

ADMINISTRATIVE PROCEEDINGS

Administrative proceedings are all proceedings in which the NTCA (National Tax and Customs Administration) makes a decision or decisions involving taxes, duties or tariffs payable, establishing rights and/or obligations of taxpayers or other persons obliged to pay taxes.

An administrative proceeding may be started at request or *ex officio*.

An application shall be assessed based on its contents, even if it fails to coincide with the designation used by the client.

The tax authority shall make its decision the merits of the case in the form of a resolution, while regarding any other matter to be decided in the proceeding it shall adopt rulings. A payment order issued in an action involving duties shall also be regarded as a resolution.

The name and the area of competence of the body or organisational unit having power, or in the case of the exercise of the power is transferred, the one actually exercising the power

The National Tax and Customs Administration (NTCA) is a central budgetary institution performing state administration and armed law enforcement functions, governed by the minister designated by the Government in the scope of its original legislative capacity, functioning as a central office, performing its tasks through its central and territorial units. The central bodies of the NTCA include Central Management and the Directorate General for Criminal Affairs. The territorial bodies of the NTCA are its county (Budapest) tax and customs directorates (hereinafter: county directorates), the Appeals Directorate, the NTCA's territorial bodies performing its tasks as a criminal investigation authority, along with the directorates and institutions specified in Government Decree 485/2015. (XII. 29.) on the powers and competence of the bodies of the National Tax And Customs Administration.

The NTCA's bodies performing its tasks as state tax authority and customs authority include Central Management and the territorial bodies.
The territorial bodies may operate local offices.

The duties and powers of the head of the NTCA are exercised by the state secretary reporting to the designated minister, appointed by the Government in its decree issued in the scope of its original legislative capacity (hereinafter: head of the state tax and customs authority).

The head of the state tax and customs authority represents the NTCA, directly manages the Central Management unit and performs all of the tasks assigned by law to the scope of duties and powers of head of the state tax and customs authority.

The deputies of the head of the state tax and customs authority, in charge of various technical/professional functions, are deputy state secretaries under the direct management of the head of the state tax and customs authority, as specified in the Organisational and Operational Rules of the Ministry managed by the designated minister.

The territorial bodies of the NTCA are headed by the directors appointed by the head of the state tax and customs authority.

The deputy director(s) appointed by the head of the state tax and customs authority may participate in the management of the territorial bodies of the NTCA.

The state tax and customs authority must proceed in matters falling within the scope of its power in its area of competence and based on appointment. In case it fails to fulfil its procedural obligation within the administrative time limit, the supervisory body shall investigate the reason for the failure within eight days of receipt of the request to that effect or of officially learning of the case, and orders the authority to promptly conduct the proceeding.

In case the additional time limit set by the supervisory body passes inconclusively, the supervisory body shall immediately appoint another authority, having the same power as the defaulting one, to carry out the proceeding. The authority so appointed shall promptly make a decision regarding the case at hand.

In the scope of its tax administration power the NTCA shall

- a) carry out the tasks relating to tax aids and budgetary supports
- b) perform the tasks relating to the claiming and the granting of tax refunds
- c) through its bodies, acting in this scope of power – when performing their tasks –, cooperate with local governments and local national minority governments operating in their respective areas of competence,
- d) through its bodies having the relevant scopes of duties and powers, provide local governments and local national minority governments every year with information concerning the necessary and available revenue data relating to them,
- e) perform the tasks assigned to the scope of power of the state tax and customs authority in relation to the collection of public debts that are to be collected the way taxes are collected, along with other tasks relating to mandatory payments to the authority,
- f) perform the tasks assigned to the scope of power of the state tax and customs authority in relation to the provision, and claiming back, of state guarantee (surety) and the checks relating to the calling of the guarantee,
- g) conduct the procedure aimed at establishing the fair market price, keep the relevant register and carry out the tasks involved in collecting and refunding the fee payable for the procedure,
- h) carry out the tasks identified by the relevant statutory regulations as belonging to the scope of duties of the state tax and customs authority in relation to keeping records of insureds employed by employers and paying bodies, and the transfer of such data to the health insurance system's registry of insureds as well as the labour authority,
- i) perform, as prescribed by the relevant statutory regulations, the aggregation of duties upon closure, and supply the relevant data on such aggregation, to the minister in charge of tax policy,
- j) perform the tasks of the creditor relating to receivables falling within the scope of competence of the NTCA in bankruptcy proceedings, liquidation proceedings, winding up, involuntary deregistration proceedings, asset settlement and debt settlement proceedings, along with the representation of other creditors in the cases and in the ways prescribed by the applicable statutory regulations; in enforcement proceedings it shall perform the tasks prescribed by law, as the body executing the proceeding.

In the scope of its customs and excise administration power the NTCA shall

- a) place goods under customs procedure under the EU customs law,
- b) carry out the inspection of goods and passengers passing through the customs frontier, and shall levy and collect customs debts and other charges connected to customs procedures,
- c) directly or indirectly, check the particulars necessary for identifying the goods (classification for tax purposes and compliance with other requirements specified by law) for verification purposes, or shall monitor compliance with the requirement for inspection,
- d) the NTCA shall carry out the inspection of data contained in customs documents and customs procedures for customs and statistical purposes, including any corrections made on these documents, their records, aggregation, processing and transfer,
- e) perform post-clearance inspections and follow-up audits prescribed in customs, tax and other regulations,
- f) carry out posterior control procedures relating to transactions forming part of the system of financing by the European Agricultural Guarantee Fund (EAGF).
- g) carry out duties relating to excise taxation and control according to excise regulations,
- h) perform duties relating to excise matters as specified by excise regulations.

The central bodies of the National Tax and Customs Administration

1 The **Central Management** of the National Tax and Customs Administration, having its head office in Budapest, its area of competence being the territory of Hungary.

2 The **Directorate General for Criminal Affairs** of the National Tax and Customs Administration, having its head office in Budapest, its area of competence being the territory of Hungary.

The territorial bodies of the National Tax and Customs Administration

1 The **IT Institute** of the National Tax and Customs Administration, having its head office in Budapest.

2 The **Training, Health and Cultural Institute** of the National Tax and Customs Administration, having its head office in Budapest.

3 The **Large Taxpayers Tax and Customs Directorate** of the National Tax and Customs Administration, having its head office in Budapest.

4 The **Airport Directorate** of the National Tax and Customs Administration, having its head office in Budapest, its area of competence being Budapest Ferenc Liszt International Airport, Airport Business Park, 2220 Vecsés Lőrinci út 59-61. (Topographical Lot No.: Vecsés 0148/41 and 0148/43); Airport City, 2220 Vecsés (Topographical Lot No.: Vecsés 6030/9-12; and at public and private airports, from the aspect of the tasks to be carried out by the NTCA regarding the protection of the uniform customs technology order and air transport, the territory of Hungary, while as regards air traffic, the administrative territory of Pest county.

5 The **Deployment Directorate** of the National Tax and Customs Administration, having its head office Budapest, its area of competence being the territory of Hungary.

6 The **Forensic Institute** of the National Tax and Customs Administration, having its head office Budapest, its area of competence being the territory of Hungary.

7 The **county (Budapest) tax and customs directorates** of the National Tax and Customs Administration:

a) the North Budapest Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Budapest, its area of competence being – with the differences specified herein – the administrative territory of the 1st, 2nd, 3rd, 4th, 5th and 13th districts of Budapest;

b) the East Budapest Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Budapest, its area of competence including the administrative territory of the 6th, 7th, 8th, 10th, 14th, 15th, 16th and 17th districts of Budapest;

c) the South Budapest Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Budapest, its area of competence being – with the differences specified herein – the administrative territory of the 9th, 11th, 12th, 18th, 19th, 20th, 21st, 22nd and 23rd districts of Budapest;

d) the Pest County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Budapest, its area of competence being – with the differences specified herein – the administrative territory Pest County;

e) the Bács-Kiskun County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Kecskemét, its area of competence being the administrative territory Bács-Kiskun County;

f) the Baranya County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Pécs, its area of competence being the administrative territory Baranya County;

g) the Békés County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Békéscsaba, its area of competence being the administrative territory Békés County;

h) the Borsod-Abaúj-Zemplén County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Miskolc, its area of competence being the administrative territory Borsod-Abaúj-Zemplén County;

- i) the Csongrád-Csanád County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Szeged, its area of competence being the administrative territory Csongrád-Csanád County;
- j) the Fejér County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Székesfehérvár, its area of competence being the administrative territory Fejér County;
- k) the Győr-Moson-Sopron County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Győr, its area of competence being the administrative territory Győr-Moson-Sopron County;
- l) the Hajdú-Bihar County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Debrecen, its area of competence being the administrative territory Hajdú-Bihar County;
- m) the Heves County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Eger, its area of competence being the administrative territory Heves County;
- n) the Jász-Nagykun-Szolnok County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Szolnok, its area of competence being the administrative territory Jász-Nagykun-Szolnok County;
- o) the Komárom-Esztergom County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Tatabánya, its area of competence being the administrative territory Komárom-Esztergom County;
- p) the Nógrád county Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Salgótarján, its area of competence being the administrative territory Nógrád County;
- q) the Somogy County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Kaposvár, its area of competence being the administrative territory Somogy County;
- r) the Szabolcs-Szatmár-Bereg County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Kaposvár, its area of competence being the administrative territory Szabolcs-Szatmár-Bereg County;
- s) the Tolna County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Szekszárd, its area of competence being the administrative territory Tolna County;
- t) the Vas County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Szombathely, its area of competence being the administrative territory Vas County;
- u) the Veszprém County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Veszprém, its area of competence being the administrative territory Veszprém County;
- v) the Zala County Tax and Customs Directorate of the National Tax and Customs Administration, having its head office Zalaegerszeg, its area of competence being the administrative territory Zala County;

8 The Directorates for Criminal Affairs of the National Tax and Customs Administration:

- a) the South Great Plain Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Kecskemét, its area of competence being the administrative territory Bács-Kiskun County, Békés County and Csongrád-Csanád County;
- b) the South Transdanubia Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Pécs, its area of competence being the administrative territory Baranya County, Somogy County and Tolna County;
- c) the North Great Plain Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Nyíregyháza, its area of competence being the administrative territory Hajdú-Bihar County, Jász-Nagykun-Szolnok County and Szabolcs-Szatmár-Bereg County;
- d) the North Hungary Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Eger, its area of competence being the administrative territory Borsod-Abaúj-Zemplén County, Heves County and Nógrád County;

- e) the Central Transdanubia Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Székesfehérvár, its area of competence being the administrative territory Fejér County, Komárom-Esztergom County and Veszprém County;
 - f) Central Hungary Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Budapest, its area of competence being the administrative territory of Budapest and Pest County;
 - g) West Transdanubia Directorate for Criminal Affairs of the National Tax and Customs Administration, having its head office Győr, its area of competence being the administrative territory Győr-Moson-Sopron County, Vas County and Zala County.
- 9 The **Deployment Directorate** of the National Tax and Customs Administration, having its head office Budapest, its area of competence being the territory of Hungary.
- 10 The **Economic Supply Directorate** of the National Tax and Customs Administration, having its head office in Budapest. 5

The mailing addresses and other contact details of the territorial bodies are to be found at <https://nav.gov.hu/igazgatosagok>, while other information on the activities of the state tax and customs authority are available at <https://nav.gov.hu/ugyfeliranytu>.

A NTCA body examines its power and competence in every phase of its proceedings, *ex officio*. If the given NTCA body has no power or competence regarding the given proceeding, and it is possible to clearly identify the authority that has, the NTCA body transfers the request and the documents of the case to the authority with power and competence; otherwise it either rejects the request or terminates the proceeding. The tax authority notifies the requestor of such transfer.

The document starting a proceeding and the time limit available for submitting it in administrative actions

An administrative proceeding is opened on request or *ex officio*.

An application is a declaration submitted by a taxpayer in which the taxpayer requests the conduct of an administrative proceeding or the authority's decision in order to enable the exercise of their right or the pursuit of their legitimate interest. Requests can, in general, be submitted in writing (under the applicable rules written communication includes also electronic communication as specified in the relevant legal regulations) or in person, except for the cases regarding which the applicable law prescribes submission in writing or the tax authority has introduced a paper-based form (e.g. registration, applying for budgetary support, book transfer). The application shall remain under the client's disposition until the decision on its subject becomes definitive. It needs to be emphasised that an application shall be assessed based on its contents, even if it fails to coincide with the designation used by the client.

The time limits for the submission of applications are specified in the pieces of legislation applying to the various tax and customs proceedings. Further information on the various types of actions are available on the NTCA's official website at www.nav.gov.hu.

However, not all of the time limits available for lodging applications are limitation periods. A client missing a deadline during a proceeding for reasons beyond their control may submit an application for justification. The application for justification shall be submitted after the time of becoming aware of the default or from the time the obstruction is eliminated, at the latest inside the time period calculated from the deadline omitted or the last day of the time limit prescribed for the procedural step to which the justification pertains, not exceeding forty-five days, or in the case of missing a deadline for the submission of a return, within fifteen days of becoming aware of the default or the time the obstruction is eliminated, simultaneously with submitting the return concerned. Upon missing a deadline the missed procedural step must, if its conditions are met, also be executed simultaneously with the submission of the application for justification.

Clients often submit applications to the state tax and customs authority requesting deferment of payment, permission to make payments by instalments, or tax reductions. The law stipulates no

deadline for lodging such applications therefore they can be submitted at any time when the client has an outstanding tax debt.

Nonetheless, the timing of the submission of an application for deferment of payment or permission to make payments by instalments because in the case of the submission of such an application and the granting of the request the following surcharges:

- a) a late performance charge if an application has been submitted, for the period until the decision on the application becomes definitive; however, if the requested payment facility is granted, only for the period extending up to the date of the decision of the first instance,
- b) if the request is granted, a surcharge of a rate equalling the central bank's base rate in place on the day of the submission of the application, for the period of the payment facility, from the date of the decision of the first instance.

Legal remedies against the authority's decisions

If the proceeding body makes a decision as a result of the administrative proceeding affecting the taxpayer's right or obligation, the taxpayer has access to legal remedies specified in separate rules concerning the various specific administrative proceedings. A decision breaching the law can be corrected not only at request but also *ex officio*, in which case the tax authority acts on its own accord, without a request.

The system of the legal remedy forums is always adapted to the proceeding at hand. Legal remedy is usually exercised by the superior body; however, the applicable legal regulations also make it possible for the body making the decision to remedy the deficiency or error of a decision – not reviewed by the superior body or court – in its own scope of competence.

Modification and withdrawal of a decision (order)

The tax authority may modify or withdraw its infringing decision not adjudicated by the superior body or administrative court, or the tax authority that has adopted a decision that is the subject of an administrative court action can modify or withdraw the infringing part of its decision not adjudicated by the court yet. The tax authority may modify its decision to the disadvantage of the taxpayer once. A modifying or withdrawing decision can be issued to the disadvantage of the taxpayer within one year of the day on which the decision becomes definitive, or to the advantage of the taxpayer, by the time of expiry of the limitation period applying to the tax ruling.

The following decisions shall be in violation of the law, for instance:

- for the issuance of which the tax authority had no power by law,
- which is contrary to the substantive law applying to the case concerned,
- at the time of, or before, the adoption of which the procedural law was violated in a way that affected the decision on the merits of the case and
- a decision which is groundless.

Act CLI of 2017 on Tax Administration Procedures (hereinafter: Tax Procedures Act) permits not more than one modification of a decision to the disadvantage of the taxpayer, within one year of the date on which the original decision becomes definitive.

This restriction however, does not apply when

- the court has adopted a final and binding, conclusive decision in a criminal case that the taxpayer committed, in relation to the performance of their tax liability, fraud, budgetary fraud, tax fraud or tax fraud in relation to employment,
- an employee of the tax authority making the decision violated their obligation in such a way breaching the criminal law, that it affected the adoption of the decision and this has been established by the court's conclusive decision adopted in a criminal case, and
- the taxpayer acted in bad faith.

The taxpayer's acting in bad faith must be proven by the tax authority.

Appeals procedure instituted at request

In general, the county directorates act in in the first instance in the administrative proceedings of the NTCA. Their superior body is the Appeals Directorate. The Appeals Directorate's superior body is Central Management.

It must be emphasised that the rule that an application shall be assessed based on its contents, even if it fails to coincide with the designation used by the client applies to remedy proceedings instituted at request as well.

➤ *Lodging an appeal*

Lodging an appeal is the most general form of legal remedy in proceedings before the tax authority.

An appeal can be lodged by the person or entity concerning whom or which the decision concerned contains provisions. The person having the right to lodge an appeal may lodge an appeal against the tax authority's first instance decision – unless otherwise provided by law – as the institution of a regular instrument of legal remedy. As a general rule, no appeal can be lodged against an order issued during the procedure preceding the adoption of the decision; such an order can be contested by lodging an appeal against the decision itself.

Exceptions to the general rule include cases where the Tax Procedures Act allows the submission of appeals on their own.

A separate appeal can be lodged against the following, adopted in the first instance rulings or orders

- a) terminating proceedings,
- b) rejecting the request,
- c) rejecting the application for justification submitted in relation to failure to submit tax return, data notification, other notification, appeal or other request for legal remedy,
- d) ordering restriction of the right to view documents,
- e) rejecting the taxpayer's request for a repeated inspection,
- f) ordering protection measure or temporary protection measure,
- g) charging a procedural fine;
- h) ordering the reimbursement of extra costs,
- i) rejecting an application for procedural cost exemption,
- j) rejection regarding an delivery related objection,
- k) ordering the drawing of goods under official supervision by the competent authority,
- l) ordering the exercise of the withholding right, and
- m) against order concerning official transfer by the authority [Section 122 (3) of the Tax Procedures Act]

The possible reasons for which an appeal may be lodged are not specified by law, therefore it can be filed on account of the unlawfulness or groundlessness of the decision or even a procedural irregularity. No new fact may be claimed and no new evidence may be invoked in an appeal and in the proceeding started on the basis of an appeal – apart from a reason for nullity – which the person having the right to lodge an appeal had knowledge of before the adoption of the decision of the first instance or, in the case of an inspection, before the end of the time limit available for filing comments, but failed to present it or refer to or invoke the fact despite the tax authority's call to that effect. A new fact or new piece of evidence is one that was not invoked by the taxpayer and not known to the tax authority of the first instance at the time of decision making, or in the case of an inspection at the end of the time limit available for the submission of comments, or a piece of evidence referred to or invoked not submitted to the tax authority of the first instance by the taxpayer by the time of decision making, or in the case of an inspection by the end of the time limit available for the submission of comments.

An appeal and evidence underlying the appeal may be lodged within **fifteen days** of the date on which the written decision is communicated to the taxpayer, or, in the case of ex post tax assessment, within **thirty days**. This provision also applies to the electronic submission of an appeal.

The rules on the calculation of time limits laid down in the Tax Procedures Act shall also apply to appeals lodged with the tax authority.

The **day** of the occurrence of the circumstance that causes the time limit to commence, the day of **communication, delivery** or the posting and removal of an announcement **is not included in the time limit** established in terms of days as specified in the relevant rules of the Tax Procedures Act. If the last day of a time limit is one which is not a working day for the tax authority, the time limit **expires on the first subsequent working day**.

The day of submission of an application or request sent by mail is the day of posting, while the time of the submission of an electronic document is the day on which it is sent but in this case the administrative time limit starts running on the next working day [Section 52 and Section 124 of the Tax Procedures Act.]

The person entitled to appeal may resign their right to do so before the end of the time limit for lodging an appeal. A declaration resigning the right to lodge an appeal cannot be revoked [Section 124 (5) of the Tax Procedures Act]. The person entitled to appeal may withdraw their appeal that has been lodged. In this case the tax authority (before referral the tax authority of the first instance, thereafter its superior body) terminates the proceeding. A declaration withdrawing an appeal cannot be revoked [Section 126 (7) of the Tax Procedures Act].

If an appeal is not entirely clear-cut or contains contradictions, the tax authority of the first instance calls on the person entitled to appeal to submit a clear-cut application within an eight-day time limit, pointing out the legal consequences of failure to do so. If the person entitled to appeal fails to make their declaration within the time limit, the tax authority of the first instance rejects the appeal. [Section 126 (1) of the Tax Procedures Act]

If the appeal is submitted beyond the deadline and the person entitled to appeal submitted no application for justification at the same time, the tax authority of the first instance calls on the person who has the right to lodge an appeal submit an application for justification within an eight-day time limit, pointing out the legal consequences of failure to do so. If the person entitled to appeal fails to submit an application for justification within the time limit, the tax authority of the first instance rejects the appeal. [Section 126 (2) of the Tax Procedures Act]

An appeal must be submitted to the tax authority that has adopted the decision being contested. The appeal must be regarded as having been submitted in time if the application for the appeal submitted in time was submitted not to the body that has competence and power regarding the matter. [Section 124 (2) of the Tax Procedures Act].

Accordingly, if the taxpayer submits their appeal and the supporting evidence within the statutory time limit but not to the tax authority that made the decision of the first instance, the appeal and the supporting evidence must be regarded as submitted within the applicable time limit. The tax authority with which the appeal and the supporting evidence have been lodged, sends the appeal and the supporting evidence to the body that has competence and power regarding the matter and notifies this to the appellant.

An appeal fee is payable for the lodging of an appeal, however, the **failure to pay the fee does not prevent the adjudication of the appeal**.

The tax authority that has made the decision contested by an appeal must refer the appeal to its superior body, together with all relevant documents, within fifteen days of receipt of the appeal. As part of the referral procedure the tax authority of the first instance presents its standpoint

concerning the appeal. The tax authority of the first instance does not refer the appeal to its superior body if it withdraws its unlawful decision, modifies, corrects or supplements the its decision fully in line with the appeal, rejects the appeal or terminates the procedure. [Section 126 (4) and (6) of the Tax Procedures Act]

If the tax authority of the first instance refers the appeal to its superior body, the latter reviews the decision contested by the appeal together with the procedure preceding decision making, regardless of the identity of the appellant and the reason for the appeal. An appeal against a decision or an order must be adjudicated in the form of a decision or an order, respectively. [Section 127 (1) and (4) of the Tax Procedures Act]

The time limit available for the adoption of the second instance decision is thirty days. In the case of an appeal lodged against an ex-post tax assessment however, the time limit available for decision making is sixty days. The administrative time limit may also be extended in the second-instance proceeding; in justified cases, as specified by the applicable statutory regulations, it may be extended once, by thirty days. This must be notified to the taxpayer. [Section 50 (2) and Section 127 (3) of the Tax Procedures Act]

As a result of the inspection the superior body may uphold, change or annul the decision or, if it finds that no sufficient data are available for decision making or the facts of the case need further clarification, it may annul the decision and order that the tax authority that proceeded in the given case as the authority of the first instance, to conduct a new proceeding or it takes action itself to supplement the facts in the context of which it may order the tax authority of the first instance to carry out the necessary procedural actions without making a decision on the merits of the case. If the superior body takes action itself to supplement the facts of the case, it immediately notifies the taxpayer of the procedure and its starting date via the tax authority of the first instance. The time limit for such proceeding is ninety days from the receipt of the tax authority of the first instance of the superior body's order. This time limit cannot be extended. The duration of this procedure is not included in the time limit of the appeals procedure.

If a new proceeding is ordered, in its decision the superior body specifies the circumstances to be examined in the new proceeding and the tax, the budgetary support and reporting period to be covered by the new proceeding. In the new proceeding ordered by its superior body or the court the tax authority has the right to review the circumstances giving rise to the ordering of the new proceeding and the relevant facts of the case at hand. The tax authority is bound by the operative part and justification of the decision of the superior body or the court, and must proceed accordingly in conducting the repeated proceeding and decision making. No new fact may be claimed and no new evidence may be invoked in an appeal and in the new proceeding – apart from a reason for nullity – which the subject of the proceeding had knowledge of before the adoption of the decision of the first instance or, in the case of an inspection, before the end of the time limit available for filing comments, but failed to put it forth despite the tax authority's call to that effect. [Section 127 (4)-(6) and Section 129 (2)-(5) of the Tax Procedures Act]

A tax inspection may cover multiple tax assessment periods and/or tax and support types. If the decision contested with an application for remedy is partly unlawful and therefore a new proceeding is to be ordered, the superior body adjudicating the application for remedy orders a new proceeding only regarding the unlawful findings/assessments – if this is permitted by the circumstances of the case – and uphold or alter the other elements of the decision. In this case the latter – upheld or altered – assessments/findings become final and definitive upon communication. [Section 129 (1) of the Tax Procedures Act]

A decision made as part of the appeals proceeding must be communicated in writing to the appellant and all others who the decision of the first instance was communicated via the tax authority of the first instance. [Section 127 (7) of the Tax Procedures Act]

➤ ***Objection to enforcement***

Objection to enforcement is a special type of remedy that can be resorted to in the enforcement procedure.

In the enforcement procedure the debtor, the person requesting enforcement, the authority requesting enforcement or the person whose right or legitimate interest is violated by enforcement can submit an enforcement objection against the unlawful action taken by the tax authority or the independent court bailiff on the basis of Act CLIII of 2017 on the Enforcement Procedures to be Carried out by the Tax authority (hereinafter: Enforcement Act) or its omission, within 15 days of learning of the action or omission objected to. If an objection against enforcement is submitted concerning the unlawful action, or omission, of the independent court bailiff to the tax authority of the first instance, the tax authority must promptly notify this to the independent court bailiff.

The action objected to and the reason for which the annulment or modification of the action is being requested must be specified in the objection to enforcement. If the person submitting the objection to enforcement learns of the action or omission objected to after the passing of 15 days from the date of the action or omission, or if they were prevented from submitting the objection even after the passing of 15 days from the date of the action or omission, the time limit for the submission of the objection to enforcement must be counted from the date of learning of the action or omission or the elimination of the obstacle, provided the person submitting the objection provides adequate justification for the delay in learning of the action or omission or the fact of the obstacle. An objection to an enforcement procedure may be submitted within a maximum of 6 months of the occurrence of the action or the omission objected to. An application containing an objection to an enforcement procedure submitted beyond the applicable deadline, or submitted not from the person entitled to submit it or one that does not specify the reason for the requested annulment or modification of the action is rejected by the tax authority of the first instance. [Sections 24-25 of the Enforcement Act]

Accordingly, the law provides a 15-day subjective and a 6-month objective time limit for the submission of an objection to enforcement. The 6-month time limit is a limitation period; no application for justification may be submitted after its expiry.

A belated application containing an objection to enforcement – submitted beyond 15 days but within 6 months – can be rejected by the tax authority of the first instance, unless the applicant justifies the delay at the same time. The tax authority makes its decision on the application for justification in a separate order.

The tax authority executing the enforcement process refers the objection to enforcement submitted by the client, together with all documents relating to the case, within 15 days of receipt to the authority it is subordinated to, unless the tax authority executing the enforcement process entertains the objection, of which it informs the person submitting the objection to enforcement. The superior authority of the authority executing the enforcement process makes its decision on the objection to enforcement. The superior authority upholds, changes or annuls the contested action or it orders that the tax authority carries out the omitted action, setting for it a time limit matching the nature of the omitted action. [Section 26 (1)-(3) of the Enforcement Act]

An objection to enforcement – with the exception of the first objection to enforcement contesting the announcement of an auction, submitted after its announcement – **does not have a suspensive effect on the subsequent enforcement actions**, however, action regarding the sale of the seized property can only be taken after the final adjudication on the objection to enforcement submitted regarding the seizing of the property concerned and the establishment of its estimated value. [Sections 27 of the Enforcement Act]

An appeal may be lodged against the superior body's decision on the objection to enforcement.

➤ *Supervisory measure*

The institution of supervisory measure is a so-called extraordinary legal remedy facility the purpose of which is, on the one hand, to guarantee the lawfulness of the tax authority's activities and to ensure that taxpayers have access to remedy on the merits even after missing the deadline for lodging an appeal.

A supervisory measure can only take place in the case of a breach of the procedural or substantive legal regulation affecting the merits of the case.

A duty must be paid upon the submission of an application for a supervisory measure.

The superior tax authority shall, at request or *ex officio*, the minister in charge of tax policy or the minister managing the state tax and customs authority shall, *ex officio*, take supervisory measure, if the decision or resolution adopted by the tax authority that acted in the case concerned, or its order (action) that can be contested with a separate remedy, violates the law, or if its decision or resolution or its order (action) that can be contested with a separate remedy was adopted in a way that violates the law. [Section 128 (1) of the Tax Procedures Act]

A taxpayer may apply for a supervisory measure once, within one year on the day on which the decision becomes definitive. The time limit is a limitation period; no application for justification may be submitted after its expiry. Any application submitted late will be rejected by the superior tax authority. No supervisory measure may be applied for if the taxpayer has made use of a conditional tax penalty allowance. [Section 128 (2) of the Tax Procedures Act]

No supervisory measure can be taken by the superior tax authority, the minister in charge of tax policy or the minister managing the state tax and customs authority if the decision – or the relevant part of the decision – of the tax authority has already been adjudicated by the administrative court. The superior tax authority may reject the application for supervisory measure if administrative action against the decision is under way. [Section 128 (4) and (8) of the Tax Procedures Act]

The minister in charge of tax policy or the minister managing the state tax and customs authority act when the superior tax authority has already adopted a decision on the case concerned.

An application for supervisory measure cannot be submitted to the minister in charge of tax policy or to the minister managing the state tax and customs authority; such an application will, if submitted to the minister in charge of tax policy or to the minister managing the state tax and customs authority, or if it is submitted to the tax authority it will, without being referred to the superior authority, be rejected. [Section 128 (3) and (7) of the Tax Procedures Act]

The tax authority must refer to the superior authority the documents within fifteen days of receipt of the call to that effect, from the superior tax authority, the minister in charge of tax policy or the minister managing the state tax and customs authority. When assessing and making a decision on an application for supervisory measure submitted in regard to an ex-post tax assessment the administrative time limit is sixty days starting on the day on which the documents are received by the supervisory body, unless the acting body rejects the application. The administrative time limit can – in justified cases as specified in the applicable statutory regulation – be extended once, by thirty days, of which the taxpayer must be notified. [Section 50 (2) and Section 128 (3) of the Tax Procedures Act]

The superior tax authority takes no superior measure if it does not establish that a violation of law had occurred. The taxpayer will be notified by the rejection of the application for supervisory measure by the superior tax authority, the minister in charge of tax policy or the minister managing the state tax and customs authority. The taxpayer will be notified that no supervisory measure will take place, by the superior tax authority, without adopting a formal decision. [Section 128 (8) of the Tax Procedures Act]

The superior tax authority, the minister in charge of tax policy or the minister managing the state tax and customs authority will change or annul a decision violating the law, and, if necessary,

order a new proceeding to be conducted, or order the tax authority of the first instance to conduct a proceeding. The superior tax authority, the minister in charge of tax policy or the minister managing the state tax and customs authority adopts a decision on the supervisory measure. [Section 128 (9) of the Tax Procedures Act]

No decision changing the amount of the tax payment obligation, the tax base, the amount of the tax payable, or the basis or amount of the budget support in a way that is disadvantageous for the taxpayer, can be adopted in the context of a supervisory measure. If the superior tax authority, the minister in charge of tax policy or the minister managing the state tax and customs authority finds that the decision under review should be rendered more severe, it annuls the unlawful decision and orders a new proceeding to be conducted. [Section 128 (10) of the Tax Procedures Act]

➤ ***Administrative action***

A taxpayer may initiate administrative action against a definitive decision with the exception of the cases where the decision cannot be contested with a separate appeal for remedy. An administrative action can be started against a decision that can be contested with a separate appeal if one of the persons having the right to do so has lodged an appeal and the appeal has been adjudicated. No settlement is possible in an administrative action against a decision adopted by the tax authority. [Section 130 (1) and (3) of the Tax Procedures Act]

The rules on the bringing of an administrative action are laid down in Act I of 2017 on the Code of Administrative Court Procedure.

Forms:

No specific form has been introduced for use in, or in relation to, remedy proceedings, since the basic principle of adjudication based on content is observed in such proceedings as well.

Data sheets:

Submissions relating to legal remedy (e.g appeal) can be submitted electronically through the Általános Célú Kérelem Űrlap (general application data form), the so-called e-Papír. For detailed information on the e-Papír service, see: <https://epapir.gov.hu/>

The NAVKPER2 form is available for use in submitting applications or actions against the NTCA's decisions that can be challenged in court.