

## Information

about the VAT refund claim for *taxable persons not established in Hungary*

The taxpayers entitled to tax refund after their acquisitions made in 2009 can reclaim the value added tax using this form. Entitled for tax refund are:

1. the taxpayer third state satisfying the provisions of Paragraph 245 Section (1) point b) of the VAT Act is entitled to reclaim the value added tax and if in accord with Section 247. is entitled to the refund of the compensation for agricultural products
2. the non-taxpayer legal person liable for paying tax as defined in Paragraph 200 Section (3) of the VAT Act are entitled to reclaim the flat-rate compensation
3. taxpayer which provide exclusively electronically supplied services according to Paragraph 252 Section (1) of the VAT Act are entitled to reclaim the value added tax

Those *taxable persons who are not established in Hungary*, but settled for economic purposes or in lack of that are permanent residents or have a usual place of stay **in a country outside the European Communities that has reciprocity with the Hungarian Republic** (presently we have reciprocity with Switzerland and Liechtenstein) - **may ask for refund of VAT (or compensation for agricultural products)** on products and services acquired in Hungary for the purposes determined in Section 1 of Paragraph 246 of the Act on VAT (herein after: the Act).

**In case the taxable person not established in Hungary is settled** for economic purposes, or in lack of that is a permanent resident or has a usual place of stay **in a country outside a country having no reciprocity with Hungary, but at the same time is settled as well in a country with reciprocity** - it is **entitled to that amount of tax refund, which is connected with to its business activity in the latter country.**

**The non-taxpayer legal person liable for paying tax**, (specified in Section 3 of Paragraph 200 of the Act ) - if on the basis of its registration in a Member State (other then Hungary) of the European Communities has its domicile in this State -, **is entitled to reclaim the compensation for agricultural products** paid for products acquired in Hungary only in case **if it is obliged to pay tax after its purchases in the Member State** determined in Section 3 Paragraph 200 of the Act.

The *taxable persons who provide exclusively electronically supplied services* and are not settled for economic purposes and are not permanent residents or have no usual place of stay in any Member States of the European Communities and as *taxable person who provides exclusively electronically supplied services* **were registered only in Hungary** and provide services exclusively for non-taxpayers who are settled or in lack of that are permanent residents or have a usual place of stay in a Member State of the European Communities – **are allowed to reclaim the VAT** included in the products and services acquired in Hungary for purposes determined in Section 1 Paragraph 246 of the Act. (The same taxation rules – with certain differences - are applied - after their registration - to the *taxable persons who provide exclusively electronically supplied services* as to the inland taxpayers, but they are not entitled to deduct the input tax, instead of that the taxpayer may ask for the refund of the VAT. **The electronically supplied services are:** the services determined in point k) Section 2 Paragraph 46 and in Section 5 of the same Paragraph. For example providing storage place; home page storage and operation; monitoring and distance maintenance of programs and equipment; provision of images, text and information, access to data banks; transmission of music,

movies and games; distance education services etc.- if the above services are provided through a global information network.

The **claims** should be **submitted by post** exclusively to the Large Taxpayer Directorate of the Hungarian Tax and Financial Control Administration.

**APEH Kiemelt Adózók Igazgatósága**  
**Külföldiek Adó-visszatérítését Intéző Főosztály**  
**Postal address: 1410 Budapest, Pf. 138**

or **personally** at the customers' service office of the Directorate: 1077 Budapest, Dob u. 75-81.

In the course of the tax refund procedure the claimant may rely on the services of a person who has **representation rights** and is an employee of legal age proving his/her representation right, a private attorney, a lawyers' office, a legal advisor, an EU lawyer, a tax expert, a certified tax expert, a tax advisor, an accountant or employee of company or other organization which is concerned with accountancy or tax refund matters, to act on his behalf.

#### **Conditions of exercising the right of tax refund**

**The claimant should certify** (with the exception of the *taxable person who provides exclusively electronically supplied services*) **that he was registered as a value added tax payer** (who is settled for economic purposes or in lack of that is a permanent resident or has a usual place of stay), **or as a non-taxable legal person, who is liable for paying tax** – by attaching the **original document** issued by the competent authority of the state (Member State of the Communities) of registration. This certificate is to be submitted in original. If the Hungarian Tax Authority has already got such a document, the claimant can not be obliged to present a new certificate within one year from the date of issue.

The claimant should declare - according to his legal status: - and corresponding to the rules that concern him - that he meets the requirements specified in Paragraphs 244-246, 248 and 252 of the Act. (**Declaration** No. 1, 2 and 3 on the application form.)

**The claimant should attach to his claim:** the original **invoice** or an invoice with simplified data content issued to the claimant's-or to its commercial representation's -name, electronic invoice in a form valid at the time of issue, in case of import of products the decisions of the customs authority as well as the declaration of the indirect customs and import tax representative about the fulfilment of the tax liability, the assessment of tax and filing the tax return. It is also compulsory to attach the **original bank documents** certifying the payment of the total value, because no tax refund shall be applicable on any product or service the value of which (including VAT) was not paid by the claimant until the day of submitting the tax claim. For the acceleration of the administrative procedure, it is highly advisable that the claimant also attaches duly stamped and signed copies of the above listed documents to its refund claim, in addition to all documents otherwise required to evidence the claim for the refund.

The claimant has **the right for tax refund from the date of the payment of the total value** (including VAT) of the invoice or the decision (which is called the time period covered by the application). The right for tax refund of the claimant - arising from the time period covered by the application - **can be enforced by a claim that arrives to the Directorate from 1<sup>st</sup> January to 30<sup>th</sup> September of the subsequent year.** This deadline is a deadline of material

loss of rights and hereby there is no possibility for providing means and reasons for delay after 30<sup>th</sup> September. If in the time period covered by the application the **reclaimed sum equals or exceeds 200 Euros, or 50.000 Forints per application** - the right to claim back the tax may be exercised on a **quarterly basis latest at the last day of the month following the quarter year**. The right of tax refund may be exercised only for those **claims** where the claimed sum per application **equals or exceeds 25 Euros or 6.000 Forints**.

The **tax amount due** is to be paid out to the claimant **in Hungarian Forints** (however, the taxable persons who provide exclusively electronically supplied services are entitled to be refunded in Euros). The Tax Authority transfers the amount of tax onto the **own bank account** of the claimant indicated by the claimant at point No 6. on the application form. This can be either a bank account hold **in Hungary, or in the country of the registration according to the choice of the claimant**. **The costs of remitting the sum to a foreign bank account are due to the claimant and should be kept back from the refunded tax. If the refunded tax amount is less then the cost of the remittance, then the condition of refund is, that the claimant reimburses all the costs previously upon the notice of the Tax Authority.**

The tax authority assesses the tax amount due to taxpayer by administrative decision, whereas other procedural issues are decided upon by court order. The claimant (or its authorized representative) may appeal against the administrative decision and/or the court decision within 15 days from its receipt free of stamp fee. The appeal must be addressed to **APEH Központi Hivatal Kizárólagos Illetékességi Ügyek Főosztálya** (second instance authority), but mailed to the respective Department of the competent Regional Directorate (first instance authority). The appeal claim must contain all relevant documentation and evidences that have accompanied the original claim at first instance as well as all additional documentary evidences that have become known in the interim. When appealing against an administrative decision, it is also highly recommended to attach the proof of stamp duty payment, whether it takes the form of a bank transfer or a postal transfer.

**Attention is drawn to the following details in completing the different sections of the form**

(The form should be filled in by typewriter or in capital letters.)

The places reserved for the Tax Authority should be left blank.

**Point 1.** The beginning of this information sheet and the data included in the documents of the claimant may give guidance for determination of the legal status of the claimant. On the basis of the above mentioned - by selecting the appropriate legal status the claimant determines the specific requirements that arise during the tax refund process. The e-mail address of the claimant should be indicated only by the *taxable person who provides exclusively electronically supplied services*.

**Point 2.** In case the claimant is a *non-taxable legal person, who is liable for paying tax*, point 2 should not be filled in.

**Point 3.** The claimant should indicate the VAT number registered by the foreign tax authority. The *taxable person who provides exclusively electronically supplied services* should indicate the VAT number given - on the basis of his registration- by the Hungarian Tax Authority.

The claimant should always indicate his official business name, VAT number and address that is registered at the authority which issued the documents certifying his legal status (Points 1-3. of the form).

**Points 4., 5.:** Only invoices issued within a year, in the year 2009, may be submitted in the claim. The amount of tax claimed for refund is to be indicated in HUF or for a taxable person who provides exclusively electronically supplied services in EUR. (In case the claimant is not a taxable person who provides exclusively electronically supplied services he/she does not need to convert the amount into Euro.)

**Point 6:** The claimant should give his/her bank account number kept either in a domestic or foreign bank, to which the refund is to be transferred, and also the name, the exact address of that financial body and the IBAN and SWIFT codes. A taxable person who provides exclusively electronically supplied services should only provide its domestic or foreign Euro bank account number as announced to the tax authority, and the name and proper address of the bank, and also the IBAN and SWIFT codes.

**Point 7:** The tax authority shall return to the address indicated in Point 1. the original documents (invoices, the invoices on advanced payment, decisions, declarations of an indirect customs representative) and the documents, which certify the payment in an indisputable way (bank statements, vouchers, receipts) within 30 days following the submission day of the tax refund claim. In case the claimant doesn't need urgently the original documents, he/she can ask the authority to send the original documents back only with the final decision (decree) of the first instance.

**Point 8:** This point shall be completed only when the claimant doesn't have an authorised representative and wishes to receive the documents from the tax authority (decisions, decrees, other documents) to an address which is different from the address in Point 1.

**Attachments:** The claimant is obliged to complete that declaration, which is in accordance with his/her legal status marked in Point 1.

**Declaration No. 1.:** (taxable person not settled in Hungary): The declaration has to be signed in every case by the claimant defined in Point 1. The claimant makes a declaration about the points a)-b) and in case having a commercial representation in Hungary also about the point e). With his/her official and authentic signature the claimant admits that all the details and information given in the application are true and agrees to pay back any monies wrongfully obtained. (In case the claimant does not enter the obligation of paying back the amount got by mistake, the tax authority will be entitled to deduct the missing amount from the next refunds due to the claimant. If this is not possible and also the measures taken by the authorities for collection the money were inefficient the tax authority will suspend the remittance of the refundable amount until the missing amount is paid.)

The taxable person not-settled in Hungary according Sections 1-2 of Paragraph 245 of the Act declares that he/she has a seat or fixed establishment or in lack of that permanent resident or usual place of stay in a third country where there is reciprocity between this country and Hungary (presently these are: Switzerland and Liechtenstein).

The other supplies of goods and services given in Point bc) of 1 Section of 244 Paragraph of the Act are the following:

1. Supply of goods according to the Paragraph 139 of the Act. These are: goods that are subject to be installed or assembled (Paragraph 32 of the Act); gas or electric power (Paragraph 34 of the Act); gas or electric power (Paragraph 35 of the Act)

2. Services according to the Paragraph 140 of the Act. These are the services which are supplied on conditions written in Paragraphs 37-45 and 46 of the Act: services supplied by intermediaries acting in the name and for the account of another person; services connected directly with immovable property; certain taxable intra-Community passenger transports and transports of goods; certain cultural, artistic, scientific, educational, entertainment and sporting services, or similar activities, and the supply of ancillary services; auxiliary services associated with the transport of goods and passenger transport; services of experts on goods with the exception of immovable property; transfers and assignments of copyrights; advertising services; certain consultants services - lawyers, accountants, tax and computer experts, translators, etc.; data processing; banking and insurance services; the supply of staff services; hiring out of tangible property, with the exception of immovable property and vehicles; certain services in connection with pipe-line for natural gas and electric power; telecommunications services; radio and television broadcasting services; electronically supplied services, etc.

The services mentioned in Points ba) and bc) Section 1 Paragraph 244 of the Act are the following:

- tax-free transport of goods and ancillary transactions in accordance with Section 2 of Paragraph 93, Paragraph 102, Section 3 Paragraph 111, Section 2 Paragraph 112 and Paragraph 116;
- tax-free passenger transport in accordance with Paragraph 105.

In case the claimant does have a registered commercial representation in Hungary its name and address shall be given in Point e).

The services given in the Section 2 Paragraph 46 of the Act are the followings: transfers and assignments of copyrights; advertising services; certain consultants services - lawyers, accountants, translation, etc; data processing; banking, insurance services; the supply of staff services; hiring out of product, with the exception of immovable property and all means of transport and vehicles; services in connection with pipe-line for natural gas and electric power; telecommunications services; radio and television broadcasting services; electronically supplied services.

The services given in the Section 3 Paragraph 46 of the Act are the followings: undertaking of obligations to cease a business or professional activity; abstaining from practicing certain rights in accordance with Section 2 Paragraph 46; or intermediating the services mentioned previously and also the services as defined by Section 82 Paragraph 46 if the mediator acting in the name and for the account of another person.

Declaration No. 2.: (non-taxable legal person, who is liable for the paying tax): The declaration has to be signed in every case by the claimant defined in Point 1. The claimant makes a declaration about the points a)-c). With his/her official and authentic signature the claimant admits that all the details and information given in the application are true and agrees to pay back any money wrongfully obtained. (In case the claimant does not enter the obligation of paying back the amount got by mistake, the tax authority will be entitled to deduct the missing amount from the next refunds due to the claimant. If this is not possible and also the measures taken by the authorities for collection the money were inefficient the tax authority will suspend the remittance of the refundable amount until the missing amount is paid.)

Declaration No. 3.: (taxable person who provides exclusively electronically supplied services): The declaration has to be signed in every case by the claimant defined in Point 1. The claimant make a declaration about the points a)-e). With his/her official and authentic signature the claimant admits that all the details and information given in the application are true and agrees to pay back any money wrongfully obtained. The tax authority will register the taxable person who provides exclusively electronically supplied services in case all the requirements as defined by Paragraph 252 of the Act are realised and will allocate a value added tax identification number. Only a registered taxable person who provides exclusively electronically supplied services having an identification number shall be entitled to tax refund in respect of the amount of value added tax incurred until his/her cancellation or deregistration from the system.

Declaration No. 4.: (Summary of the invoices): List of invoices or decisions (in case of importation of goods) and the date the consideration of the invoices/decisions with tax (compensation for agricultural products) included has been completely paid certified by documents (bank statement, declaration of the indirect customs representative, declaration about the tax was declared and paid in case of the tax was determined by self-assessment).

Other annexes: When submitting a claim all the itemized annexes are compulsory, but a taxable person who provides exclusively electronically supplied services does not have to submit the certificate of VAT registration.

**Only applications properly signed by claimant and/or by his/her authorised representative will be accepted. Declarations No. 1-2-3. have to be signed in every case by the claimant!**