

## VAT exemption on products sold to foreign travellers

Within the framework of export tax exemptions, the VAT Act<sup>1</sup>, in line with the provisions of the VAT Directive<sup>2</sup>, contains special rules<sup>3</sup> for the exemption of the supply of goods, in relation to which **a foreign traveller buys a product**, which is transported from the territory of the European Community (hereinafter: Community)<sup>4</sup> as part of the personal luggage of the foreign traveller.

The following is a summary of the most important information regarding the VAT exemption of products sold to a foreign traveller.

- 1. Who is considered a foreign traveller?**
- 2. What are the conditions for making a purchase?**
- 3. What do you need to know about the tax refund application form?**
- 4. For how long and how should the products concerned be exported from the territory of the Community?**
- 5. What are the other conditions for tax exemption?**
- 6. What do you need to know about personal and travel luggage?**
- 7. How to claim tax exemption?**
- 8. How to apply for tax exemption through tax refund?**

### 1. Who is considered a foreign traveller?

For the purposes of the VAT Act, foreign traveller<sup>5</sup> shall mean a natural person who is

- not a citizen of any Member State of the Community, and has no right of permanent residence in any Member State of the Community, furthermore, who
- a citizen of any Member State of the Community though, his/her permanent address is outside the territory of the Community.

When determining the place of residence (permanent address) of a natural person, the relevant provisions of the VAT Act and of the VAT Implementing Regulation<sup>6</sup> shall also be taken into account.

Based on the VAT Act, **permanent residence shall mean the place of abode used for permanent habitation and with which the natural person has closer personal and**

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<sup>1</sup> Act CXXVII of 2007 on Value Added Tax (hereinafter VAT Act).

<sup>2</sup> Article 147 of Council Directive 2006/112/EC on the Common System of Value Added Tax (hereafter VAT Directive).

<sup>3</sup> Section 99 of the VAT Act lays down additional conditions relating to the applicability of the exemption set out in Subsection 1 of Section 98.

<sup>4</sup> Subsection 2 of Section 4, Point b) of Subsection 1 of Section 98 and Section 99 of the VAT Act.

<sup>5</sup> Point 10 of Section 259 of the VAT Act.

<sup>6</sup> Point 11 of Section 259 of the VAT Act and Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (hereinafter VAT Implementing Regulation).

**economic ties** (centre of vital interests), except if otherwise provided for by any binding legislation of the European Union.

Articles 12 and 13 of the VAT Implementing Regulation provide as follows with respect to the permanent address and the habitual residence (where one usually resides):

“Article 12

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

Article 13

The place where a natural person ‘usually resides’, whether or not a taxable person, as referred to in Directive 2006/112/EC shall be the place where that natural person usually lives as a result of personal and occupational ties.

Where the occupational ties are in a country different from that of the personal ties, or where no occupational ties exist, the place of usual residence shall be determined by personal ties which show close links between the natural person and a place where he is living.”

## 2. What are the conditions for making an eligible purchase?

- The total **value of the consideration**, including VAT, **must be more than 175 euro** or the equivalent in national currency.<sup>7</sup> The price of each product does not need to be higher than that amount, if the total price of the goods, stated on the same invoice is higher than EUR 175. In 2022, the HUF amount of the limit expressed in EUR is calculated at the official HUF/EUR exchange rate published by the National Bank of Hungary (hereinafter NBH)<sup>8</sup> on the first working day of October 2021, i.e. 1 October 2021, and the amount resulting from the conversion must be rounded to HUF 1000.<sup>9</sup> Consequently, in 2022 the limit in HUF is 63,000 Hungarian Forints (Exchange rate: EUR/HUF 359.21).
- The **foreign traveller** must be able to **verify his/her legal status** by producing a valid travel document or some other form of identification in the form of a document – hereinafter collectively referred to as “**travel documents**” – recognized by Hungary.<sup>10</sup>
- The foreign traveller must **ask for an invoice** reflecting the supply of goods. The data of the identification of the foreign travellers on the invoice and on the

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<sup>7</sup> Point a) of Subsection 1 of Section 99 of the VAT Act.

<sup>8</sup> Exchange rates are available on the website of the National Bank of Hungary:  
<https://www.mnb.hu/arfolyam-lekerdezes>

<sup>9</sup> Subsections (1)-(2) of Section 256 of the VAT Act.

<sup>10</sup> Point b) of Subsection 1 and Subsection 2 of 99 of the VAT Act.

simplified invoice and the VAT refund application form must be the same as the data contained in the travel documents of the foreign traveller.<sup>11</sup>

- With a view to the intent of the foreign traveller to make use of the exemption, the supplier of the goods – upon purchase – fills out the VAT refund application form when so requested by the foreign traveller, of which the first two copies shall be handed to the foreign traveller, whereas the third one shall be retained by the vendor.<sup>12</sup>

Within the meaning of the amendment, which entered into force on 10 June 2021, the fact that goods have been exported from the Community can no longer be proved only by endorsing and stamping the refund form, but also by authenticating the invoice proving the purchase with a digital stamp (hereinafter "electronic certification"). If the authority of exit uses an electronic certificate to certify the exit of the goods from the Community, the foreign traveller (or his authorised representative) must provide the electronic certificate to the vendor in order to claim the exemption.<sup>13</sup>

### 3. What do you need to know about the tax refund application form?

The VAT refund application form must contain the following information:<sup>14</sup>

- name, address and tax number of the vendor;
- name and address of the foreign traveller purchaser and the number of his/her travel document;
- number of the invoice made out on the supply of goods;
- total invoiced amount on the supply of goods, inclusive of VAT;
- a place where it can be signed and sealed in proof of exportation endorsed by the customs office of exit from the territory of the Community.

The VAT refund application form shall be printed in at least Hungarian, English, German, French and Russian languages, and shall be filled out in Hungarian, English, German or French languages.<sup>15</sup> **A VAT refund application form is completed by the supplier of the goods**, based on the data of the invoice or simplified invoice that certifies the purchase. One VAT refund application form may contain the data of one invoice only.<sup>16</sup>

**A regular form provided or a form approved by the National Tax and Customs Administration (hereafter NTCA) may be used** as the VAT refund application form. The 'VAT refund application form for foreign travellers', introduced by NTCA, i.e. VAT refund application form and its completion guide may be obtained in large post offices and may be ordered to be delivered to any post office. If the vendor intends to use a VAT refund application form other than the form introduced by NTCA, the form may be used, if it has

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<sup>11</sup> Subsection 2 of 99 of the VAT Act.

<sup>12</sup> Subsection 2 of 99 of the VAT Act.

<sup>13</sup> Point a) of Subsection 1a and point b) of Subsection 6 of Section 99 of the VAT Act.

<sup>14</sup> Subsection 10 of Section 99 of the VAT Act.

<sup>15</sup> Subsection 11 of Section 99 of the VAT Act.

<sup>16</sup> Subsection 2 of Section 99 of the VAT Act.

previously been approved by NTCA.<sup>17</sup> The VAT refund application form, used regularly by the vendor and approved by NTCA must be available at the vendor.

#### **4. For how long and how should the products concerned be exported from the territory of the Community?**

**The exemption may be applied to the supply of products or goods** pursuant to the VAT Act only if **the foreign traveller exits the goods purchased in Hungary** from the territory of the country, **with the simultaneous presentation of the original copy of the invoice or simplified invoice to the customs authority, within 90 days from purchase** in his/her personal or travel luggage, and the customs office of exit certifies the exit from the Community by affixing its seal and endorsement on the VAT refund application form or by authenticating the invoice with a digital stamp.<sup>18</sup> The customs authority can endorse the VAT refund application form only when the goods are transported to a country outside the European Union. Subsequent certification of exit on the tax refund application form may not take place. More than one VAT refund application forms may also be endorsed in the course of one single customs procedure. If the customs authority certifies the exit of the product from the Community by affixing its seal and endorsement on the VAT refund application form, the second, sealed and endorsed copy of the VAT refund application form shall be withheld from the foreign traveller.<sup>19</sup>

The VAT Act sets out as an additional condition for tax exemption with respect to the product that within the time limit of 90 days the goods supplied may not be used or consumed with the exception of sampling and trial production.<sup>20</sup>

#### **5. What are the other conditions for tax exemption?**

Even if other statutory conditions prevail, the supply of goods may be exempt from the tax pursuant to the VAT Act, only **if the first copy of the VAT refund application form**, certifying the exportation of the goods within the deadline, endorsed and sealed by the customs authority, **is available at the vendor**. In order to receive the tax refund, the foreign traveller or his/her proxy must return also his own copy of the invoice or simplified invoice to the vendor.<sup>21</sup> In the case of an electronic certificate, the foreign traveller or his/her authorised representative (proxy) shall provide the electronic certificate to the retailer (vendor).<sup>22</sup>

#### **6. What do you need to know about personal and travel luggage?**

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<sup>17</sup> The approval of the form to be applied falls within the scope of competence of the Central Management of the National Tax and Customs Administration, Department of Matters of Specific Competence.

<sup>18</sup> Point c) of Subsection 1 of Section 99, Subsection 1a of Section 99 and Point a) of Subsection 2 of Section 98 of the VAT Act.

<sup>19</sup> Subsection 3 of Section 99 of the VAT Act.

<sup>20</sup> Point b) of Subsection 2 of Section 98 of the VAT Act.

<sup>21</sup> Point a) of Subsection 6 of Section 99 of the VAT Act.

<sup>22</sup> Point b) of Subsection 6 of Section 99 of the VAT Act.

Neither the VAT Act, nor the VAT Directive and the VAT Implementing Regulation define personal or travel luggage, thus the meaning of this term shall be construed in the light of its ordinary meaning. Part of the **luggage** shall be considered to be a **product** which is **supplied/exported on an occasional basis** and which – **due to the nature and quantity – is considered to be for private and/or personal use or for family purposes or for gift**. It is also important that the procurement shall be of an occasional, ad hoc nature and not of a commercial one.

The purpose of the tax exemption scheme for the supply of goods to a foreign traveller is to exempt goods carried (exported) in the course of passenger travel out of the Community and not, as a general rule, to exempt goods exported outside the Community. In Hungary, there are neither quantitative nor value thresholds/limits in the export traffic for goods exported by a foreign traveller. However, based on the nature of the product and the overall circumstances of the case, e.g. regularity of the purchase, sequential delivery and according to the everyday interpretation of the meaning of personal or travel luggage, certain cases may be excluded from the application of VAT exemption based on the VAT Act.

Thus, no VAT exemption based on Section 99 of the VAT Act may be granted, for example, in the case of a person whose status is otherwise regarded as a foreign traveller who exports a passenger car from Hungary outside the territory of the Community. This is because passenger cars are not included in the scope of personal or travel luggage, given the ordinary meaning of the words and the purpose of the exemption scheme.

It is important to note: the fact that tax exemption under Point b) of Subsection 1 of Section 98 and Section 99 of the VAT Act does not always apply to the export of goods during passenger traffic does not mean that the VAT exemption under Point a) of Subsection 1 of Section 98, that is to say, exports of goods in the classic sense, is not applicable. This is true even if the buyer/purchaser is a non-taxable natural person who does not have a tax identification number (TIN), given that the buyer is not required to have a TIN to be exempt from tax on his/her sales outside the Community. However, in the majority of cases in the country of destination, that is to say, the country to which the product is shipped, this may result in the buyer having to pay import taxes or other public charges on the product in the country of destination. Thus, **the supply of goods by a domestic taxable person is exempt from VAT** but, depending on the rules of the country of destination, **the customer/purchaser may be liable for payment of taxes or other public charges**.

**The tax exemption<sup>23</sup> based on the VAT Act shall not apply** – thus such sales to a foreign traveller/passenger are not exempt either – in connection with goods **transported by the customer** himself/herself **for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use**.<sup>24</sup> Under the meaning of that provision, for example, the sale of tires, other equipment and accessories purchased for a private car is also not exempt from VAT.

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<sup>23</sup> Subsection 1 of Section 98 of the VAT Act.

<sup>24</sup> Subsection 4 of Section 98 of the VAT Act.

'Means of transport for private use' defined in the VAT Directive<sup>25</sup> shall include means of transport used for non-business purposes by persons other than natural persons, such as bodies governed by public law within the meaning of Article 13 of that Directive and associations.<sup>26</sup>

## 7. How to claim tax exemption?<sup>27</sup>

- The exemption may be applied indirectly, i.e. through the **subsequent refund** of the **VAT charged to the foreign traveller**. Foreign travellers may request the refund of the tax paid in relation to the supply of the goods from the vendor after the exportation of the goods, by submitting the documents required for the tax refund and supporting the lawfulness of the exemption. If electronic certification is used, the electronic certificate must be available to the vendor.

The vendor reports the VAT charged to the foreign traveller during the supply of goods in the declaration as payable tax for the tax assessment period that also contains the date of the supply of goods. A vendor of goods may reduce its tax liability by the tax refunded to the foreign traveller at the earliest in the tax assessment period - or in the tax return submitted for that tax assessment period - in which the tax was refunded to the foreign traveller.<sup>28</sup>

- Contrary to the above, **the vendor may also decide**, at his own risk, **to sell the goods to the foreign traveller free of VAT**, i.e. not to charge tax to the foreign traveller in the invoice issued for the supply of goods. **Even in such a case, the foreign traveller must present to the vendor the first copy of the VAT refund application form, endorsed and sealed by the customs authority or where an electronic certificate is used, make the electronic certificate available to the vendor**. If the vendor is unable to support the lawfulness of the exemption as per Section 99 of the VAT Act, and the transaction cannot be exempt of tax pursuant to the other requirements of the VAT Act either, it is advisable for the vendor to declare and pay the tax on the supply of goods in a self-revision of the tax assessment period, which includes also the date of the supply of goods. The vendor may not apply exemption to any transaction pursuant to Section 99 of the VAT Act, if the VAT refund application form, endorsed and sealed by the customs authority is not available, or if the goods are exported over a period of 90 days.

## 8. How to apply for tax exemption through tax refund?

**The foreign traveller may apply for VAT refund to the taxable person from whom the goods were purchased.** In order to receive VAT refund, the first copy of the original VAT refund application form, endorsed and stamped by the competent customs authority,

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<sup>25</sup> Point (b) of Article 146 (1) of the VAT Directive [this is the provision on which Point b) of Subsection 1 of Section 98 and Subsection 4 of Section 98 are based].

<sup>26</sup> Article 47 of the VAT Implementing Regulation.

<sup>27</sup> Subsection 4 of Section 99 of the VAT Act.

<sup>28</sup> Subsection 9 of Section 99 of the VAT Act.

and the invoice issued by the vendor must be submitted to the supplier, or where an electronic certificate is used, it must be made available to the vendor.<sup>29</sup>

Refund of VAT may be requested by a person acting in the name and behalf of the foreign traveller who presents a power of attorney made out in his/her name in writing by the foreign traveller. The proxy or representative of the foreign traveller shall hand over to the vendor power of attorney made out in his/her name in writing.<sup>30</sup>

**The refund shall be paid to the foreign traveller in forints, in cash.** However, the currency and the terms of payment **may be altered subject to mutual consent by the vendor and the foreign traveller.**<sup>31</sup>

If a tax refund form is used, the vendor must ensure, at the same time as the tax is refunded, that the invoice, simplified invoice, is not eligible for a second refund by marking it "VAT refunded" ("ÁFA elszámolva") on the original copy of the invoice.<sup>32</sup> Before the invoice or simplified invoice is returned to the foreign traveller, the vendor must make a photocopy of the document, which has been rendered ineligible for a new tax refund, and keep it in his/her records.

Customs and other rules applicable to passenger traffic are available in details in the online leaflet "[Information for travellers](#)".

## National Tax and Customs Administration

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<sup>29</sup> Subsection 6 of Section 99 of the VAT Act.

<sup>30</sup> Point b) of Subsection 5 of Section 99 of the VAT Act.

<sup>31</sup> Subsection 7 of Section 99 of the VAT Act.

<sup>32</sup> Subsection 8 of Section 99 of the VAT Act.