

VAT rules for special taxpayers' community transactions

2022

This booklet contains information on the VAT rules for the community transactions of special taxpayers subject to VAT and non-taxable legal entities.

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1. Who is a special taxpayer?

Special taxpayers are:

- VAT taxable persons engaged in agricultural activities with a special legal status, who are subject to Chapter XIV of the VAT Act¹ and pay their taxes in accordance with the provisions of this Chapter and shall act in that capacity,

¹ Act CXXVII of 2007 on Value Added Tax (furthermore referred to as VAT Act).

- VAT entities carrying out tax-exempt activities² on which do not entitle them to deduct tax,
- taxable persons who are eligible for individual tax exemption and do opt for it,
- legal entities not subject to VAT (not VAT taxpayers)³.

2. What do we mean by community transaction?

Community transaction (for the purposes of the information booklet) means:

- Intra-Community acquisition of goods⁴,
- Intra-Community supply of goods⁵,
- services supplied to a taxable person established in another Member State of the European Union (hereinafter: the Community),
- services supplied by a taxable person established in another Member State of the Community.

(The rules of the transfer of own property are included in booklet No. 29.)

3. When do I need to apply for a Community tax number?

Some of the Community transactions listed can only be carried out with a Community tax number:

- Intra-Community acquisitions of goods subject to VAT payment liability⁶,
- Intra-Community supply of goods⁷,
- supply of services pursuant to Section 37 of the VAT Act,
- use of services pursuant to Section 37 of the VAT Act.⁸

Therefore, taxable persons, non-taxable legal persons shall notify the National Tax and Customs Administration (furthermore referred to as NTCA) in advance of their intention to engage in such commercial relations (community transactions) with a view to obtaining a Community tax number.⁹ The NTCA shall determine the Community tax number on the date of notification.¹⁰

4. What makes these taxable persons special?

Special rules on intra-Community acquisitions of goods make this group of taxpayers special, as, although, as a general rule, intra-Community acquisitions of goods are subject to tax, the special group of taxpayers is exempt from it if certain conditions are met. This, of course, only means an exemption from the VAT payment obligation under the Hungarian VAT Act, the seller charges a tax on the sale and charges it on to the buyer.

² Pursuant to Sections 85-96 of the VAT Act

³ Point d) of Subsection 1 of Section 20 of the VAT Act.

⁴ Sections 19-21 of the VAT Act

⁵ Section 89 of the VAT Act

⁶ Section 19, Subsection 4-7 of Section 20, Section 21 of the VAT Act

⁷ Section 89 of the VAT Act

⁸ Subsection 1-2 of Section 257/B of the VAT Act.

⁹ Subsection (3) of Section 257/B of the VAT Act

¹⁰ Section 29 of Act CL of 2017 on the Rules of Taxation (hereinafter referred to as ART).

5. Intra-Community acquisitions of goods

Intra-Community **acquisition of goods**¹¹ means

- the acquisition of the right to dispose as owner of goods
- dispatched or transported to the person acquiring the goods. (The product may be dispatched or transported by the purchaser and the seller, or by another person for the benefit of either),
- as a result of which the goods/products go to Hungary from another Member-State of the Community.

Such transactions are **subject to tax**¹², if

- the sale is for consideration, and
- the acquirer is a taxable or non-taxable legal person, and
- the seller is a taxable person in another Member State (with a tax number there) who is not tax exempt in his/her own Member State¹³, and
- the sale is *not* a distance sale¹⁴, and
- the product is *not* subject to installation or assembly¹⁵, and
- the product is *not* a used movable property, work of art, collector's item or antique, the seller of which is a reseller or organizer of a public auction and which has been taxed in the Member State of sale in accordance with the special rules¹⁶ applicable to them, and
- the product is *not* one whose domestic sales would be exempt from tax pursuant to Sections 103, 104 and 107 of the VAT Act (e.g. a product intended for the operation of a particular vessel or aircraft).

Tax is payable even if any person acquires a new means of transport even if the purchaser is a natural person who is not a taxable person. Tax is payable even if a taxable or non-taxable legal person acquires an excise product for which an excise duty liability arises domestically under the Excise Act^{17,18}

However, **no tax is payable** by these special taxpayers on the intra-Community acquisition of goods, if the total value of intra-Community acquisitions of goods does not exceed the threshold of 10,000 euro, exclusive of VAT, during the previous calendar year and for the year on the aggregate.¹⁹

¹¹ Subsection (1) of Section 21 of the VAT Act

¹² Point b) of Section 2, Point a) of Section 19 and Points a)-c) of Subsection 1 of Section 20 of the VAT Act.

¹³ Where it is registered as a taxable person, it shall not benefit from the exemption provided for in Articles 282 to 292 of Council Directive 2006/112/EC on the common system of value added tax ('the VAT Directive') under the law of that Member State which corresponds to the VAT Directive in its content.

¹⁴ Subsection 1 of Section 12/B of the VAT Act.

¹⁵ Section 32 of the VAT Act.

¹⁶ In the Member State of the Community where the product was at the time of dispatch or consignment, the product was taxed in accordance with the law of that Member State, the content of which complies with Articles 312 to 325 and 333 to 341 of the VAT Directive.

¹⁷ Act LXVIII of 2016 on Excise Tax and Special Rules for the Distribution of Excise Products.

¹⁸ Points b)-c) of Section 19 of the VAT Act.

¹⁹ Point d) of Subsection 1 and Subsection 2 of Section 20 of the VAT Act.

If the intra-Community acquisition is a new means of transport or a product subject to excise tax domestically, special taxpayers pay tax even below the threshold either.

(Information on the intra-Community acquisition and sale of a new means of transport can be found in Information Booklet 16.)

5.1. When do taxable persons within the group of special taxable persons pay tax on Intra-Community acquisition of goods?

5.1.1. Exceeding the threshold

The taxable person's VAT liability on intra-Community acquisitions of goods made in 2022 depends on whether or not the aggregated consideration for the acquisitions of goods made from other Member States of the Community in the preceding year, i.e., in 2021, exceeded the limit or not. If so, then the taxable person already has a Community tax number in 2022 and the tax liability applies also to the very first intra-Community purchase of goods made in the current year.

If in 2021, the total intra-Community acquisitions of goods did not reach the established limit, then the taxable person will have a tax liability in relation to the intra-Community acquisitions if the limit is exceeded during the year (2022).

Exceeding the limit value must be monitored continuously. The tax liability first applies to the acquisition of goods for which the purchaser exceeds the threshold.²⁰

The fact that the threshold will be exceeded shall be notified to the NTCA.²¹

The notification shall be effected prior to the acquisition of the goods²² in consequence of which the taxpayer goes over the limit.

It is important that the notification is done in time since the NTCA will issue the Community tax number on the basis of the report. The Community tax number is necessary to the tax exempt supply of goods by a seller from another Member State to a special taxable person so as to avoid that the acquisition is taxed in both Member States (one of the conditions of intra-Community supply is linked to the valid Community tax number of the seller as explained in Section 6 – this rule applies in all Member States).

Community tax numbers shall be indicated on all documents relating to intra-Community trading.²³

The threshold of 10,000 euro, which serves as the reference shall consist of the total value, due or paid in the Member States of the Community in which dispatch or transport of the consignment of goods began.²⁴

²⁰ Subsection 4 of Section 20 of the VAT Act.

²¹ Subsection 4 of Section 20 of the VAT Act.

²² Subsection 3 of Section 257/B of VAT Act.

²³ Section 29 of Act CL of 2017 on the Rules of Taxation (furthermore referred to as ART Act).

²⁴ Subsection 3 of Section 20 of the VAT Act.

The following does not have to be taken into account when calculating the threshold

- acquisitions of new means of transport,
- purchases subject to the Act on Excise Taxes where the product is subject to excise tax domestically,
- acquisitions of used movable properties, works of art, collector's items or antiques, the seller of which is a reseller or organizer of a public auction and which has been taxed in the Member State of sale in accordance with the special rules²⁵ applicable to them²⁶,
- acquisitions of products whose domestic sales would be exempt from tax pursuant to Sections 103, 104 and 107 of the VAT Act (e.g. a product intended for the operation of a particular vessel or aircraft)²⁷.

The threshold amount of 10,000 euro shall be determined on the basis of the euro conversion rate applicable on the day of entry into force of the Act²⁸ Promulgating the Treaty of Accession of 2003, this being the official HUF/EUR exchange rate of MNB (252.19 forint/euro), where the amount resulting shall be rounded off - according to the relevant mathematical rules of rounding off - to units of 100,000 forints. Thus, the calculated amount is HUF 2,500,000²⁹.

5.1.2. Indication of the Community tax number

If a taxpayer belonging to the special group of taxpayers has a Community tax number for another reason (e.g. due to the provision or use of services), **it does not have to be provided to the partner** in the case of purchases of Community products below the threshold.

If the taxpayer does so (even though it did not exceed the threshold and did not choose to pay tax below the threshold - see next section), the NTCA **shall be notified thereof** by the 20th day of the month following the day when the intra-Community acquisition of goods took place.³⁰

In such a case, this must be regarded as the taxpayer's **having chosen to pay tax**³¹ on that transaction and on all subsequent intra-Community acquisitions of goods which are made to the taxpayer until the end of the second year following that in which the transaction was carried out.

5.1.3. Opting for tax liability

The taxable persons belonging to the group of special taxable persons, for the purchase of products from another Member State of the Community, may opt to apply the VAT scheme

²⁵ In the Member State of the Community where the product was at the time of dispatch or consignment, the product was taxed in accordance with the law of that Member State, the content of which complies with Articles 312 to 325 and 333 to 341 of the VAT Directive.

²⁶ Points b)-c) of Section 20 of the VAT Act.

²⁷ Point a) of Section 20 of the VAT Act.

²⁸ Act XXX of 2004.

²⁹ Subsection 1 of Section 256 of the VAT Act.

³⁰ Subsection 5 of Section 257/B of the VAT Act

³¹ Subsection 7 of Section 20 of the VAT Act

even before reaching the threshold³². Any customer who exercised the option shall remain bound to this option for a period of the next two calendar years³³.

A taxable person shall notify the NTCA on his/her option before the last day of the year prior to the current year if he/she **purchased goods in another Member State of the European Community** in the previous tax year. If the taxpayer **did not make any purchase in the Community** during the previous year, notification for the current year shall be made **prior to the first purchase made inside the Community** during the current tax year.³⁴

5.2. Fulfilment of tax liability

In connection with the intra-Community acquisition of goods **VAT shall become chargeable** upon the day of the invoice issued in proof of completion of the transaction but at the latest on the fifteenth day of the month following the date of the chargeable event.³⁵

For example, if a taxpayer makes an intra-Community acquisition on 6 September, he/she becomes liable for taxation in connection with the intra-Community acquisition on 15 October at the latest, which must be included

- in the monthly VAT return to be submitted by 20 November with regard October
- in the quarterly VAT return to be filed by 20 January for the fourth quarter of the year.

However, if the sales invoice was issued in September, the intra-Community acquisition must be included in the VAT return to be filed

- by 20 October, in the case of a monthly filer,
- by 20 October for the third quarter of the year by the quarterly filer.

Contrary to this main rule, as regards the person liable for the payment of VAT, if between the time when the chargeable event has occurred and the time the VAT payable is in fact charged

- any **changes take place in his legal status** regulated in the VAT Act, following which no VAT may be demanded of him; or
- **his debts are assumed for consideration;**

VAT shall be charged upon such person on the day preceding the change in legal status within the meaning of the first point, or at the time of assumption of the debt within the meaning of the second one.³⁶

The tax base should be determined in the same way as for domestic transactions.³⁷ 27% VAT is charged on the basis of the tax if the product is not subject to another tax rate according to the provisions of the VAT Act or does not qualify as a tax exempt intra-

³² Subsection 5 of Section 20 of the VAT Act.

³³ Subsection 6 of Section 20 of the VAT Act.

³⁴ Subsection 4 of Section 257/B of the VAT Act.

³⁵ Subsection 1 of Section 63 of the VAT Act.

³⁶ Subsection 2 of Section 63 of the VAT Act.

³⁷ Section 72 of the VAT Act.

Community acquisition of goods pursuant to Section 91 of the VAT Act (for example, of which the domestic sale or import would be exempt from tax).

6. Intra-Community supply of goods

Intra-Community **tax exempt supply of goods**³⁸ is

- the transfer of the right to dispose of goods
- dispatched as a consignment or transported
- to a destination outside the territory of Hungary but within the Community where
- the seller is not a taxable person subject to individual tax exemption³⁹, and
- the taxable person acquiring the goods, acting as such in a Member State of the Community other than the domestic territory, is recognized as a VAT taxable person or is identified for VAT purposes in a Member State other than the domestic territory and is liable for payment of VAT whose acquisitions of goods are subject to VAT pursuant to the national law of that Member State⁴⁰, and
- the purchaser has a tax number in another Member State of the Community and provides it to the seller, and
- the product is an unused movable property, work of art, collector's item or antique, the sale of which is subject to the provisions of Chapter XIV of the VAT Act⁴¹, and
- the dispatch or transport of the product to another Member State is justified.

The exemption shall not apply where the taxable person supplying the goods or services has not complied with the obligation to submit a recapitulative statement or the recapitulative statement submitted by him/her is incorrect, false or incomplete, unless the taxable person can duly justify that such shortcoming, error or omission occurred in spite of acting in good faith, and at the same time supplies information for establishing the content of the recapitulative statement fully and correctly.⁴²

Further information on the terms and conditions of the purchaser's tax number and recapitulative statement and proof of delivery of the product is given in separate leaflets of the NTCA (<https://nav.gov.hu/nav/ado/afa>; [some are also available in English](#)).

The sale of any persons' new means of transport within the Community to any person shall also be exempt. Furthermore, the supply of excise goods in the country of destination by a taxable person who is not granted individual tax exemption⁴³ to a taxable person or a non-taxable legal person who is otherwise not liable to taxation⁴⁴ on intra-Community acquisition is exempt.⁴⁵

³⁸ Subsection 1 of Section 89 of the VAT Act

³⁹ Point a) of Subsection 1 of Section 90 of the VAT Act.

⁴⁰ Point b) of Subsection 1 of Section 90 of the VAT Act, the transactions are not subject to VAT pursuant to Article 3(1) of the VAT Directive in accordance with the national law of that Member State.

⁴¹ Subsection 3 of Section 90 of the VAT Act.

⁴² Subsection 1a of Section 89 of the VAT Act.

⁴³ Subsection 2 of Section 90 of the VAT Act.

⁴⁴ Under the law of the Member State of acquisition, the content of which complies with Article 3 (1) of the VAT Directive.

⁴⁵ Subsections 2-3 of Section 89 of the VAT Act.

Should a registered **taxable person who is engaged exclusively in activities non-eligible for tax deduction** make tax exempt intra-Community supply of goods, shall apply for a Community tax number prior to the time of supplying or receiving such goods and/or services.⁴⁶

The sales of **taxable persons** supplying the goods **as a tax exempt individual** do not constitute intra-Community supplies even if the products are supplied to a taxable person with a Community tax number in another Member State⁴⁷, and therefore the taxable person who is granted individual exemption does not need to apply for a Community tax number based on that sales transaction. The individual tax exemption must be indicated in the invoice⁴⁸!

The consideration for such sales is included in the limit constituting eligibility for individual exemption according to the general rules. But if a taxable person who is granted individual exemption cannot act as such when e.g. selling a new transport means, within the Community⁴⁹ prior to such a sales transaction a Community tax number shall be applied for.⁵⁰ In addition, such sales are not included in the limit of eligibility for individual exemption.⁵¹

Any taxable person pursuing agricultural activities with a special tax status is also eligible for a flat-rate compensation (in case all other legal conditions thereof are met, of course) if the product listed in Part I of Annex 7 to the VAT Act is

- sold domestically to a taxable person established in another Member State of the Community who is not liable to taxation under a compensation scheme⁵²,⁵³, or
- supplied to a non-taxable legal person that is established in another Member State of the Community, provided that in the territory of the Member State of the Community in which the dispatch or transport of the consignment ends, the non-taxable legal person is subject to pay VAT on such acquisition in accordance with the national law of that Member State.⁵⁴

The VAT Act does not contain any expressed provision that would withdraw the supply of products by a taxable person engaged in agricultural activities in compliance with Section 89 of the VAT Act from the scope of application of the rules pertaining to the tax exempt supply of goods within the Community. However, it follows from the general value added taxation system that when a taxable person engaged in agricultural activities claims flat rate compensation for any intra-Community supply of products in compliance with the above, the rule of tax exempt intra-Community supply of goods, cannot be applied as well⁵⁵.

⁴⁶ Section 257/B of the VAT Act.

⁴⁷ Point a) of Subsection 1 and Subsection 2 of Section 90 of the VAT Act.

⁴⁸ Point m) of Section 169 of the VAT Act.

⁴⁹ Point a) of Subsection 1 of Section 193 of the VAT Act.

⁵⁰ Section 257/B of the VAT Act.

⁵¹ Point b) of Subsection 3 of Section 188 of the VAT Act.

⁵² A taxpayer who (which) complies with the provisions of Chapter 2 of Title XII of the VAT Directive in terms of his/her/its legal status is his/her/its home state.

⁵³ Point b) of Subsection 1 of Section 200 of the VAT Act.

⁵⁴ Subsection 3 of Section 200 of the VAT Act.

⁵⁵ Point b) of Subsection 1 and Subsection 3 of Section 200 of the VAT Act.

Consequently if, pursuant to Chapter XIV. of the VAT Act the conditions of claiming flat rate compensation for a specific deal prevail, then the taxable person must proceed pursuant to Section 200 (1) b) and (3) of the VAT Act, because that statutory provision may be deemed a special provision compared to Section 89 of the VAT Act. Therefore, in such cases the application of Section 89 of the VAT Act is excluded.

So taxable persons engaged in agricultural activities under a special legal status do not need to apply for a Community tax number if they supply products to a taxable person of another Member State.

7. Supply and purchase of services

The **place of the supply** of service must be defined according to Sections 37-49/A of the VAT Act. (Sections 138 and 140 of the VAT Act specify which taxable person is liable for the payment of the thus established VAT arising domestically at the particular place of the supply of service.) Section 37 lays down the general rule, compared to which Sections 38-49/A contain derogations. Pursuant to Section 37, the place of supply of services, where the customer is also a taxable person, **is the country where the customer has established his/her business**. If, however, person ordering the service in his own name is a non-taxable person then, as a general rule, the place of supply of the service **shall be the country where the supplier has established his/her business**.

Exceptions to the main rule are, in accordance with Sections 38-49/A of the VAT Act, for instance the real property services in case of which the place of supply is where the real property is situated, and transportation services, which are supplied on the route covered.

(For more detailed information on where the services are provided, please consult Booklet no. 29.)

The supply of a service or the use of a service pursuant to Section 37 of the VAT Act requires a **Community tax number**.⁵⁶ It must be claimed before commencement of the activity; before commencement of the first such service and, unlike the supply of goods, is not subject to a threshold.

If a **taxpayer who has been granted individual exemption** *supplies a service*, at a place which is abroad, then the taxable person who has been granted individual exemption cannot proceed as an exempt taxable person⁵⁷. It means that in such cases the taxable person who has been granted individual exemption, similarly to taxable persons liable for the payment according to the general rules, issues an invoice for a so called transaction that is “outside the territorial scope of the VAT Act” and not as an exempt transaction and fulfils any declaration or data supply obligation. It is important that whenever a taxable person supplies such a service abroad, may deduct value added tax charged to the acquisition of products and services related to such transaction.⁵⁸

⁵⁶ Points c)-d) of Subsection 1 of Section 257/B of the VAT Act.

⁵⁷ Point d) of Subsection 1 of Section 193 of the VAT Act.

⁵⁸ Point d) of Subsection 2 of Section 195 of the VAT Act.

If a taxable person who has been granted individual exemption *purchases a services* from a foreign taxable person and, according to the application the VAT Act⁵⁹, the place of supply of the service is in the domestic territory, then they cannot proceed as taxable persons who have been granted individual exemption either.⁶⁰ That means that instead of the provider of the service, established in another country (and not in the domestic territory), the taxable person - as user - will become obliged to apply and pay VAT, in his own name, for the service purchased.⁶¹

However, the taxable person who has been granted individual exemption cannot apply the right of deduction of VAT, applied in his own name, because its application relates to an exempt activity without the right of deduction of VAT.⁶²

A legal person who is not liable for payment of VAT but has a Community tax number⁶³, who, for example, has or should have a Community tax number because he/she became liable to pay the tax after his intra-Community acquisition, shall be considered taxable persons in respect of the services supplied to them, unless the services are used for the private purposes of themselves or their employees. In view of this, after the use of services whose place of supply is in Hungary, these persons also become liable for taxation, if the services are supplied by a taxable person who has not established his/her business in the domestic territory (i.e. Hungary), or who, in the absence of such a place of business, does not have his/her permanent address in the domestic territory or usually resides outside the domestic territory.

Tax returns, recapitulative statements of the special taxable persons and their payment of the tax

8.1. VAT declaration

Any taxable person who is a member of the group of special taxpayers (and hence possessing a community tax number) obliged to pay VAT for intra-Community acquisitions of goods and services shall declare and pay the tax on any such acquisitions by the 20th day of the month that follows the taxable event in form no. '65.⁶⁴

It is also tax declaration form no. '65 in which tax liabilities in relation to Intra-Community sales (which, in view of the tax exempt sale, does not entail a tax payment obligation - if all the legal conditions are met) as well as tax liabilities in respect of supplies of services to taxable persons in another Member State shall be indicated.

8.2 Recapitulative statement

The group of special taxpayers shall declare their certain transactions by the 20th day of the month following the chargeable event by submitting form no. A60, the recapitulative

⁵⁹ Sections 37-49 of the VAT Act.

⁶⁰ Subsection 3 of Section 193 of the VAT Act.

⁶¹ Joint interpretation of Subsection 3 of Section 193 and Section 140 of the VAT Act.

⁶² Subsection 1 of Section 195 of the VAT Act.

⁶³ Subsection 1 of Section 36 and Section 140 of the VAT Act.

⁶⁴ Sub-points I/B/1.1, 3.4, 3.5 of Schedule no. 2, Point 2.1. of I. Deadlines of Schedule no. 3 of the ART Act.

statement. Own and partner's Community tax number and the consideration for the transaction, net of VAT, on the respective detailed pages thereof shall be indicated.⁶⁵

The following shall be indicated in the recapitulative statement:

- intra-Community **acquisitions of goods** which give rise to a tax liability,
- tax exempt intra-Community **supplies of goods**,
- any **supply of service** by the taxpayer to a taxable person with a tax number in another Member State of the Community, to a legal person with a tax number but not taxable for VAT purposes, the supply of services falling within the scope of Section 37 of the VAT Act (including also an advance payment), which is taxable in the Member State where the service is supplied, and for which the user is obliged to pay tax,
- the **purchase of a service** from a taxable person with a tax number in another Member State of the Community, falling within the scope of Section 37 of the VAT Act (including also the advance paid for the service) that is taxable in Hungary and in relation to which the purchaser of the service is liable for the payment of the tax.⁶⁶

The services supplied to or purchased from a taxable person of another Member State, not falling within the scope of the general rule pertaining to the place of supply (Section 37 of the VAT Act), do not need to be included in the recapitulative statement.

No recapitulative statement is required for any period in which the taxpayer did not engage in any intra-Community transaction.⁶⁷

The recapitulative statement shall be submitted by way of electronic means.⁶⁸

8.3 Self-Revision and Supplementation of Preceding Years

Any self-revision of the members of the group of special taxable persons concerning the intra-Community transactions relating to the preceding years within the limitation period must be reported on forms 1686, 1786, 1886 still in circulation, as well as on forms 1665, 1765, 1865, 1965, 2065 and 2165 in compliance with the respective completion guides. These documents, and their respective completion programmes and guides are accessible on, and can be downloaded from, our website (www.nav.gov.hu).

National Tax and Customs Administration

⁶⁵ Point 1 and 5 of Schedule no. 4/A of the VAT Act.

⁶⁶ Point 1 of Schedule no. 4/A of the VAT Act.

⁶⁷ Point 8 of Schedule no. 4/A of the VAT Act.

⁶⁸ Point 10 of Schedule no. 4/A of the VAT Act.