

INFORMATION - Hungary

Use and Enjoyment - VAT Directive 2006/112/EC - Article 59a

In Hungary, there are no use and enjoyment rules applicable with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons in accordance with Article 59a of Directive 2006/112/EC.

Time of supply / chargeability - Deferment and Cash Accounting Scheme - VAT Directive 2006/112/EC - Article 66

Hungary does not apply the provisions provided for in Article 66 of the VAT Directive with respect to supplies to non-VAT taxable persons.

Cash accounting scheme can only be applied by taxable businesses established in Hungary.

Rules for cash accounting are detailed under Sections 196/A-196/G of the Hungarian VAT Act.

Time of supply / chargeability - Continuous supplies - VAT Directive 2006/112/EC - Article 64(2)

In Hungary, for continuous supplies of services (where the respective period exceeds 12 months), the supply is to be regarded as being completed at least on the last day of the 12th month following the beginning of the supply. Reference to the above may be found in the Hungarian VAT Act Section 58 (3) b).

Re-valuation of services at open market value - VAT Directive 2006/112/EC - Article 80

In Hungary, the taxable amount of a supply of telecommunications, broadcasting and electronic services provided to a connected party is the open market value:

- where the consideration is disproportionately lower than the open market value, the supplier does not have right to deduct the full amount of input VAT and the supply is exempt from VAT under Sections 85 (1) 86 (1) and 87 of the Hungarian VAT Act (i.e. education, gambling and certain broadcasting services);

- where the consideration is disproportionately higher than the open market value and the supplier does not have right to deduct the full amount of input VAT.

- where the consideration is disproportionately lower than the open market value and the customer does not have the right to deduct the full amount of input VAT

The open market value is not applicable if the consideration is established by national legislative measures.

The parties are deemed to be connected especially if they are relatives or operate under common ownership, membership or management and also, if there is an employment relationship between them.

Reference to the above may be found in the Hungarian VAT Act Section 67. The definition for connected (non-independent) parties may be found in Section 259, point 13.

Bad Debt relief - VAT Directive 2006/112/EC - Article 90

In Hungary, bad debt relief is not available.

Application of reduced VAT rates - VAT Directive 2006/112/EC - Article 98

In Hungary, no reduced VAT rates apply with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons. However, as from 1 January 2017 the VAT rate of the supply of access to internet has been decreased from 27% (standard rate) to 18% (reduced rate).

Standard VAT Rate - VAT Directive 2006/112/EC - Article 96-97

In Hungary the standard VAT rate is 27%, based on Section 82 (1) of the Hungarian VAT Act.

Release from payment of insignificant amounts of VAT - VAT Directive 2006/112/EC - Article 212

Hungary has not implemented rules under its domestic legislation whereby taxable persons are released from the payment of the VAT where the amount due is insignificant.

Invoicing Obligations - Obligation to issue an invoice - VAT Directive 2006/112/EC - Articles 217-249

There is an obligation in Hungary to issue an invoice with respect to the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons, as a general rule.

However, if the services fall under the exemptions set out in Sections 85 (1) and 86 (1) of the Hungarian VAT Act (i.e. education, gambling and certain broadcasting services), the issuance of an accounting document is enough (instead of issuing an invoice). If the customer pays for the service in cash or cash equivalent without requesting an invoice from the supplier, the latter may issue a receipt (instead of an invoice). This rule can be applied if the consideration including VAT does not exceed HUF 900,000.

Reference to the above may be found in Sections 159(1), 165(1), 165 (3) b) and 166 (1) of the Hungarian VAT Act.

As of 1 January 2016, the VAT taxable person not established in Hungary and providing telecommunications, broadcasting and electronic services to non-VAT taxable persons in the framework of the MOSS scheme, has no obligation to issue an invoice, except where the customer asks for it. However, the taxable person has to issue a receipt in this case. It is also possible to issue an invoice instead of a receipt.

Reference to the above may be found in Sections 165/A and 166 (1) of the Hungarian VAT Act.

Invoicing Obligations - Content of an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Hungary, invoices may be issued in any spoken foreign languages. If the invoice is not issued in Hungarian, the Tax Authority may request for the official translation of the invoice in the course of a tax audit. Receipts may only be issued in Hungarian (Sections 178 (2)-(4) of the Hungarian VAT Act).

Invoices have to contain the information listed in Article 226 of the VAT directive with the following specificities:
- serial number of the invoice (Please note that this differs from the practice of other EU countries. In Hungary, the sequential numbering has to be continuous based on the taxable persons VAT identification number. This means that if a company has several VAT registrations, it should set up separate invoice numbering).

Reference to the above may be found in Section 169 of the Hungarian VAT Act.

A receipt should detail the date of issue; a sequential number; the name, address and VAT identification number of the supplier; the consideration (including VAT). Reference to the content of receipt may be found under Section 173 (1) of the Hungarian VAT Act.

Invoicing Obligations - Time limit for issuing an invoice - VAT Directive 2006/112/EC - Articles 217-249

In Hungary, invoices must be issued within 15 days following the date of the supply if the invoice contains VAT charged or the supply is made via a vending machine. If the customer pays in cash or cash equivalent, the invoice must be issued immediately. In case of summary invoices, the deadline for issuing the invoice shall be calculated from the end of the calendar month or from the last day of the tax period pertaining to the supplier.

Reference to the above may be found in Section 163 (2) and 164 (4) of the Hungarian VAT Act.

Invoicing Obligations - Summary Invoices - VAT Directive 2006/112/EC - Articles 217-249

In Hungary, summary invoices are allowed to be issued for the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons. Summary invoices may include supplies for which VAT is to become chargeable during a period longer than one calendar month but no longer than the tax period of the supplier.

Reference to the above may be found in Section 164 (2) of the Hungarian VAT Act.

Invoicing Obligations - Electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

Electronic invoicing with respect of the supply of telecommunications, broadcasting and electronic services provided to non-VAT taxable persons is possible.

According to the definition of the Hungarian VAT Act, invoices sent by the supplier and received by the customer electronically shall qualify as e-invoices provided that the major principles (authenticity of origin, legibility, integrity of the content) are ensured and the other general invoicing requirements set by the Hungarian VAT Act are fully met.

Currently, e-invoices can be issued in the following ways:

- (1) in the EDI system ("EDI invoices");
- (2) with qualified electronic signature ("PKI invoices"); or
- (3) alternatively, following 1 January 2013 taxpayers can choose to apply other e-invoicing schemes that meets the requirements set by the legislation.

Please note that suppliers are entitled to issue e-invoices only if their customers gave their consent to use e-invoicing where the consent can be implied without being stated. However, as for EDI invoices, the parties are obliged to conclude a written agreement in advance. Receipts can be issued electronically as well, however e-receipt is not subject to acceptance of the recipient.

There are several guidelines in the Hungarian law that must be followed by the parties upon the issuance and acceptance of e-invoices. (Section 175 (5) of the VAT Act)

Reference to the above may be found in Section 175 (1)-(3) of the Hungarian VAT Act.

Definition of e-invoices is regulated by Section 259 point 5 in the Hungarian VAT Act.

Invoicing Obligations - Batch of electronic invoices - VAT Directive 2006/112/EC - Articles 217-249

It is possible to issue batches of electronic invoices in Hungary with respect to telecommunications, broadcasting and electronic services provided to non-VAT taxable persons, provided that the information relevant to all these invoices can be made accessible.

Reference to the above may be found in Section 175 (6) of the Hungarian VAT Act.

Additional obligations deemed necessary for collecting VAT and preventing evasion (anti-avoidance measures) - VAT Directive 2006/112/EC - Article 273

Hungary has not implemented any rules or anti-avoidance measures that may directly impact telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

Stand-still scheme - Derogations for States which were members of the Community on 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

N/A

Stand-still scheme - Derogations for States which acceded to the Community after 1 January 1978 - VAT Directive 2006/112/EC - Articles 370-391

There are no provisions which are applicable under a Stand-still Scheme in the Hungarian VAT legislation or subject to common practice in Hungary that may be relevant for telecommunications, broadcasting and electronic services provided to non-VAT taxable persons.

VAT Treatment of vouchers

In Hungary, prepaid telephone cards are to be taxed upon sale.

Reference to the above may be found in Section 56 of the Hungarian VAT Act.

On the other hand, prepaid credit for mobile phones (mobile payment services) are taxed only at the time the credit is used.

Reference to the above may be found in Section 9 (2) b) and Section 13 (3) of the Hungarian VAT Act.

There is no definition of vouchers in the Hungarian VAT Act. Each transaction has to be assessed for VAT purposes on a case by case basis.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (E-learning activities)

In Hungary, education provided by certain public institutes (e.g. college and university) or foreign cultural institutions operating in Hungary are VAT exempt, with no right to input VAT deduction.

The exemption is to be applied with regard to adult education related courses listed in the National Qualifications Register and for training courses provided by institutions accredited in accordance with the Hungarian Act on Adult Education, for certain language proficiency examinations and for scholastic/educational competition.

Reference to the above may be found in Section 85 of the Hungarian VAT Act.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (Gambling activities)

Gambling activities provided either online or in lottery stores (including bets) are exempt from VAT with no right to input VAT deduction.

Reference to the above may be found in Section 86 of the Hungarian VAT Act.

In order to provide online gambling services covered by the Act on Gambling activities – as it is a non-liberalised activity, a provider must have a concessions right and have an authorisation from the National Tax and Customs Administration (NTCA).

According to the above cited rules, if an online gambling operator established in Hungary or abroad provides online gambling services covered by Section 2 paragraph (2a) of the Act on Gambling activities to customers established in Hungary without authorisation of the NTCA, this activity shall be regarded as illegal even if the operator holds a valid online gambling operation licence issued by another State.

Exemptions - VAT Directive 2006/112/EC - Articles 132 & 135 (General)

An exemption is applicable to broadcasting/radio and audiovisual media services (other than those of a commercial nature) provided by public bodies.

Reference to the above may be found in Section 85 of the Hungarian VAT Act.

VAT Registration Process

Taxable persons registered in Hungary shall register via the Government portal using "Client Gate" ("Ügyfélkapu" in Hungarian) by choosing option "Union scheme". Those taxable persons not established in the EU should follow option "non-Union scheme". Upon registration ("Képviseleti fiók nyitása") an activation link is sent to the e-mail address provided by the applicant through which access to the MOSS portal shall be activated. Following successful activation, the portal can be accessed by the e-mail address and password allocated to the taxable person. The following information is to be provided to the Hungarian Tax Authority upon MOSS registration:

I. Taxable persons not established in the EU (non-Union scheme):

- a) Company's name, trading name of the company if different from the company name, full postal address, email address and website of the taxable person, name and phone number of the contact person, BIC number
- b) National tax number, if any
- c) Country in which the taxable person has his place of business
- d) IBAN or OBAN number
- e) Electronic declaration that the taxable person is not registered for VAT within the Union
- f) Date of commencement of using the scheme

II. Taxable person established in Hungary (Union scheme)

- a) Company's name, trading name of the company if different from the company name, full postal address, email address and website of the taxable person, name and phone number of the contact person, BIC number
- b) Tax identification number in Hungary
- c) Full postal address of fixed establishment(s) situated in other Member States of the European Community
- d) VAT identification number issued to the taxable person by any Member State of the European Community where the taxable person is not established
- e) VAT identification number issued by any Member State of the European Community where the taxable person's fixed establishment is located, or tax reference number in the absence thereof
- f) Country where the taxable person is established, if established outside the territory of the European Community.
- g) Date of commencement of using the scheme
- h) IBAN number

Reference to the information to be provided can be found in Schedule Nr. 10 to the Hungarian Act XCII of 2003 on the Rules of Taxation (ART.).

Access to web-portal and contact details of the local VAT Authorities

Access to the mini one stop shop is available via the official website of the Hungarian Tax Authority:

<https://moss.nav.gov.hu>

General Contact:

ki.moss_help@nav.gov.hu (general helpline with respect to the MOSS system)

e-mail: ffaf@ngm.gov.hu (Ministry for National Economy, Department for Indirect Taxes)

Contact VAT obligations and reimbursements:

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Appointment of a VAT Agent

There is a possibility to appoint a tax representative for those taxable persons not established in Hungary.

Reference to the above may be found under Section 7(1), 7(2), 7(3), 8, 9(1) of the ART.

Penalties for non-compliance (Failure to register and late registration)

For non-registration and late registration a default penalty up to HUF 500,000 applies.

Reference to the above may be found in Section 172 (1) a) and c) of the ART.

Penalties for non-compliance (Non-payment and late payment of VAT)

For late payment of VAT:

- The tax authorities may charge a tax penalty of 50% of the tax due. The amount of penalty may be reduced or cancelled ex officio or upon request under special and equitable circumstances if it is clear from the circumstances that the taxpayer or his representative, employee, member or agent has acted with due care in the given circumstances. All circumstances of a case shall be taken into consideration when reducing a tax penalty. A default interest of 1/365 of twice the base rate of the Hungarian National Bank per day should be paid from the original due date and to a maximum of 3 years. Under special and equitable circumstances, the tax authority may postpone the due date for tax payment or the date of eligibility, ex officio or upon request.

For non-payment of VAT:

- The tax authorities will levy a tax penalty up to 50% and will request the taxpayer to pay default interests.

Reference to the above may be found in Sections 165 (1), (2), 170 (1), 170 (2) and 171 (3) of the ART.

Penalties for non-compliance (Non-submission and late submission of VAT returns)

In cases of non-submission and/or late submission of VAT returns, a default penalty up to HUF 500,000 per tax return may be levied.

In cases where several tax returns are involved, the practice of tax authorities is that they charge a maximum default penalty of HUF 500,000 only once, however in theory it is possible to charge the default penalty of HUF 500,000 per VAT return.

Reference to the above may be found in Section 172 (1) b) and c) of the ART.

Penalties for non-compliance (Incomplete and incorrect VAT returns)

For incomplete or incorrect VAT returns the default penalty can be up to HUF 100,000. If a VAT return is filed late and it is also incorrect, the taxable person may be sanctioned only for the late filing.

Reference to the above may be found in Section 172 (10) of the ART.

Penalties for non-compliance (Non-compliance with invoicing and accounting obligations)

For incorrect VAT invoices (e.g. sequence numbering rule or formal requirements are not met) the Tax Authority is entitled to levy a default penalty up to HUF 500,000. For failing to meet the obligation to issue an invoice or a receipt, or issuance of an invoice or a receipt for an amount other than the actual consideration received, the Tax Authority is entitled to levy a default penalty up to HUF 1,000,000.

Reference to the above may be found in Section 172 (1) e) and 172 (2) of the ART.