

Basic Rules of VAT Exemption of Foreign Travellers 2014

Within the framework of export tax exemptions, the VAT Act,¹ in line with the provisions of the VAT Directives,² contains special rules for the exemption of the supply of goods, in relation to which a foreign traveller buys a product, which is transported from the territory of the European Community (hereinafter: Community) as part of the personal luggage of the foreign traveller. The transportation of the goods from the territory of the Community within 90 days from their supply and the certification of the exportation by the customs authority are prerequisites of the exemption.

Who is a foreign traveller?

For the purposes of the VAT Act a ‘foreign traveller’³ shall mean a natural person who

- is not a national of any Member State of the Community, and who has no right of permanent residence in any Member State of the Community, furthermore,
- a natural person who is a national of any Member State of the Community, however, his permanent address⁴ is outside the Community (i.e., in a third country).

Conditions to be met in relation to the purchase of goods

- The total value of the consideration, including VAT, must be more than 175 euro or the equivalent in national currency.⁵ The price of each product does not need to be higher than that amount, if the total price of the goods, stated on the same invoice is higher than EUR 175. In 2014 the HUF amount of the limit, expressed in EUR is calculated at the official HUF/EUR exchange rate, published by the NBH on the first working day i.e. 1 October 2013, and the amount resulting from the conversion must be rounded to HUF 1000.⁶ Consequently, in 2014 the limit in HUF is HUF 52,000.
- The foreign traveller must be able to verify his legal status by producing a valid travel document or some other form of identification in the form of a document recognized by Hungary (hereinafter referred to collectively as “travel document”).⁷

¹ Act CXXVII of 2007 on Value Added Tax

² Article 147 of Council Directive 2006/112/EC on the common system of value added tax

³ Article 259(10) of the VAT Act

⁴ With regard to the permanent address of the natural person Article 259. point 11. of the VAT Act and Articles 13-14 of the Implementing Regulation No. 282/2011/EU of the Council must also be applied.

⁵ Article 99(1) a) of the VAT Act

⁶ Article 256(2) a) of the VAT Act

⁷ Article 99(1) b) and Article 99(2) of the VAT Act

- The foreign traveller must ask for an invoice reflecting the supply of goods. The data of the identification of the foreign travellers on the invoice (and simplified invoice) and the VAT refund application form must be the same as the data contained in the travel documents of the foreign traveller.
- With a view to the implementation of exemption, the supplier of the goods fills out the VAT refund application form when so requested by the foreign traveller, of which two copies shall be handed to the foreign traveller, (the third shall be retained by the vendor).

What do you need to know about the VAT refund application form?

The VAT refund application form must contain the following information:⁸

- name, address and tax number of the vendor;
- name and address of the foreign traveller and the number of his/her travel document (completed on the basis of the data contained therein);
- number of the invoice made out on the supply of goods;
- total invoiced amount on the supply of goods, inclusive of VAT;
- a place where it can be signed and sealed in proof of exportation endorsed by the customs office of exit from the territory of the Community.

The VAT refund application form shall be printed in at least Hungarian, English, German, French and Russian languages, and shall be filled out in Hungarian, English, German or French languages.⁹ A VAT refund application form is completed by the supplier of the goods, based on the data of the invoice or simplified invoice that certifies the purchase. One VAT refund application form may contain the data of only one invoice.¹⁰

A regular form provided or a form approved by the tax authority may be used as the VAT refund application form. The 'VAT refund application form for foreign travellers', introduced by the Tax Authority (i.e. VAT refund application form) and its completion guide may be obtained in large post offices and may be ordered to be delivered to any post office, and the completion guide can be downloaded from the internet. If the vendor intends to use a VAT refund application form other than the form introduced by the Tax Authority, the form may be used, if it has been previously approved by the Tax Authority¹¹. The VAT refund application form, used regularly by the vendor and approved by the Tax Authority must be available at the vendor.

⁸ Article 99(10) of the VAT Act

⁹ Article 99(11) of the VAT Act

¹⁰ Article 99(2) of the VAT Act

¹¹ The approval of the form to be applied falls within the scope of competence of the Central Office of the National Tax and Customs Administration, Department of Matters of Specific Competence.

How long and how can products be exported from the territory of the Community?

The exemption may be applied to the supply of products or goods pursuant to Article 99 of the VAT Act only if the customer transports the goods purchased in Hungary from the territory of the country, within the subsequent 90 days, in his-her personal luggage with proof of exportation endorsed by the customs office of exit from the Community by affixing its seal and endorsement on the VAT refund application form and subject to the concurrent presentation of the original copy of the invoice (simplified invoice).¹² The customs authority may endorse the VAT refund application form only when the goods are transported to a third country. Subsequent endorsement may be applied, if at the time of the exportation of the goods verification did not take place due to any error, attributable to the Customs Authority. More than one VAT refund application forms may be endorsed in the course of one customs procedure. (The customs authority shall withhold the second copy of the VAT refund application form, sealed and endorsed, from the foreign traveller.¹³)

Other requirements of exemption

Even if other statutory conditions prevail, the supply of goods may be exempt from the tax pursuant to Article 99 of the VAT Act, only if the first copy of the VAT refund application form, certifying the exportation of the goods within the deadline, endorsed and sealed by the Customs Authority, is available at the vendor. In order to receive the tax refund, the foreign traveller (or his proxy) must return also his own invoice copy to the vendor.

How can the exemption be claimed?¹⁴

- The exemption may be applied indirectly, i.e. through the subsequent refund of the charged VAT to the foreign traveller. Foreign travellers may request the refund of the tax, paid in relation to the supply of the goods from the vendor after the exportation of the goods, by submitting the documents required for the tax refunds and supporting the lawfulness of the exemption.

The vendor reports the VAT charged to the foreign travellers in the supply of goods as payable tax in the declaration for the tax assessment period that contains also the date of the supply of goods. The vendor may deduct the tax, refunded to the foreign

¹² Article 99(1) c) and Article 98(2) a) of the VAT Act

¹³ Article 99(3) of the VAT Act

¹⁴ Article 99(4) b) of the VAT Act

traveller in his declaration prepared for the tax assessment period, during which the tax was refunded to the foreign traveller.¹⁵

- Contrary to the above, the vendor may also decide, at his own risk, to sell the goods to the foreign traveller free of VAT (i.e. not to charge tax to the foreign traveller in the invoice issued for the supply of goods). Even in such cases the foreign traveller must present to the vendor the first copy of the VAT refund application form, endorsed and sealed by the Customs Authority. If, e.g., the vendor is unable to support the lawfulness of the exemption pursuant to Article 99 of the VAT Act, and the transaction cannot be exempt of tax pursuant to the other requirements of the VAT Act either, it is advisable for the vendor to declare and pay the tax on the supply of goods in a self-revision of the tax assessment period, which includes also the date of the supply of goods. (The vendor may not apply exemption to any transaction pursuant to Article 99 of the VAT Act, if the VAT refund application form, endorsed and sealed by the Customs Authority is not available, or if the goods are exported over a period of 90 days.)

How to apply exemption applied within the framework of tax refund?

The foreign traveller may apply for VAT refund to the taxable person from whom the goods were purchased. In order to receive VAT refund, the first copy of the original VAT refund application form, endorsed by the competent Customs Authority, and the invoice issued by the vendor must be submitted to the supplier.

Refund of VAT may be requested by a person acting in the name and behalf of the foreign traveller who presents a power of attorney made out in his/her name in writing by the foreign traveller. The proxy or representative of the foreign traveller shall hand over to the vendor power of attorney made out in his/her name in writing.¹⁶

The refund shall be paid to the foreign traveller in forints, in cash. However, the currency and the terms of payment may be altered subject to mutual consent by the vendor and the foreign traveller.¹⁷

It is the vendor's responsibility to ensure, simultaneously with the tax refund, that the invoice (simplified invoice) made out on the supply of goods cannot be used for claiming any additional refund by affixing "VAT refunded" on the original copy of the invoice.¹⁸ The supplier must make a photocopy of the document, which is no longer suitable for additional VAT refund prior to the return of the invoice (simplified invoice) to the foreign traveller, and shall keep that photocopy in his records.

¹⁵ Article 99(9) of the VAT Act

¹⁶ Article 99(5) b) of the VAT Act

¹⁷ Article 99(7) of the VAT Act

¹⁸ Article 99(8) of the VAT Act

The customs and other rules applicable to passenger traffic are described in detail in Booklet No. 55.

National Tax and Customs Administration (NAV)