

INSTRUCTIONS FOR COMPLETING

adjustment statement 23ELEKAFA_KIIGNY for the refund of value added tax due from a Member State of the European Community to a taxable person as defined in Article 185 (1) of Act CL 2017 on the Rules of Taxation (Art.)

(ÁNYK)

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I. GENERAL INFORMATION

1. What is the purpose of form 23ELEKAFA KIIGNY?

23ELEKAFA_KIIGNY is used for the **ex-post adjustment of the right to deduct** indicated in the 'ELEKAFA' form.

The ex-post adjustment can be requested in two ways:

- using the 'ELEKAFA' form in the calendar year following the VAT refund period to be adjusted
- or, if not submitted, via form 23ELEKAFA_KIIGNY.

Accordingly, **form 23ELEKAFA_KIIGNY can be submitted if the applicant fails to submit a VAT refund claim via form 'ELEKAFA' in the calendar year following the VAT refund period to be adjusted.**

2. To whom does it apply?

The form can be submitted to the National Tax and Customs Administration (NTCA) **by taxpayers** (applicants) **established in Hungary**

- who, in the previous VAT refund period initiated a refund of value added tax (VAT) charged in a Member State of the European Community,
- and wish to have the deduction rate indicated therein adjusted subsequently.

3. How to submit the form?

The form must be submitted to the NTCA **electronically**.

For more information on the electronic submission of tax returns and forms and the rules for electronic communication visit the website of the NTCA (www.nav.gov.hu), in particular the documents

- information booklet on "General rules for electronic administration and communication in tax matters" at the following link
https://nav.gov.hu/pfile/file?path=/ugyfeliranytu/nezzen-utana/inf_fuz/2022/32.-az-elektronikus-ugyintezes-es-kapcsolattartas-altalanos-szabalyai-adougyekben (document in Hungarian)

Notification of the right of representation

The application may also be submitted by the taxpayer's authorised representative. To do this, the right of representation must be notified to the NTCA in advance. The NTCA can only accept an electronically submitted application subject to prior registration of the appropriate right of representation.

For more information on how **to submit a notification of representation** visit the website of the NTCA (www.nav.gov.hu), in particular

[document on representation and power of attorney at this link](#) (document in Hungarian).

4. Where can you find the form?

The form 23ELEKAFA_KIIGNY is not available commercially. It can be accessed electronically at the website of the NTCA, via the General Form Filling Framework Application (ÁNYK). [ÁNYK forms - National Tax and Customs Administration \(gov.hu\)](#)

To access the form filling application and the related instructions, follow the link

- www.nav.gov.hu → Form finder → Advanced search → form 23 ELEKAFA_KIIGNY

[ÁNYK forms - National Tax and Customs Administration \(gov.hu\)](#)

5. What is the deadline for submission?

There is no statutory deadline for submitting the form, but the general rules on limitation apply.

The ex-post adjustment can be requested in two ways:

- using the 'ELEKAFA' form **in the calendar year following the VAT refund period to be adjusted**,
- or, if not submitted, via form 23ELEKAFA_KIIGNY.

6. What are the parts of the form?

23ELEKAFA_KIIGNY main page	applicant's details, refund period, deduction rate, Member State(s) of refund
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7. Further information and assistance

If you have any further questions about the form or the tax rules, please contact us using the contact details below.

Internet:

- NTCA website at <https://nav.gov.hu>.

Email:

- using the form accessible via the link:
https://nav.gov.hu/ugyfeliranytu/keressen_minket/levelkuldes/e-ugyfsz

Telephone:

- NTCA Infoline
 - o in Hungary: 1819,
 - o from abroad: +36 (1) 461-1819¹

The infoline of NTCA 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 service centres of the NTCA.
- Browser for customer services:

¹ Please select menu item (1) for general information and menu item (2) for case specific information and administration. For case specific information and assistance, you must have a customer identification number or a Partial Code for Telephone Identification (RKTA). If you do not have a customer identification number, you can request one using the so called TEL form, the easiest way to do this is to use the Online Form Filling Application (ONYA). Please note, if you wish to act not on your own business or to deal with a case on some else's behalf, you also need to submit the co called UJEGYKE form.

- https://nav.gov.hu/igazgatosagok/ugyfelszolgalat-kereso/ugyfelszolgalatok_nyitvatartasa (Hungarian)
- [https://nav.gov.hu/en/contact/Tax and Customs Directorates of the NTCA/Central Customer Serv20160412](https://nav.gov.hu/en/contact/Tax_and_Customs_Directorates_of_the_NTCA/Central_Customer_Serv20160412) (English)

8. Which legislation should be taken into account?

- Act CL of 2017 on the Rules of Taxation (Art.),
- Act CLI of 2017 on Tax Administration and the Regulation of Tax Administration (Tax Administration Act),
- Act CXXVII of 2007 on Value Added Tax (VAT Act),
- Decree No. 32/2009 (XII. 21.) of the Minister of Finance on certain provisions relating to the enforcement of the right of taxable persons not established in Hungary to a refund of VAT in the Republic of Hungary, and the right of taxable persons established in Hungary to a refund of VAT in another Member State of the European Community (PM Decree),
- Directive 2008/9/EC of 12 February 2008 laying down detailed rules for 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 (Directive).

II. DETAILED INFORMATION

1. Definition of the adjustment statement, date and method of submission

The applicant may claim a refund of the VAT due from a Member State of the European Community using the 'ELEKAFA' form ('ELEKAFA_K and 'ELEKAFA_SZ' batch form).

If the applicant has already submitted an 'ELEKAFA' form for the specific refund period and, once accepted by the NTCA, subsequently adjusts the deduction rate indicated in the application² by division of input VAT, the applicant must adjust the amount claimed in the application(s).

If the applicant supplies goods and services some of which are eligible and some of which are non-eligible for deduction, the input VAT is deductible only for the eligible portion.

The deductible and non-deductible portions of input VAT can be determined by itemised separation³ or any other method which clearly distinguishes between input VAT on supplies of goods and services which are deductible and those which are non-deductible⁴.

² Section 123 of the VAT Act, Annex 5 of the VAT Act.

³ Section 123 (2) of the VAT Act.

⁴ Section 123 (3) of the VAT Act.

If the input VAT cannot be separated on the basis of the above, the apportionment method⁵ must be used to apportion the input VAT and determine the deduction rate.

Therefore, if the applicant has a partial right of deduction and it is not possible to separate the deductible and non-deductible parts of VAT on an itemised basis but only by means of apportionment, the deduction rate must be determined as a percentage in accordance with the general rules.

In the case of partial right of deduction, any **subsequent change to the deduction rate**⁶ indicated in the 'ELEKAFA' form previously submitted to the Member State of refund **must be stated first of all in the 'ELEKAFA' form⁷ for the following year.**

If in the year following the period for which the deduction rate is to be adjusted the applicant **does not submit a new VAT refund claim** from the same Member State of refund (i.e. does not submit an 'ELEKAFA' form to the same Member State of refund in the following year for whatever reason), the **adjusted value of the deduction rate** for that period must be **indicated in this adjustment statement.**

The adjustment statement must be submitted in the form specified in this point, in an official language of the European Community and with the mandatory data specified in a separate legislation.⁸

Based on the statement, the refund period to be adjusted will be examined and the amount of the adjusted refund based on previous claims will be determined by the Member State of refund, in line with its own legislation.

It is not possible to correct the adjustment statement. If the applicant submits an incomplete form, for example, if the tax number of the legal predecessor is not indicated in block 'A' of the 23ELEKAFA_KIIGNY main page, the corrected adjustment statement **must be sent as a new form.**

2. Who should submit form 23ELEKAFA KIIGNY?

This form can be submitted by applicants who have claimed a refund of VAT charged in another Member State of the European Community for a previous refund period through an 'ELEKAFA' form, and subsequently adjust the deduction rate indicated therein.

A VAT refund can be claimed by any person established for business purposes, or domiciled or habitually resident in the country during the period for which the refund is claimed.

No refund can be claimed by a person who

- exclusively carries out an activity as defined in Articles 85-86 and 87 (a) of the VAT Act that is not eligible for VAT deduction, or

⁵ Annex 5 of the VAT Act.

⁶ In the second block of the 'ELEKAFA SZ form, the percentage of deduction or, if not indicated, the total deduction eligibility, as indicated in the details of the invoice/import decision.

⁷ The fourth block of the 'ELEKAFA_K 01 page.

⁸ Section 189 (3) of the Act on the Rules on Taxation.

- has opted for a VAT exempt status, or
- a taxable person solely engaged in agricultural activity.^{9 10}

3. Deadline for submitting the statement

You can claim the adjustment in the 'ELEKAFA' form submitted in the calendar year following the VAT refund period to be adjusted or, if there is none, by using the 'ELEKAFA_KIIGNY' statement.

Based on the above, **the adjustment statement**, given that it is separate from the VAT refund claim, **has no statutory submission deadline** and is subject to the general rules of limitation. However, considering that on the basis of the statement it is the Member State of refund to effectively decide on the amount of VAT concerned with the deduction rate adjustment, the limitation rules of the Member State of refund apply.

4. Formal requirements for completing the form:

The statement must be completed correctly and accurately. Data must be entered in the blank (white) fields only; the form filling software will not allow data entry in any other field.

Main page, block 'A':

Enter the information necessary to identify the applicant: VAT identification number, name, registered office, permanent establishment, residence or habitual residence, telephone number, and electronic contact address.

If the applicant submits a statement during or for the period of grouping, the member will be considered a resident taxpayer¹¹ at the time of submitting the application. In that case the group member must also indicate the group identification number, in addition to its own VAT number.

Main page, block 'B':

This block contains the adjustment statement itself. This is where you should indicate the subsequently adjusted deduction rate to be applied for each reference year.

VAT refund period concerned with adjustment: indicate the period for which adjustment is requested (reference year).

This period means the period of provisional apportionment with final or interim data for the *reference year*, for the purposes of apportioning input tax.¹²

⁹ Chapter XIV of the VAT Act.

¹⁰ Section 185 (1) of Act on the Rules of Taxation.

¹¹ Section 190 of Act on the Rules of Taxation.

¹² Points 6-7 of Annex 5 of the VAT Act.

Adjusted deduction rate: In the case of ex-post modification of the deduction rate (adjustment), the applicant must indicate the actual deduction rate for the specific period, expressed as a percentage, and as whole numbers.

Main page, block 'C':

Adjustment can be claimed for more than one Member State at a time using a single adjustment statement, so if the applicant wishes to indicate the adjusted deduction rate for the specific period for more than one country upon sending the 'ELEKAFA' form to more than one Member State during that period, he/she should still complete only one form and indicate here the country codes of the Member States of refund concerned with the adjustment.

However, if the VAT refund period to be adjusted varies, a separate form must be submitted for each period.

Member State(s) of refund: Member State(s) of the European Community, with the exception of Hungary, in which the taxable person eligible for a refund has been charged VAT in relation to the supply of goods or services by another taxable person or the importation of goods into that Member State¹³ and for which the applicant previously submitted a refund claim for the period indicated in the main page.

Therefore, if the applicant has already submitted an 'ELEKAFA' form for a previous refund period to another Member State(s) of the European Community and is unable to perform the adjustment in the ('ELEKAFA') application for the following year, the Member State(s) of refund to be notified of the adjusted deduction rate can be selected by listing the concerned Member States. (The form filling software provides a list of country codes for the Member States of refund.)

As a Member State of refund, Northern Ireland should have the XI prefix and Ceuta, the former holder of this prefix, should have XC in the 23ELEKAFA and 23ELEKAFA_KIIGNY forms.

Due to Brexit, as of 1 April 2021, neither a VAT refund claim ('ELEKAFA form') nor an adjustment statement ('ELEKAFA_KIIGNY) can be submitted to the United Kingdom (UK), as the UK is now considered a third country.

Under the Protocol on Ireland and Northern Ireland to the Withdrawal Agreement, Northern Ireland (XI) continues to enjoy a special status for VAT purposes after the transition period ending on 31 December 2021.

This means that, for the purposes of sales of goods, Northern Ireland (XI) is to be treated as an EU Member State after 31 December 2020, and the UK, including Northern Ireland, is to be treated as a third country under reciprocal conditions in respect of services from 10 June 2021. Taxable persons established in the United Kingdom should be eligible for a refund of domestically charged VAT on a reciprocal basis for transactions carried out after 31 December 2020.¹⁴

¹³ Section 185 (2) of Act on the Rules of Taxation.

¹⁴ Section 352 of the VAT Act.

The refund of VAT charged in Hungary on services must be claimed using the IAFK form - application and adjustment statement for VAT refund for non-established taxable persons, non-taxable legal persons registered in another Member State of the Community and taxable persons registered in the One Stop Shop. This form is available here: [IAFK](#).

As of 1 April 2021, for the 2021 refund period **taxable persons established in Hungary can claim a refund of VAT charged on purchases of goods in Northern Ireland (XI)** in accordance with the EU rules. Refund claims can be submitted to the NTCA in the usual way using the 23ELEKAKA form, and adjustment statements via the 23ELEKAKA_KIIGNY form.

The form 'ELEKAKA_KIIGNY' is not a declaration form, but a so-called **application type form**, which is not dependent on the year. The form and its year number are not sent by NTCA to the Member State of refund, only its internal data length, the year number in the form's symbol is for statistical purposes only. The 23ELEKAKA_KIIGNY form is used from 1 April 2023, regardless of the year for which the refund claim is to be adjusted.

National Tax and Customs Administration