

Key information on the taxation of taxable entities providing commercial accommodation services through online booking systems

Obtaining a tax number is required

A private individual who rents out one or more rooms or an entire property as accommodation on his own behalf is considered a VAT registered taxpayer under Act CXXVII of 2007 on Value Added Tax (hereinafter: VAT Act), regardless of whether he has established a relationship with the accommodation user via an online interface (online application) or otherwise. Pursuant to Act CL of 2017 on the Rules of Taxation (hereinafter: Art.), an individual engaged in such activities must register as a taxable entity, i.e. he/she must obtain a tax identification number, which is established by the National Tax and Customs Administration. (Failure to declare economic activity or the pursuit of economic activity without a tax number is contrary to the provisions of Art.) [Section 5 (1) and 6 (1) of the VAT Act; Section 16 (1) of Art.]

I. General information on VAT liability

Commercial accommodation services

The supply of commercial accommodation is classified as the letting of immovable property in the VAT scheme. As a general rule, the letting of real estate is a tax-exempt service under the VAT Act, but this tax exemption does not extend to the use of real estate for tourism purposes, regardless of the fact that the latter form of use is also treated as a letting under the legal definition of letting. (For the purposes of VAT, commercial accommodation services are not considered services defined as such in sectoral legislation or classified as such by the Central Statistical Office under the relevant TESZOR'15 number, but are to be classified based on the taxable content of the service. We are therefore talking about commercial accommodation services in all cases where the taxable entity provides accommodation for his guests in the tourism sector, i.e. where the accommodation service is essentially of a tourism nature.) The VAT Act also makes this distinction when it states that the exemption under the general rule does not apply to the letting of accommodation which, by its nature, constitutes the supply of commercial accommodation services, so **the supply of commercial accommodation is subject to VAT under the VAT system. The VAT Act classifies commercial accommodation services under a reduced rate of 5%.** [Section 86 (1) (l); Section 86 (2) (a); Section 259 (4); Section 82 (2); Annex 3 Part II. of the Act on VAT]

An EU VAT number is also required

In connection with the use of an online platform for accommodation services (e.g. Airbnb or other similar systems) the following is noted. **A taxable person must have a Community tax number for services for consideration obtained from a taxable person established in another Member State of the Community (for example, from a foreign company), the place of supply of which is to be determined in accordance with Section 37 (1) of the VAT Act.** The Community tax number is determined by the National

Tax and Customs Administration based on a declaration made by the taxable person. The accommodation provider is liable to pay tax at the rate of 27% on the services provided by and obtained from this foreign company and must also submit a summary declaration ('Form A60) for the services provided in Hungary under the VAT Act. In respect of services provided by the foreign company, the taxable amount is the part of the consideration paid by the guest less the amount paid / to be paid by the foreign company to the accommodation provider. The taxable amount and the tax base must be indicated on the VAT return '65.

[Section 37 (1); Section 140 a); Section 257/B (1) d); Annex 4/A of the Act on VAT]

Obligation to issue an invoice

The accommodation provider is liable to pay tax on the services it provides, and to declare and invoice them. If the person (the guest) using the accommodation service of the accommodation provider does not pay the accommodation fee directly to the accommodation provider - but through Airbnb or a similar system, **the accommodation provider cannot be exempted from the obligation to issue an invoice in relation to the accommodation services** based on Section 165 (1) (b) of the VAT Act. In such a case, the taxable person shall always issue an invoice for the service provided to the guest, at the latest 8 days after the service has been provided. The invoice issued for the service must include the total amount paid by the guest as the tax inclusive amount.

[Sections 159 (1), 163 (1), 163 (2) (c) of the VAT Act.]

Tax exemption (VAT exempt status)

However, a private individual (**accommodation provider**) providing commercial accommodation services does not necessarily have to pay VAT, **as the VAT Act provides taxable entities** with the option to choose a VAT exempt status up to a value of HUF 12 million. The HUF 12 million amount relates to the consideration achieved on an annual basis, so if someone starts the activity during the year, the HUF 12 million condition must be met pro rata temporis. Pursuant to the provisions of Art., the taxpayer declares in parallel with the notification of the commencement of his/her taxable activity his/her choice of the tax taxation methods specified in the VAT Act, the carrying out of exclusively tax-exempt activities and the application of the special method of tax assessment. It is therefore very important that **the exemption is not an option automatically granted**, the taxpayer must indicate (opt for) it when filing, or opt for it for the subsequent year by the last day of the year preceding the year in question on the form ('T101 or 'T101E) used for filing and reporting changes.

Accommodation providers who are already taxable on the basis of their other economic activities and who have not exceeded the HUF 12 million threshold in the year preceding the calendar year in question, and are not expected to exceed it in the current year, may also opt for the VAT exempt status for the following year. This election may be made by 31 December of the year before the following tax year.

An accommodation provider opting for the exemption, in respect of the supply of commercial accommodation services, **is also obliged to issue an invoice** and, in respect of services received from a taxable entity in another Member State, where such an event has occurred in a given tax period, is also liable to pay tax and to submit a return and

summary statement, at monthly intervals. When issuing the invoice, he must ensure that the invoice must state that the service is provided in a tax-exempt capacity. This is done, for example, by marking the invoice with "AM". It is also important to note that a taxable person who is exempt from VAT may only issue an invoice that does not contain any tax passed on or a percentage determining the taxable amount.

The above explanations on the obligation to issue invoices also apply to taxable entities exempt from VAT.

[Sections 187 (2) (a)-(c), 188 (1)-(2); Section 189; Section 192 of the VAT Act; Section 16 (2) of the Art.; Section 169 (m) of the VAT Act; Section 83 of the VAT Act]

VAT deduction right

The rules on tax deduction are set out in Chapter VII of the VAT Act. The main rule of the VAT Act on the right to deduct VAT states that a taxable entity is entitled to deduct input tax from the tax payable by him to the extent that the taxable entity uses the goods or services in such capacity for the purpose of taxable supplies of goods or services or otherwise makes use of them. According to this provision, if all the conditions for the right to deduct are met, the accommodation provider may deduct the VAT applicable to the acquisition of a real estate utilised without the obligation to pay tax (provided that the accommodation provider has purchased the property for a consideration plus VAT and uses it predominantly for the rental activity of the accommodation), and the VAT applicable to the renting activity (if the VAT is paid as part of the consideration of the rental property), as well as the VAT on utilities, on the furnishings purchased for the dwelling and on the repair and maintenance services used. The list is only illustrative, VAT passed on to the accommodation provider for taxable services other than those listed can also be deducted (subject, of course, to the special deduction limits for residential property).

With regard to the right of deduction of taxes for taxable entities with VAT exempt status, attention should also be paid that during the period of exemption, the taxable entity, in his/her capacity as exempt taxable entity, is not entitled to deduct input tax passed on to him/her regarding purchases, or input tax he/she established for himself after obtaining services from a taxable person established in another Member State of the Community (for example, **from a foreign company**), and therefore cannot apply for its refund either.

[Sections 120, 124-125, 187 (2) (b), 140 of the VAT Act]

For more information, please consult the following of our Information Booklets:

- [No. 10](#) - Taxation of renting out or otherwise exploiting real properties,
- [No. 14](#) - Useful information for start-ups (starters) in the vat regime,
- [No. 18](#) - Basic rules of issuing invoices and receipts,
- No. 27 - Information on the Community tax number,
- [No. 29](#) - Community transactions - General rules of VAT

II. Information on personal income tax liability

If individuals wish to carry out accommodation services, they can choose between several forms of activity and tax category. Most people do not do this as self-employed, but as individuals possessing a tax identification number.

Definition of other accommodation service activities

The requirements for the provision of accommodation services are set out in Government Decree 239/2009 (X. 20.) on the detailed conditions for the provision of accommodation services and the procedure for issuing accommodation operation licences. In defining the concept of accommodation services, the Government Decree refers back to the interpretative provisions of Act CLXIV of 2005 on Trade (hereinafter referred to as the "Trade Act"), which states that **accommodation services** means the provision of accommodation and directly related services for the purpose of a stay, usually of a non-permanent nature, including overnight accommodation and rest, in the course of a commercial economic activity.

Private accommodation is the use of a dwelling or a holiday resort, or a defined part thereof and its adjoining land, not used exclusively for providing accommodation, by a private individual or sole proprietor, where the number of rooms does not exceed eight and the number of beds does not exceed sixteen.

Rules for starting the activity

Private individuals shall notify the notary public. Based on the government decree, the notary of the municipality issues a certificate of registration of the activity, which includes the type of accommodation operated by the private individual. The registration number does not need to be indicated on the NTCA declaration/notification form.

When registering with the tax authority, in field 7 of sheet A01 of form T101, the taxpayer must enter the following code (List of Activities of Self-employed Persons): **'552014 Private accommodation services'** if he/she typically provides accommodation services for daily or weekly stays, mainly of short duration, or other temporary accommodation services for holiday purposes.

a) Taxation under the rules for independent professional activities

Income from this activity is treated as income from independent professional activity, on which the personal income tax rate is 15 percent. The individual must pay quarterly tax advances by the 12th day of the month following the quarter.

There are two ways in which a taxpayer can determine his income:

- **itemised cost accounting** (only costs incurred in connection with the activity and supported by invoices may be taken into account: costs relating to the maintenance and proper use of a property, costs of the safe and uninterrupted operation, maintenance and repair of tangible fixed assets, depreciation of tangible fixed assets used for the provision of accommodation)
- **using a 10 percent cost ratio** (10 percent of the income of the independent professional activity can be charged as costs).

If the itemised cost accounting method is chosen for the income from other accommodation services, it is possible to account for the **depreciation and amortization, and the refurbishment cost of fixed assets used exclusively for the provision of tourist accommodation as per Annex 11 of the Income Tax Act** (including the option of depreciating the renovation cost even if no depreciation is otherwise charged on the

basis of the investment cost of the fixed asset).

An individual who is not self-employed in the provision of other accommodation services may also deduct depreciation on a building or structure, up to the amount not previously deducted against the income of any activity, if the building was acquired or constructed more than three years ago. Depreciation is not based on the arm's length value of the property, but on the purchase price of the building or structure.

If the utilisation of the building or structure as other accommodation does not cover the whole year and/or it is only for part of the floor area of the property (for example, the individual rents out only one room), only the proportionate part of the depreciation charge for the period of the accommodation service or the proportionate part of the floor area used per square metre can be claimed.

Taxpayers must pay a social contribution tax of 13% on their self-employment income, based on the same basis as personal income tax.

b) Lump-sum taxation of the paying catering

An individual providing private accommodation services may choose to tax his activity under the provisions of Section 57/A of the Income Tax Act, provided that he does not wish to be taxed under the rules applicable to income from self-employment and meets the following statutory conditions.

A private person carrying on a **paying catering** activity is a person who, not being a self-employed person, provides accommodation to the same **person for a period not exceeding 90 days** in the tax year in the **context of private accommodation services** as defined by the Trade Act.

A taxpayer carrying on a catering activity **may opt for a flat-rate taxation** for the whole tax year if the activity is carried out in up to three **dwelling or holiday homes**, other than those used for the provision of accommodation services, owned or beneficially occupied by the taxpayer. In the case of rented property, the accommodation provider may not opt for flat-rate taxation.

If the number of days of accommodation provided to the same person in a tax year exceeds 90 days, the itemised flat-rate tax does not apply.

The taxpayer may declare the choice of flat-rate taxation in a declaration attached to the annual tax return for the previous year, submitted before the deadline, or by filing a declaration with the tax authority at the time the activity starts.

If opting for the flat-rate taxation, the annual tax is HUF 38 400 per room, payable in equal instalments by the 12th day of the month following the quarter. Those starting during the year can indicate their choice of the itemised flat-rate tax on form 'T101', in which case they must pay the full annual tax rate.

c) Taxation as a self-employed person

In case the private person carries out the accommodation service activity as a self-employed person, the income from this activity will be considered as self-employed income

and the income will be assessed according to the taxation method chosen by the private person (entrepreneurial personal income tax, flat-rate taxation) (Section 49/A-57, Annexes 10-11 of the Income Tax Act).

ca) The flat-rate taxation rules apply as long as the self-employed person's income for the tax year does not exceed ten times the annual minimum wage, in which case 60% of the income is considered income. No tax is payable by a self-employed person who is subject to flat-rate taxation if the flat-rate income does not exceed half of the annual minimum wage. A self-employed person who starts, ceases or discontinues an activity during the year must take the income threshold into account pro rata temporis for the days during which the activity is continued.

The taxable part of the lump-sum income is included in the consolidated tax base and the taxpayer is then liable to pay 15% personal income tax.

cb) When choosing the entrepreneurial personal income tax, it is possible to deduct an entrepreneurial payment as compensation for personal contribution, on which 15% personal income tax is payable as part of the consolidated tax base. In addition, the taxpayer is liable to pay personal income tax at a rate of 9 percent on his entrepreneurial tax base, which is the difference between entrepreneurial income and entrepreneurial costs (entrepreneurial expenses are also considered costs).

On the entrepreneur's dividend base calculated from entrepreneurial income - the self-employed person has to pay personal income tax of 15% and social contribution tax of 13%.

Since the self-employed person is considered insured under social security rules, he is also liable to pay contributions.

*Detailed information on how to determine the income of self-employed workers and how to pay contributions can be found in information booklet **no 3**.*

National Tax and Customs Administration