

CANCELLATION AND REFUND OF DUTIES

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I When can one request that a duty (or fee) be cancelled or refunded?

When one **acquires an asset** (inheriting, gift, transfer of property for consideration) or **institutes an administrative or court proceeding** (action at law, non-contentious procedures, appeal proceedings), one **must pay a duty**.

- The duty on the **acquisition of property** is charged by the National Tax and Customs Administration (NTCA) in a decision called an order for payment.
- Some **duties for administrative or court proceedings** may also be charged by the NTCA, but in some cases it is paid by the person instituting the proceeding at the time of instituting it, in the form of duty stamps, by cheque or otherwise.¹ (The duty stamp has been discontinued from 2024, and the refund of its value can be applied for until 31 December 2029.)

In some cases defined by law, however, the client **can request cancellation or refund of the duty charged**. Such cases may include, for instance²:

- if a legal transaction (e.g. a contract) is modified, terminated, cancelled or invalidated by the court and as a consequence a smaller, or no, amount should be paid in the way of a duty,
- if the legal transaction is terminated or cancelled by the parties by mutual agreement, or if it lapses because of the withdrawal of a party, as a consequence of which the amount of the duty decreases,
- if the value of the heritage decreases retroactively after the final and definitive establishment of the duty,
- if one has paid a duty of a larger amount because of a calculation error or misinterpretation of the law,
- if one has paid the duty by mistake when requesting a duty-free procedure,
- or if the duty was charged by mistake or in the wrong amount or to the wrong person.

In such cases

- if the duty **has not been paid yet** but it has been charged by the tax authority and can, for any reason – even retroactively – be reduced or if it needs not be paid, the **cancellation of the duty may be applied for**,
- if the duty charged **has already been paid**, but it is refundable for any reason prescribed by law, the **refund of the duty may be applied for**.

A duty is cancelled or refunded **in some cases by the competent bodies *ex officio*, in other cases this needs to be requested**.

¹ Section 73, Section 74-74/A of Act XCIII of 1990 on Duties and Section 20 of Government Decree 465/2017. (XII. 28.) on the detailed rules on tax administration proceedings.

² The most frequently encountered cases: Section 21 (2)-(5), Section 80 (1) b), c), g), i), Section 81 (1)-(2) of the Duties Act.

The application can be submitted to the NTCA

- using the **form “ITV”** available on the NTCA website, which can be filled in with the ÁNYK form filling program and can be submitted electronically as well,
- or **in an informal format**, entering the required data.

II Cancelling or refunding of duties relating to properties

The following are specified in the decision (payment order) received from the NTCA upon the acquisition of property, e.g. real property:

- the property acquired,
- the amount of the duty,
- the due date for payment,
- the account number

to which the payment is to
be made.

1. Cancellation of the duty for the acquisition of property

If you have not paid the duty charged but you are no longer obliged to pay it, you **have to submit the application for the cancellation of the duty to that NTCA body from which you received it.**³ Enter in the application the case number or registration number of the if and your tax ID.

How long is it possible to ask for the cancellation of the duty?

Cancellation of the duty can be requested within 5 years of the date on which the right to request the cancellation is acquired.⁴ In the case of a real property only the cancellation of the contract submitted to the land registry office can be taken into account, because restoring the original status of the land registry office records is a prerequisite for the cancellation of the duty. The NTCA cancels the duty only when the original status is restored.⁵

Example:

If you submit your application because the contract concerned was cancelled, and it was cancelled on 7 January 2019, then you can ask the NTCA to cancel the duty until 31 December 2024 (2019+5 years). (In the case of a real property only a fact entered in the real estate registry is suitable for use in the application.)

³ Section 30 (1) of Government Decree 485/2015. (XII. 29.) on the powers and competence of the bodies of the National Tax And Customs Administration (hereinafter: NTCA Government Decree).

⁴ Section 202 (1) of Act CXII of 2003 on the Rules of Taxation must be applied to the right to the cancellation of a duty: its second sentence stipulates that the right to claiming budgetary support or refund of an amount overpaid lapses – unless otherwise stipulated by law – after the passing of five years following the passing of the calendar year in which the right to the claim accrued.

⁵ Section 80 (1) c) of the Duties Act.

If the court adopts a decision beyond the period of prescription which justifies the retroactive cancellation of the duty (e.g. terminates or restricts the acquisition of property, i.e. the acquisition of property is as though it never occurred), then the cancellation of the duty can **also** be applied for **beyond five years**. Even in this case however, the application can be submitted within six months of the day on which the court decision becomes final and definitive.⁶

2. Refund of the duty for the acquisition of property

If you have already paid the duty charged but it is refundable, you **have to submit the application** for the refunding of the duty **to that NTCA body from which you received it**.⁷ Enter in the application the case number or registration number of the if and your tax ID. In this case you also need to specify the

- postal address or
- bank account number you request the transfer to be made to.

How long is it possible to ask for the refund of the duty?

Refund of the duty **can be applied for within 5 years** of the date on which the right to such request is acquired. In the case of a real property only the document terminating the contract submitted to the land registry office can be taken into account because the refunding of the duty is conditional upon the restoration of the original ownership status in the land registry office. The NTCA refunds the duty only when the original status is restored.⁸

Example:

If you submit your application because the contract concerned was cancelled, and it was cancelled on 7 January 2019, then you can ask the NTCA to cancel the duty until 31 December 2024 (2019+5 years). (In the case of a real property only a fact entered in the real estate registry is suitable for use in the application.)

If the court adopts a decision beyond the period of prescription which justifies the retroactive cancellation of the duty (e.g. terminates or restricts the acquisition of property, i.e. the acquisition of property is as though it never occurred), then the cancellation of the duty can **also** be applied for **beyond five years**. Even in this case however, the application can be submitted within six months of the day on which the court decision becomes final and definitive.

⁶ Section 79 (3) of the Duties Act

⁷ Section 30 (2) a) of the NTCA Government Decree

⁸ Section 80 (1) c) of the Duties Act.

3. Special rules on the acquisition of motor vehicles

If you have acquired a motor vehicle and a payment order has been received from the NTCA regarding the transaction, the above rules apply to the cancellation and the refunding of the duty.

If the NTCA has sent no payment order because you paid the duty by cheque at the document office, you can apply for a refund of the duty at the competent NTCA of your place of residence (or registered office, in the case of a company).

Again, the application **can be submitted within five years** of the termination of the contract.

III Cancellation and refunding of the procedure fee

1) Has a document on fee payment been received from the NTCA?

In this case the payment order or call for payment sent to you by the NTCA specified

- the case regarding which the fee is payable,
- the amount of the fee,
- the due date for payment,
- the account number to which

the payment is to be made.

A) Cancellation of the procedure fee

If you have not paid the fee charged but you are no longer obliged to pay it, you **have to submit the application** for the cancellation of the fee to that NTCA body from which you received the payment order or call for payment.⁹ Enter in the application the case number or registration number of the payment order or call for payment and your tax ID.

How long is it possible to ask for the cancellation of the fee?

The cancellation of a fee can be applied for **within 5 years** of the date on which the right to such request is acquired.¹⁰

Example:

If you have requested an administrative or court proceeding, for which you requested that the NTCA should establish the fee but you have not paid it yet, the acting body ordered definitively on 7 January 2019 that you did not have to pay the duty, you can apply for the cancellation of the duty by 31 December 2024 (2019+5 years).

⁹ Section 30 (1) a) of the NTCA Government Decree

¹⁰ Section 202 (1) of Act CXII of 2003 on the Rules of Taxation must be applied to the right to the cancellation of a duty: its second sentence stipulates that the right to claiming budgetary support or refund of an amount overpaid lapses – unless otherwise stipulated by law – after the passing of five years following the passing of the calendar year in which the right to the claim accrued.

B) Refund of the procedure fee

If you have already paid the fee charged but it is refundable, you have to submit the application for the refunding of the duty to that NTCA body from which you received a payment order or call for payment. Enter in the application the case number or registration number of the payment order or call for payment and your tax ID. In this case you even need to specify the

- postal address or
- bank account number you request the transfer to be made to.

How long can an application be submitted?

A refund of a duty **can be applied for within 5 years** of the date on which the right to such request is acquired.

Example:

If you have requested an administrative or court proceeding, for which you requested that the NTCA should establish the fee, the acting body ordered definitively on 7 January 2019 that you did not have to pay the duty, you can apply for the refunding of the duty by 31 December 2024 (2019+5 years). Even if you did not apply for the charging of a fee for a proceeding by the NTCA, you have still until 31 December 2024 to request that it be cancelled (2019+5 years).

2) Did you pay the procedure fee, but not based on an NTCA's document?

If it was not on the basis of the NTCA's document that you paid the procedure fee, you might have paid i:

- at the time of the start of the procedure on the document initiating it or based on the acting authority's instruction by way of a duty stamp (this option has been discontinued from 1 January 2024),
- with bank card at the start of the proceeding (via the Electronic Payment and Settlement System (Elektronikus Fizetési és Elszámolási Rendszer, EFER))¹¹
- at the start of the proceeding [or upon the acting authority's instruction, by a cash transfer order (by cheque)],
- at the time of the start of the proceeding (or upon the acting authority's instruction, by bank transfer,
- upon the start of the proceeding, by cash into petty cash,
- based on a return¹².

How long is it possible to ask for the refund of the duty?

The rules applying to the limitation period of the right to claiming overpayment applies to the refunding of the procedure fee paid by the taxpayer, i.e. within **five years following the decision** on the possibility to refund or reduce the amount of the fee.¹³

¹¹ Section 73 (1) a) and Section 74 (1) of the Duties Act was amended by Section 114 of Act LXVI of 2016 on the Amendment of Certain Acts Related to Taxation and other Associated Acts, and of Act CXXII of 2010 on the National Tax and Customs Administration. Effective from 16 June 2016.

¹² using the BION form

¹³ Section 202 (1) of the Taxation Act.

Example:

If you submitted an application subject to duty payment on 3 January 2013 and paid the procedure fee and then the court judgement delivered concerning the case orders that the procedure fee (or part of it) is refundable, and this decision became final and binding on 17 December 2014, you can ask for a refund of the fee between 17 December 2014 and 31 December 2019.

Where can an application be submitted?

An application can be submitted to the NTCA body having competence in the area in which you have your **address of residence** (or, in the case of a company, our registered office).

An application for a refund of the value of a damaged **duty stamp**, one stuck by mistake or one that is no longer necessary could also be submitted until 31 December 2023 to the acting authority or the NTCA **body that has competence in the area in which the court has its seat**. From 1 January 2024, the refund can only be claimed from the NTCA body of the place of residence of the claimant (in the case of a company, of the registered office). The duty stamp – or the document onto which it has been stuck – must be submitted together with the application.

The NTCA **will not refund** the value of a duty stamp, if

- it reasonably suspects that the duty stamp is a counterfeit or has already been used beforehand,
- the duty stamp is put together of separated parts, or it is incomplete, or not the entire document with the stamp attached is submitted, or the duty stamp has been removed from the document,
- you owe a debt to the tax authority.

In the first two instances the NTCA retains the duty stamp on which it issues a receipt. If necessary, the NTCA institutes a criminal proceeding.

The application has to be submitted not on the basis of the location of the address of residence (or registered office, in the case of a company):

- In the case of the **procedure fees paid** in certain proceedings **by the party acting electronically**. Appeals can be lodged electronically against decisions adopted electronically in certain proceedings¹⁴. Its procedure fees must be paid by transfer to the account of the competent court, or through the EFER system. Refund of the fee can be applied for, if it has been paid, but no appeal has been lodged. An application for this **is to be submitted to the court** to which you eventually did not submit your appeal.
- Appeal against the decision of the notary public in payment order cases.
- Fee paid by an person acting electronically, in the court proceedings.
- In an action brought against the town clerk's decision in a **property protection case**.

In such cases¹⁵, the following should be written in the application:

- the data appearing in the comments field of the transfer,
- the name of the person paying the amount,

¹⁴Section 6/A and Section 7 (4) of Decree 44/2004. (XII. 20.) PM issued by the Minister of Finance on the detailed rules on the payment of procedure fees and the controlling of payments (hereinafter: MoF Decree) and Section 30 (2) c) of the

c) NTCA Government Decree.

¹⁵ Section 6/A of the MoF Decree

- the applicant's address of residence (in the case of companies: registered office),
- the application's tax number,
- the number of the fee revenue account (to where fee was transferred),
- the account number from which the amount was transferred,
- the date of transfer!

If you **transferred** the fee **via the EFER** system, the following should also be entered in the application:

- the financial ID of the payment,
- otherwise, the transaction ID as well,
- the account number from which the amount was transferred!

In the case of **Court of Registration's procedure fees** refund of the fee can be requested from the NTCA in whose area of competence the **Court of Registration** has its **seat**.¹⁶

IV Additional useful information

If **it is not possible to identify the NTCA body to which the application should be submitted** on the basis of the above details, **the directorate in whose area of competence the taxpayer has their address of residence** (in the case of a company, its registered office). If the taxpayer has no address of residence (in the case of a company, registered office or branch), the North Budapest Tax and Customs Directorate acts in all cases.¹⁷

A fee paid can only be refunded by the NTCA to the person who or which was obliged to pay the fee according to the applicable statutory regulations. Accordingly, the NTCA cannot transfer the amount back to a legal representative, to the escrow account of a legal representative or another authority.¹⁸ If the refund has been requested by a taxpayer obliged to open a payment account, it can only be transferred by the NTCA to its payment account. In this case therefore the NTCA cannot transfer the amount to a retail bank account or a postal address (registered office, branch, address of residence or mailing address).

Refund of the procedure fee can only be requested by the person who had to pay it, even if it was actually paid for them by another person, e.g. lawyer or a family member. Accordingly, even if a lawyer "advanced" the procedure fee for its client, it can only be refunded to the client because

¹⁶ Section 45 and Section 119 of Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings, Section 3 (1) and Section 9 of Decree 25/2006. (V. 18) IM on the electronic payment of fees, duties and publication cost reimbursement in company registration and other company affairs, Section 30 (2) f) of the NTCA Government Decree.

¹⁷ Section 30 (3) of the NTCA Government Decree, the mailing address of the North Budapest Tax and Customs Directorate of the NTCA: 1387 Budapest, Pf. 45. The mailing addresses of the other NTCA directorates are also available on the website of NTCA at <https://nav.gov.hu/igazgatosagok/igazgatosagok>.

¹⁸ Based on Section 6 (2) and (3) b) and Section 66 (3) of the Taxation Act.

this does not affect who the rightful recipient of the refund is. This rule applies also when a company is eventually not registered by the court of registration: the founders of the company can be there recipients of the fee in proportion with their intended contributions to the company's capital, as evidenced by the articles of association.

If multiple persons have to pay the procedure fee together, (e.g. in a court proceeding instituted by multiple claimants), the amount each has paid can be refunded to each person. The amounts (proportions) of the fee paid are to be notified to the NTCA in the application for a refund or in a joint declaration.

If you have applied for the cancellation of a fee you have already paid (but not the transfer), then the NTCA will reduce the payable amount of on your tax account by that amount (i.e. by crediting the amount). If the result of such reduction is an overpayment (i.e. the NTCA owes you an amount), you can subsequently request, using the form ATVUT17¹⁹, that it be used for the settlement of another tax liability or that the NTCA body having competence in the area in which you have your address of residence (in the case of a company, its registered office) should transfer such amount to you. In this case you can submit the form within the limitation period applying to the right to claiming refund of overpayment (as shown in example No. III/2).

If the fee paid in an administrative procedure is refundable, the authority adjudicating on the appeal orders the NTCA to make the refund. In this case the authority sends its decision to the NTCA as well, therefore **no separate application needs to be submitted**. If you submit an application for a refund of the fee nonetheless the refund will still be granted or not granted on the basis of the authority's decision even

The NTCA recommends that the ITV form²⁰ be used in the process aimed at the cancellation or refunding of a fee, which can be downloaded from the NTCA homepage, filled out in the ÁNYK or submitted electronically. If you do not use this for submitting your application, then you should include the following by all means:

- your tax ID (to let the NTCA know that the application comes from you),
- the amount of the fee,
- whether you request cancellation or also the transfer of the fee back (the latter is only possible if you have already paid it),
- the way you paid the fee (in the form of duty stamps or it was charged),
- if you request the transfer as well, your account number (or address of residence/registered office),
- if you paid the fee using a yellow cheque, you should attach the slip you kept also to the application,
- if your authorised representative submits the application, their authorisation must also be attached (unless you gave them a permanent authorisation earlier, using a NTCA form).

If you requested also that the fee be transferred back and received a decision on the refund of the fee, you will receive the amount 46 days after the date of the NTCA decision. The basis of its calculation is that you could lodge an appeal against the decision within 15 days of receiving it. If you do not lodge an appeal, the decision becomes definitive on the 16th day within 30 days of which you will receive the money.

¹⁹ The name of the form: „ATVUT17 Átvezetési és kiutalási kérelem az adószámlán mutatkozó túlfizetéshez” (ATVUT17, Application for book transfer and reimbursement of overpaid amount on tax account) and can be downloaded from here: [ATVUT17 - Nemzeti Adó - és Vámhivatal \(gov.hu\)](https://www.ntca.gov.hu/ATVUT17), and is also accessible in the Online Nyomtatványkitöltő Alkalmazás (Online form filling application) (ONYA): [Belépés - Online Nyomtatványkitöltő Alkalmazás \(gov.hu\)](https://www.ntca.gov.hu/Bel%C3%A9p%C3%A9s)

²⁰ [ITV - Nemzeti Adó - és Vámhivatal \(gov.hu\)](https://www.ntca.gov.hu/ITV)

If you requested the transfer of the fee as well, and you have received a letter notifying you of the refund of the fee, you will receive the amount within 30 days of the day written in the letter.

The NTCA will only transfer any fee back if you owe no other debt to the NTCA. If you have any such debt, the NTCA will credit the amount of the fee to your debt instead of transferring it back.

National Tax and Customs Administration