ID number;
3. Other (e.g. number of the tax adviser ID number).

In the field 'Country code of the issuer of the ID' the country code of the country must be given where that specific identification document was issued.

If the claimant wishes to handle the case with the help of a contact person then it is obligatory to indicate this person's e-mail address. **The member state of refund will use this e-mail address to communicate its decision or ask for the removal of deficiencies**. Please mention one e-mail address only!

Refund period[10]: the indication for which period the refund application of the domestically established taxpayer applies.

The refund period[11] is the period defined by the member state of refund for which the refund application applies.

The refund period cannot exceed a calendar year, it also cannot be shorter then 3 months. The refund applications may also apply for a period shorter then 3 months if they cover the remaining part of the calendar year.

The member states – except for Italy (IT) and Slovenia (SI) and Spain (ES) – did not give any further restrictions on the refund period.

As for the three member states (IT, ES, SI) the refund periods can only match the following:

Quarterly refund claims: 1.) 1 January – 31 March
2.) 1 April – 30 June
3.) 1 July – 30 September
4.) 1 October – 31 December

Yearly refund claims: 5.) 1 January – 31 December

The amount to be refunded equals the sum of data entered on sheets 22ELEKAFA_SZ-01 and 22ELEKAFA_SZ-02 and is automatically calculated by the framework software (For calculating please use the *"A főnyomtatvány újraszámítása"*).

The amount to be refunded must be given in the national currency of the member state of refund.
The indication of maximum 2 decimal points is allowed.

The official currency codes are shown in the table below:

Country	Currency code	Currency
Austria (AT)	EUR	Euro
Belgium (BE)	EUR	Euro
Bulgaria (BG)	BGN	Leva
Croatia (HR)	HRK	Kuna
Cyprus (CY)	EUR	Euro
Czech Republic (CZ)	CZK	Koruny
Germany (DE)	EUR	Euro
Denmark (DK)	DKK	Kroner
Greece (EL)	EUR	Euro
Estonia (EE)	EUR	Euro
Spain (ES)[12]	EUR	Euro
Finland (FI)	EUR	Euro
France (FR)[13]	EUR	Euro
Northern Ireland (XI)	GBP	Pound
Ireland (IE)	EUR	Euro
Italy (IT)	EUR	Euro
Lithuania (LT)	EUR	Euro
Luxembourg (LU)	EUR	Euro
Latvia (LV)	EUR	Euro
Malta (MT)	EUR	Euro
Netherlands (NL)	EUR	Euro
Poland (PL)	PLN	Zlotych
Portugal (PT)	EUR	Euro
Romania	RON	New Lei
Sweden (SE)	SEK	Kronor
Slovenia (SI)	EUR	Euro
Slovakia (SK)	EUR	Euro

If the refund period is shorter then a calendar year but not longer then 3 months then the VAT which is to be refunded according to the refund claim cannot be less then 400 EUR or an equal value in the national currency[14].

If the refund period is the calendar year or the remaining part of the calendar year then the VAT which is to be refunded according to the refund claim cannot be less then 50 EUR or an equal value in the national currency[15].

As for the following countries the minimum threshold for the yearly applications is 50 EUR and 400 EUR for the non-yearly applications; or the equal value in the national currency:

Austria (AT), Belgium (BE), Cyprus (CY), Czech Republic (CZ), Germany (DE), Greece (EL), Estonia (EE), Spain (ES), Finland (FI), France (FR), Ireland (IE), Italy (IT), Luxembourg (LU), Malta (MT), Latvia (LV), Lithuania (LT), Netherlands (NL), Poland (PL), Portugal (PT), Slovenia (SI), Slovakia (SK).

The following table contains the minimum thresholds for the applications in certain countries:

Country	Annual refund	Not annual refund
Bulgaria (BG)	100 BGN	800 BGN
Croatia (HR)	400 HRK	3100 HRK
Northern Ireland (XI)	35 GBP	295 GBP
Denmark (DK)	400 DKK	3000 DKK
Romania (RO)	211,41RON	1691,28 RON
Sweden (SE)	500 SEK	4000 SEK

If the deductible proportion indicated by the taxpayer is changed[16] after the electronic notice[17] indicating the receipt of the refund application by the NTCA then the taxpayer must amend the tax to be refunded.

This modification can be done in a refund application (Form 'ELEKAFA) in the calendar year following the refund period for which the change of the deductible proportion applies or in the absence of such an application via a declaration (rectification declaration-form 'ELEKAFA_KIIGNY) sent electronically to the NTCA.

According to the above mentioned provisions if the claimant wishes to rectify the deductible proportion of a previous refund period and is filing a refund application for a next refund period then the claimant must indicate on this part the refund period concerning the rectification, the amended deductible proportion.

Declarations:

The refund application cannot be filed in the absence of the declaration[18]. The declaration contains that the taxpayer has not supplied any goods and services [19]deemed to have been supplied in the member state of refund to taxable persons not established in the member state of refund but established in another member state.

There is no obstacle in making the statement if the applicant is registered by NTCA until 30 June 2021 in the MOSS system, from 1 July 2021 in the OSS/IOSS system i.e. the applicant is registered as such by NTCA.[20]

The applicant registered by NTCA until 30 June 2021 in the MOSS system is qualified as a taxable person who supplies telecommunications services, media radio and audiovisual services; electronically supplied services for a non-taxable person in any Member State of the Community where he has not established his business, provided that the supplier has established his business in the domestic territory, or has established his business outside the territory of the Community, but has a fixed establishment in the domestic territory.

From 1 July 2021, the MOSS system applicable to taxable persons supplying remote services has been replaced by the OSS/IOSS One Stop Shop system.[21]

Within this, in line with EU VAT rules, **it provides a separate one-stop shop system** for the payment and declaration of VAT for

- services provided by taxable persons established outside the Community to non-taxable persons in the Community (non-EU one-stop shop),

- intra-Community remote supplies, certain domestic supplies of goods facilitated by an electronic platform and supplies of services by a taxable person established within the Community to non-taxable persons established in another Member State (EU one-stop shop),

- supplies of low value consignments imported from third states (one-stop shop for imports).

The taxable person,

- whose place of establishment for economic purposes and, in the absence of establishment for economic purposes, his domicile or habitual residence is not in the country but in another Member State of the Community,

- who has not been registered as a taxable person in Hungary and is not otherwise required to be registered as a taxable person in Hungary, and

- who (which) provides services and supplies goods to a non-taxable person in Hungary by fulfilling his tax liability in the Member State of establishment for economic purposes, failing that, in the Member State of residence or habitual residence, on the basis of the rules of the Member States in which he complies with the specific rules laid down in Section (3) of Chapter 6 of Title XII of the VAT Directive,

is not entitled to deduct the pre-charged tax relating to the supply of goods and services covered by this special scheme, but is entitled to a tax refund under the provisions applicable to taxable persons not established in Hungary.[22]

A taxable person established in the Community may exercise this right in accordance with the rules applicable to a taxable person not established in the country **by submitting an form 22ELEKAFA**. In this case, the taxpayer does not need to prove his legal status.

The declaration shall be counted as given with putting an "X" mark into the box besides the declaration.

If the claimant's VAT code is "1" and it is not exclusively performing activities[23] then it must also put an "X" mark into the second box.

Legal references