

## **Payment facilities for business entities 2024**

In this Information Booklet, you can read about the payment facilities that can be granted to entities - sole proprietors, legal entities, other business organizations. For example, entities can claim a deferral, payment in instalment, reduction or remission of their taxes, surcharges and fines, in summary, a payment facility.

### **1. Who can be entitled to payment facilities?**

Taxpayers that cannot fulfil their payment obligations (of taxes, contributions, levies, surcharges and other debts being kept on registry by the NTCA) due to reasonable economic or personal reasons by the deadline are entitled to payment facilities<sup>1</sup>.

A payment facility may be requested for

- **payment deferral**
- **instalment scheme**
- **tax reduction and tax waiver of the payment obligation**

based on an enforceable document. During the assessment of the payment facilities the fact whether the legal conditions for practicing the equity are in place or not is of importance.

Legal entities and unincorporated economic entities obliged to communicate electronically may submit a request for a payment facility to the National Tax and Customs Administration (NTCA) on form **FAG01** and private entrepreneurs on form **FAM01**.

The form is available at the following path:

<https://nav.gov.hu/nyomtatvanyok/letoltesek/nyomtatvanykitolto-programok-kereso>.

Related information is also available on the [relevant webpage](#) of the English website.

### **2. Where to file the request for payment facilities?**

**The requests for payment facilities will be assessed by**

- the Departments (Divisions) of Payment Facilities of the county (Budapest) tax and customs directorates of the NTCA at first instance
- the administrative departments of the Appeal Directorate of the NTCA at second instance.

The payment facilities of taxpayers assigned to the competence of the Large Taxpayers' Tax and Customs Directorate (KAVIG) are assessed by KAVIG.<sup>2</sup>

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<sup>1</sup> Pursuant to Act CL of 2017 on the Rules of Taxation (furthermore referred to as Art.) and Act CLI of 2017 on Tax Administration and the Regulation of Tax Administration (furthermore referred to as Air).

<sup>2</sup> Sections 57-81 of the Government Decree 485 of 29 December 2015.

### **Payment facilities may be granted exclusively on the request of the taxpayer.**

The request shall be submitted to the competent Departments of Payment Facilities of the county tax and customs directorates.

The residency is determined by

- the registered office of the entity – in the lack of it by its place of business,
- the registered office of the private entrepreneur – in the lack of it by the place of business.

Exceptions are:

- administrative fine the assessment of which belongs to the sphere of tasks of the enforcement field of the county tax and customs directorates, and
- anti-money laundering fine the assessment of which belongs to the Information Office of the Anti-money laundering of the Central Management of the NTCA.

### **3. Who may submit a request for payment facilities?**

A request may be submitted to the NTCA by the:<sup>3</sup>

- taxpayer,
- person obliged to pay tax,
- liquidator and administrator,
- tax agent,
- financial representative and
- trust fund.

The request may be submitted also by the taxpayers' authorised representative.

### **4. How to submit a request?**

The request can be submitted to the NTCA both **electronically and on paper**.

**Electronic administration** requires Ügyfélkapu (Client Gate) access, details of the submission can be found at the following path: [www.nav.gov.hu](http://www.nav.gov.hu) → „Nyomtatványok” → „Nyomtatványok ÁNYK-hoz” → „Nyomtatványkereső (ÁNYK)”.

**Taxpayers not obliged to communicate electronically may also submit the request on paper.**

**Paper-based request** forms are available at the homepage of the NTCA ([www.nav.gov.hu](http://www.nav.gov.hu)) in menu item „Nyomtatványok” → „Letöltések-egyéb” → „Adatlapok, igazolások, meghatalmazásminták” → „Adatlapok fizetési könnyítésre és/vagy mérséklésre irányuló kérelmek elbírálásához”.

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<sup>3</sup> Subsections (1) and (3) of Section 59, Subsection (1) of Section 60 of Art., Section 12, Sections 14-18, Section 19, Section 20 and Section 21 of Air.

The completed and printed out request can be submitted to the NTCA **by post or in person** at the customer services.

**Taxpayer obliged to communicate electronically** must submit all their requests and declarations electronically in the procedure.

**The NTCA shall communicate by way of electronic means** with taxpayers<sup>4</sup> that are

- obliged to submit monthly tax and duty declarations,
- obliged to submit recapitulative statements;
- obliged to submit summary documents; or
- obliged to perform electronic administration.<sup>5</sup>

The taxpayer belonging to the above categories in order to speed up the payment facilities procedure shall submit

- the request (on FAG 01 for businesses, FAM01 for private entrepreneurs)
- the modification, withdrawal of the request (on FAG01M, FAG01V for businesses, FAM01M, FAM01V for private entrepreneurs)
- the appeal, its modification, addition, withdrawal, waiver of appeal rights, the data necessary to clarify the facts, declarations, certificates (on FAJNY).

If the **taxpayer not obliged to maintain electronic communication** submits the request in paper-form

- but declared to maintain electronic communication in the arrangement administration feature (RNY), or
- did not make declaration on the way of maintaining the communication but the taxpayer's secured electronic communication address is known by the NTCA (the taxpayer has an access to Cégkapu or KÜNY),

then the NTCA will forward the documents automatically to mailbox at Cégkapu or KÜNY.

**If a taxpayer submits his request electronically**, whether or not he is obliged to communicate electronically, **then the NTCA will provide the necessary documents**

- **primarily electronically** to the taxpayer or his representative which submitted the request,
- except the taxpayer is not obliged to communicate electronically and does not agree to electronic communication in RNY.

### **5. What are the costs of the payment facilities procedure?**

**The first instance proceeding** performed on the request for payment facility **is duty exempt**.<sup>6</sup>

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<sup>4</sup> Point (4) of Section 36 of Air.

<sup>5</sup> Act CCXXII of 2015 on the General Rules for Trust Services and Electronic Transactions.

<sup>6</sup> Act XCIII of 1990 on Duties (furthermore referred to as Itv.).

## **6. In what cases can a debt reduction or waiver be requested?**

The reduction or waiver of the payment obligation may be authorized **only for an actual debt**. It means that a payment obligation settled – by sweeping, withholding or payment – cannot be reduced or cancelled.

**The tax (outstanding capital debt) can be reduced or cancelled) exclusively in the case of a natural person** but still there is no possibility to reduce or cancel) the debt of the tax and contribution deducted by the payer from the natural person.

**In the case of a legal person and other business organization** a surcharge or penalty may be reduced or cancelled under special circumstances and on grounds of equity, **if payment thereof would make it impossible for the affected natural person, legal person or organization to conduct their business operations.**<sup>7</sup>

Inability to conduct the business operations needs a complex investigation, since its consequences result in the termination of the business activity, liquidation of businesses.

The reduction is not aimed to postpone the liquidation procedure, thus it is reasonable to apply it when the rational business activity can be recovered or enabled by the reduction of the debt. Thus, **if the economic operation is already impossible, there are no grounds of equity.**

The NTCA may require that the legal person or other organization, or natural person performing economic operation **pays the part or the whole of its tax debt in order to grant the reduction, cancellation of its surcharge or penalty debt for him.**

The NTCA assesses the request of the **private entrepreneur** with regard to the reasons detailed in the request. Such a reason can be the **serious danger of the livelihood**<sup>8</sup> or **inability of business operation**. Based on the latter, it is possible to reduce or cancel the surcharge or penalty debt only for the private entrepreneur.

## **7. The rules of automatic payment facilities**

### **7.1 Automatic payment by instalments for non-natural person taxpayers**

**Upon application submitted by a non-natural person taxpayer**

- for tax debts of up to **HUF 1 million** that are recorded by the taxpayer,
- once a year, and
- up to a maximum of 6 months

the NTCA will authorise the taxpayer to make **instalment payments without additional dues.**<sup>9</sup>

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<sup>7</sup> Point (3) of Section 201 of Art.

<sup>8</sup> Point (1) of Section 201 of Art.

<sup>9</sup> Subsection (2a) of Section 199 of Art.

The application can be submitted electronically using the AUTRESZ form in the Online Form Completion Application (ONYA) or the form named FAG01 in the ÁNYK programme. Taxpayers who are not required to communicate electronically can also submit a paper application.

There is no right of appeal against the decision on the authorised instalment payment.

An instalment payment shall become invalid if the taxpayer fails to pay the instalment due. In this case, the debt must be paid in one instalment and the tax authority will charge a late payment penalty on the remaining part of the debt from the original due date.

## **7.2 Automatic payment facilitation for reliable taxpayers**

**Upon the request submitted by the reliable taxpayer by way of electronic means payment facilities free of charge** (payment deferral or instalment scheme) may be authorized by the NTCA<sup>10</sup>

- without checking whether the payment difficulty is attributed to the applicant or a payment difficulty is the case, or it is of a temporary nature,
- for the applicant's tax debt of tax heads pursuant to the scope of Art., calculated on a net basis, **not exceeding 3 million forints**,
- with the exception for the tax and contribution obligations deducted by the payer from the natural person,
- not more than one time per year,
- for up to 12 months.

This is called automatic payment facility.

The request may be submitted by way of electronic means only on the form (FAG01) downloadable on the homepage of the NTCA ([www.nav.gov.hu](http://www.nav.gov.hu)) or by using the Online Form Completion Application on the form AUTRESZ.

There is no right of appeal against a decision approving a taxpayer's request for automatic payment facilitation.

Any automatic payment facility **shall lapse** if the taxpayer does not perform the payment according to the instalment scheme or payment deferral. In this case the outstanding debt shall be paid in one instalment with the late payment penalty.

## **8. The rules of instalment scheme, payment deferral.**

Payment deferral and instalment payment (hereinafter collectively referred to as "payment facilities") may be authorized by the tax authority upon the request of the taxpayer for a tax registered<sup>11</sup>.

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<sup>10</sup> Section 156 of Art.

<sup>11</sup> Section 198 of Art.

**Payment facility may not be granted for**

- **the advances of the income tax of natural persons and for income tax that has been deducted,**
- **the contributions deducted by the payer from a natural person,**
- **tax collected.**

For other taxes the payment facility **may be authorized** if all of the following terms are exist jointly:

- payment difficulty of the taxpayer due to which he cannot settle the debts immediately or in one amount;
- the payment difficulty is not attributed to the applicant, or the applicant has taken reasonable measures to prevent it as is expected in the given situation,
- payment difficulty is of a temporary nature, so payment of the tax at a later time is evident.

In the case of a **business organization** the fact whether the situation is attributed to the applicant or the lack of it can be determined based on the

- reasons of a payment difficulty,
- behaviour, motivation of the applicant (or of the executive officers, representatives),
- actual circumstances.

**As usual, payment facility can be granted in the case of**

- vis major,
- damage caused by a third person, or
- if the applicant made the necessary measures in order to recover the claims.

**The request may not be fulfilled if:**

- the financial resources of the debt were available at the due date of the tax debt or later, but the applicant used them for other – not reasonable (e.g. above-average income outflow, dividends, representation) – expenses,
- the applicant did not make the necessary measures to recover the claims, to require restitution,
- the payment difficulty is a result of an amount of money handed over to another person temporarily or finally or a result of other asset stripping from the business.

Usually the payment difficulty can be considered **temporary** if the termination of the payment difficulty really can be expected based on the comparison of the payables and receivables, the yearly planned result and the financial position.

The deferred payment, instalment scheme **may not serve as money to substitute credit**, or to postpone the consequences of insolvency.

The NTCA **may set different conditions** to authorize the payment facility. If these conditions are not met, the payment facility cease to exist and the debt will be due in one amount together with all fees related.

**Such conditions can be especially:**

- fulfilment of another (current) tax payment obligation that becomes due during the payment facility period,
- avoiding the emerging of any enforceable arrears during the payment facility period,
- payment of the part of the tax debt by a definite deadline,
- provision of a guarantee: suretyship, pledge, mortgage.

**Thus, the payment facility is not a right, it is not granted automatically,** it can be authorized by the NTCA when conditions set in the law are met.

So accordingly the payment facility **may not be granted** if the taxpayer

- is be able to pay the debts in one amount taking into consideration his income and wealth,
- the taxpayer does not possess an income or wealth from which the debts likely can be paid at a later time or in instalments.

**The payment facility becomes void** if the taxpayer

- does not fulfil the payment in instalments, deferred payment,
- does not meet the requirement imposed.

The facility also becomes void if the additional obligations, guarantees, suretyship, pledge, mortgage become inappropriate to fulfil their original functions and the taxpayer does not take care about their replacement despite the invitation of the NTCA to do so.

If the payment facility becomes void the outstanding debt shall be paid in one amount together with the late charges.

**9. What is considered by the NTCA when assessing a request for payment facility?**

When assessing a request for payment facility the NTCA

- considers the information contained in the request,
- considers the data available in own and external agents' registries,
- invites the taxpayer to make a declaration when it is necessary,
- may ask the taxpayer to justify the data, circumstances submitted by documents.

The NTCA will decide on a case-by-case basis and considers individual data whether it is necessary to put the request in order or to request to make a declaration. In order to clarify the facts the NTCA may require the documents justifying the declaration especially with respect to the assessment of the requests for reduction.

**The taxpayer's declaration itself may establish** the approving decision if:

- the taxpayer makes a declaration about all circumstances relevant for the procedure,
- the income data disclosed reflect the taxpayer's financial position,
- there is no possibility to underreporting, and

- there is no inconsistency between the taxpayer's declaration and the data contained in the NTCA's and external agents' registries.

**The NTCA terminates the procedure** if the taxpayer

- does not make a declaration despite the invitation to do so,
- does not disclose the requested data,
- does not send the requested documents,

and the request cannot be assessed without the fulfilment of the notification.

**It is reasonable to request a payment facility** for the debt requested for reduction if the taxpayers submits its request for reduction and payment facility jointly in the same document. In the lack of this the NTCA when rejecting the request for reduction may not authorize payment facility instead of the reduction of the rejected amount even in the case if payment facility for the other debts was granted. This is because the NTCA must not deviate from the request in its decision if the taxpayer requested exclusively the reduction of the debt, instead of it payment facility may not be authorized.

### **10. Can a payment facility be granted for other payment obligations not classifying as taxes?**

**A legal act may establish different rules, terms, examination criteria for the reduction**, waiver or payment facility regarding the payment obligations managed by the NTCA, not belonging to the scope of Art.

So neither reduction or waiver, nor payment facility may be granted for the following obligations:

- subcontract distillation spirits tax
- fine related to tobacco product retail activity
- repayment of unduly used subsidy related to waste management and waste management fine
- tax penalty of foreign vehicle tax and vehicles of foreign registry.

### **Obligations determined in public administration procedures**<sup>12</sup>

As a general rule, the legislative act specifies the NTCA as the authority implementing the enforcement **in the public administration procedure**. As of 1 January 2018, in enforcement proceedings the NTCA examines the requests for payment facilities regarding the payment obligations pursuant to base imposed by the NTCA – if they are under enforcement – according to the above detailed rules of Art.<sup>13</sup>

Such obligations are:

- fine, interest, self-revision surcharge related to customs authority activity of the NTCA
- metal trade fine of the NTCA

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<sup>12</sup> Act CL of 2016 on General Public Administration Procedures (Ákr.).

<sup>13</sup> Section 2 of the Act CLIII of 2017 on Enforcement Proceedings to be Implemented by the Tax Authority.



- NTCA fine related to tobacco product retail activity
- administrative fine of the NTCA

The NTCA may not use the rules of Art. and Air. for these obligations, if the debt has not been enforced yet. In this case the NTCA will act according to the details set out in Ákr. The act of Ákr. does not stipulates the payment facility, so if the sectoral legislation does not expressly provides it, no payment facility can be authorized in the period before the enforcement.

### **Liabilities determined during the customs procedure**<sup>14</sup>

**Pursuant to Vámtv. only instalment scheme** may be granted for **customs duties and other charges** registered by the NTCA. The terms of it are similar to the terms of granting payment facility for tax debt:

The NTCA may grant a scheme of **maximum 12 month instalments** on the request of the taxpayer if the payment difficulty

- can not be attributed to the applicant or the applicant acted the way as it is expected and
- is temporary, so the payment is probable at a later time.

The instalment scheme may be granted for a private person if the applicant justifies that the immediate payment or payment in one amount of customs duties and other charges would impose disproportionate burden because of his/her income, material and social circumstances.

Terms of granting the instalment scheme:

- providing guarantee, with the exception if it causes serious economic or social difficulty for the debtor, and
- charging interest on the amount of the instalments.

The NTCA, granting the instalment scheme, when this is appropriate under the circumstances, may decide to free the applicant both from requesting the customs guarantee and charging the credit interests.

The NTCA may not grant instalment scheme for the payment of customs administration penalty, the relevant rules of Art. shall apply for reducing it<sup>15</sup>.

The procedural rules of Art. and Air. shall apply for the payment facility process according to Vámtv.

### **11. May a payment facility be granted for the debts forwarded for enforcement to the NTCA?**

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<sup>14</sup> Section 165 of Act CLII of 2017 on the implementation of the Union Customs Law (Vámtv.).

<sup>15</sup> Points (4)-(5) of Section 87 of Vámtv.

**The NTCA is competent to examine the requests for payment facility of the debts stated in enforcement requests.**<sup>16</sup> It includes the below liabilities:

- public dues to be enforced as taxes,
- liabilities related to local taxes and/or vehicle taxes recorded by municipal tax authorities,
- payment liabilities forwarded. based on Ákr (with the exception of the liabilities constituting fully or in part the requesting authority's own proceeds, the EU member states' requests for the enforcement of unemployment benefits illegally received abroad),
- money claims based on the request of Court of Justice,
- payment liabilities established by the court in favour of the NTCA.

The request for payment facility shall be submitted to the NTCA. If the legal terms of Art. exist, the NTCA may grant either reduction, instalment scheme or deferred payment on request.

The **prior consent of the judgement creditor authority** (asked by the NTCA) **is needed to reduce** the debt and liabilities to be enforced as taxes forwarded for enforcement by the municipality tax authorities. The NTCA is bound by the declaration on the reduction made by the judgement creditor authority. If **the judgement creditor authority does not approves the reduction**, the NTCA may not make a decision allowing the reduction even if the legal terms of reduction according to Art. are in place. In the case of prior consent of the judgement creditor authority the NTCA will decide on the reduction taking into consideration the legal terms according to Art.<sup>17</sup>

**The legal act<sup>18</sup> excludes the debt reduction of money claims based on the request of the Court of justice.**

In the case of payment obligations ordered by the court in favour of NTCA, it will process applications for payment reliefs submitted after the enforcement procedure has been initiated. In doing so, it may also reduce the debt on request.<sup>19</sup>

**National Tax and Customs Administration**

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<sup>16</sup> Section 2 of Avt.

<sup>17</sup> Points (1)-(3) of Section 109, points (1)-(2) of Section 120. of Avt.

<sup>18</sup> Point (3) of Section 125/A. of Avt.

<sup>19</sup> Subsection (2) of Section 125/H of Avt.