Most important rules of the VAT liability of VAT subjects in the general tax regime for their Intra-Community acquisitions and supplies of goods and services

2017

Persons governed by this booklet

The taxable persons liable for the payment of VAT according to general rules (irrespective of their form of organisation), who

- are persons carrying out activities other than exempt activities in respect of which VAT is not deductible;
- have not opted for individual exemption;
- are not exclusively agricultural producers under a special status (not eligible for flat rate compensation);

and supply of goods and services and/or acquire goods and services within the territory of the European Community (hereinafter: Community). (The rules pertaining to the intra-Community commercial relations of the group of special taxable persons referred to above as exceptions¹, and taxable persons liable for the payment of simplified entrepreneurial tax and non-taxable legal persons in possession of a Community tax number are described in Booklet No. 17.)

Community Tax Number

The application for a Community tax number is not up to the choice or intention of the taxable person. If a taxable person intends to establish a commercial relationship with a taxable person registered in another Member State of the Community, it is obligatory to apply for a Community tax number.

Commercial relations requiring a Community tax number mean the purchase and sale of goods - including the importation of goods underlying the exemption in connection with the intra-Community supply of exempted goods in accordance with the Act CXXVII of 2007 on Value Added Tax - and services supplied or received².

The persons liable for payment of value added tax shall notify the commencement of their taxable activity, and simultaneously file a statement of being engaged in activities described above, requiring a community tax number³.

Already active taxable persons liable for the payment of VAT but not having a Community tax number must also notify the competent tax authority and apply for a Community tax number, if they intend to establish commercial relations referred to above with a taxable person registered in another Member State of the Community. Based on the notification of the taxable person, submitted on a form No. 17T201, 17T201C, 17T201T or 17T101, (depending on the taxable person’s specificities) the competent tax authority assigns a Community tax number to the taxable person. Upon the taxable person’s request the tax authority cancels the taxable person’s Community tax number even during the tax year (as of the date of the

¹ Taxpayers falling within the scope of the Act XLIII pf 2002 on the Simplified Entrepreneurial Tax
² Section 178 point 34 of Act XCII of 2003 on the Rules of Taxation (hereinafter: Taxation Act)
³ Section 22 (1) of the Taxaton Act
notification) when the taxable person indicates having terminated a commercial relationship with a taxable person registered in another Member State of the Community. (For more details on the Community tax number, read our Booklet No. 27.)

Intra-Community Acquisition of Goods

Intra-Community acquisition of goods is taxable in the domestic territory where the goods are acquired for consideration from a taxable person of another Member State by the taxable person who is in possession of a Community tax number [including all taxable persons who must have a Community tax number pursuant to Section 22(1) of the Taxation Act] and the goods are dispatched or transported from the other Member State into the domestic territory by the person acquiring the goods, or by a third party on behalf of the vendor or the person acquiring the goods. [If the vendor opted for individual exemption in his own Member State, or if the supply falls within the scope of the particular rules pertaining to distance sales (Section 29 of the VAT Act), or supply of goods for assembly and installation (Section 32 of the VAT Act), the customer will not have any tax liability under the title of intra-Community acquisition.] Higher purchases and purchases made within the framework of a closed-end leasing instrument must also be recorded as intra-Community acquisition.

The rules of tax liability pertaining to intra-Community acquisition cannot be applied in the following cases:

- the intra-Community acquisition of goods which, if supplied in the domestic territory, would be exempt from the tax pursuant to Articles 103 and 104 (tax exemption in relation to international transport) and Article 107 (tax exemption of transactions deemed the same as extra-Community supply of goods);
- intra-Community acquisition of used tangible assets [Article 213(1) a) works of art [Article 213(1) b)] pieces of collections [Article 213(1) c)] or antique works [Article 213(1) d)] providing that in the Member State of the Community where the goods are located when they are dispatched as a consignment or their transport begins, the vendor proceeds as a re-seller [in compliance with Articles 312-325 of the 2006/112/EC Council Directive on the common value added system (hereinafter: VAT Directive)] or as an organiser of a public auction [Articles 333-341 of the VAT Directive] and duly certifies that status.

The place of supply of an intra-Community acquisition of goods shall be deemed to be the place (VAT is payable according to the rules of that Member State) where dispatch or transport of the consignment of goods to the person acquiring them ends. The taxation mechanism pertaining to intra-Community acquisition functions in a way that the customer must include the payable tax in his VAT declaration by applying the domestic VAT rate (5%, 18%, 27% respectively) applicable to the acquired goods. As there is no customs clearance in the case of intra-Community acquisitions, the taxable person must also perform the classification according to customs tariffs, if required for establishing the correct tax rate. In connection with the intra-Community acquisition of goods VAT becomes chargeable on the date of issue of the invoice issued in proof of completion of the transaction, or the document verifiably documenting the business event or at the latest on the 15th day of the month following the date of the chargeable event. The rules pertaining to the place of supply of transactions performed in the domestic territory are applicable also in relation to the

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4 Section 19 a) and Section 21(1) of the VAT Act
5 Section 50 of the VAT Act
6 Section 62-63 of the VAT Act
establishment of the place of acquisition of the goods. The tax base must also be established similarly to the deals performed in the domestic territory; 27% VAT is chargeable on the tax base if the product does not fall within the scope of a different tax rate under the VAT Act or if it is not tax exempt, or if the deal is not deemed a tax exempt intra-Community acquisition of products.

If, for example, a taxable person acquires goods within the Community on 6 September, he will have a tax liability under the title of intra-Community purchase not later than on 15 October, which must be included in the VAT declaration for October, to be submitted by 20 November by taxable persons preparing monthly declarations and for the fourth quarter, to be submitted by 20 January, by the taxable persons preparing quarterly declarations. If, however, the invoice for the supply of the goods was issued in September and it was available at the time when the tax declaration had to be submitted, then it must be included for the VAT declaration for September, to be submitted by 20 October by taxable persons filing monthly declarations and in the VAT declaration for the third quarter, to be submitted by 20 October by taxable persons filing quarterly declarations.

Pursuant to the provisions of the VAT Act, no tax is payable when any payment is made on account in relation to an intra-Community acquisition of goods, and therefore if any payment is made on account in regard to an intra-Community acquisition of goods, the tax does not need to be assessed or paid in relation to handover/transfer of the payment on account, and the tax liability emerges for the total amount of consideration, including also the payment on account, when the document is issued for the particular purchase, but not later than on the 15th day of the month following the month in which the supply was made.

The same rows must also be applied to the intra-Community acquisition of a new means of transport. (For more information pertaining to the VAT on the intra-Community supply of new means of transport read our Booklet No. 16.)

The concept of intra-Community acquisition of goods falling within the scope of Act CXXVII of 2003 on Excise Taxes and Special Regulations on Distribution of Excise Goods (hereinafter: Excise Act) shall be applied if the excise tax becomes chargeable in the domestic territory.

The exchange rate applicable shall constitute the latest forint price of a specific unit of the given foreign currency, in effect at the time of the chargeable event, listed by a credit institution authorised in the domestic territory to engage in money exchange operations as the selling rate, or officially quoted by the Central Bank of Hungary (hereinafter referred to as “CBH”), provided that the person requiring the translation into forint so decided, and provided the state tax authority with an advance notice accordingly, i.e., the exchange rate prevailing on the 15th day of the month following the chargeable event is applicable, unless the exchange rate that is in effect at the time the invoice is issued needs to be applied (When the tax liability arises in connection with the issue of the invoice.) From 1 January 2013 taxable persons may also apply the exchange rate officially quoted by the European Central Bank (ECB) for their foreign exchange deals. Similarly to the application

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7 Section 19 b) of the VAT Act
8 Section 19 c) of the VAT Act
9 Section 80(2) of the VAT Act
10 Section 80(1) of the VAT Act
11 Section 80(5) of the VAT Act
of the CBH exchange rate, the state tax authority must be notified in advance of the application of the ECB exchange rates\textsuperscript{12}.

**Exemption of Intra-Community Acquisitions of Goods**

Some acquisitions are intra-Community acquisition of goods, but they are exempt from the tax\textsuperscript{13}:

The following intra-Community acquisitions are tax exempt:

- the acquisition of goods, the sale of which is otherwise exempt of the tax (as supply of goods within the domestic territory);
- acquisition of goods where the customer would be eligible for the refund of the VAT pertaining to the intra-Community acquisition of the goods pursuant to the provisions of Chapter XVIII. of the VAT Act;
- acquisition of goods that would be exempt of the tax pursuant to the VAT Act, if they were imported (acquired from a third country).

E.g., goods returned in the same condition to the taxable person supplying goods within the Community exempt of the tax (returned goods) constitutes an exempt intra-Community acquisition under the latter title.

**Exempt Intra-Community Supply of Goods**

Exemption is granted to the intra-Community supply of goods, dispatched as a consignment or transported to a destination outside Hungary but within the Community for another taxable person, or for a non-taxable legal person in possession of a Community tax number (i.e., liable for the payment of tax in their own country under the title of intra-Community acquisition), as a result of which the goods are verifiable transported or dispatched in a consignment into another Member State\textsuperscript{14}.

This tax exemption is not the same concept as the exemption without the right of deduction, because under this exemption the tax included in any acquisitions made within the domestic territory in relation to the transaction is deductible provided that the other conditions of deduction prevail.

Condition of tax exemption:

- the customer must be a taxable person in possession of a Community tax number in another Member State,
- the goods must be verifiably transported to another Member State as a result of the supply. The transportation or carrying of the goods into another Member State may be credibly verified with the transportation documents or in some other credible manner.

The customer’s Community tax number must also be indicated in the invoice\textsuperscript{15}. If the customer does not have a Community tax number in the other Member State, or if the customer has a Community tax number but the goods do not leave the domestic territory, then the vendor must apply the respective VAT rate, prevailing in the domestic territory (5%, 18%, 27%).

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\textsuperscript{12} Section 80/A (3) o the VAT Act
\textsuperscript{13} Section 91 of the VAT Act
\textsuperscript{14} Section 89 (1) of the VAT Act
\textsuperscript{15} Section (169) d) of VAT Act
Exemption shall be granted to the supply of new means of transport within the Community, irrespective of whether it is for taxable persons or non-taxable legal persons in possession of a Community tax number in the other Member State or for any other non-taxable person or organisation not in possession of a Community tax number\textsuperscript{16}. (For more information on the Intra-Community Supply of New Means of Transport read our Booklet No. 16.)

In connection with the intra-Community supply of goods VAT becomes chargeable (which, as they are transactions exempt from VAT, means that the supply must be included in the VAT declaration and in the recapitulative statement) on the date of issue of the invoice or simplified invoice issued in proof of completion of the transaction, or the document verifiably documenting the business event or at the latest on the 15\textsuperscript{th} day of the month following the date of the chargeable event\textsuperscript{17}. Consequently, in the case of intra-Community supply of goods the VAT does not become chargeable at the time when the chargeable event occurs.

Nonetheless, the date of supply of such transactions also needs to be known, because the date of supply has to be indicated on any invoice issued for an intra-Community tax exempt supply of goods in the same way as it needs to be indicated in the invoices prepared for other transactions (except when the date of supply and the date of the issue of the invoice are the same, because in the latter case it is enough to indicate only the date of issue in the invoice) and, in relation to an intra-Community exempt supply of goods the date of supply may be required also for establishing the tax liability, because it arises either on the date of issue of the invoice, or not later than on the 15\textsuperscript{th} day of the month following the date of supply.

As a main rule, the normal rules are to be applied for the establishment of the date of settlement for intra-Community tax exempt sales; that is, the date of settlement is the date of the actual execution of the settlement in the case of one-time full settlements\textsuperscript{18}. In case of periodically accounted transactions, and as a main rule, the date of settlement is the last day of the period to which statements of account or payments relate\textsuperscript{19}. If the period to which the instalment or deferment pertains is longer than one calendar month, the last day of the calendar year shall also be recognized as a chargeable event on a time basis\textsuperscript{20}. (It needs to be noted though that this rule applies equally to the intra-Community acquisition of goods\textsuperscript{21}.)

When a taxable person supplies goods within the Community on 6 September, and has not yet issued an invoice, the tax liability emerges not later than 15 October, i.e. it needs to be included, as intra-Community supply, in the monthly VAT declaration for October, to be submitted by 20 November, by taxable persons filing monthly declarations and in the VAT declaration for the fourth quarter, to be submitted by 20 January, by the taxable persons preparing quarterly declarations. If however, the invoice was issued in September, then the transaction must be included in the monthly VAT declaration prepared for September or in the VAT declaration prepared for the third quarter by taxable persons preparing quarterly declarations. The exchange rate applicable shall constitute the latest forint price of a specific unit of the given foreign currency, in effect at the time of the chargeable event, listed by a credit institution authorised in the domestic territory to engage in money exchange operations as the selling rate, or officially quoted by the CBH, provided that the person requiring the translation into forint so decided, and provided the state tax authority with an advance notice.

\textsuperscript{16} Section 89 (2) of the VAT Act
\textsuperscript{17} Section 60 (4) of the VAT Act
\textsuperscript{18} Paragraph (1) of Section 55 of the VAT Act
\textsuperscript{19} Section 58 of the VAT Act
\textsuperscript{20} Paragraph (2) of Section 58 of the VAT Act
\textsuperscript{21} Section 62 of the VAT Act
accordingly\textsuperscript{22}, i.e., the exchange rate prevailing on the 15th day of the month following the chargeable event is applicable, unless the exchange rate that is in effect at the time the invoice is issued needs to be applied\textsuperscript{23}. (When the tax liability arises in connection with the issue of the invoice.) From 1 January 2013 taxable persons may also apply the exchange rate officially quoted by the European Central Bank (ECB) for their foreign exchange deals\textsuperscript{24}. Similarly to the application of the CBH exchange rate, the state tax authority must be notified in advance of the application of the ECB exchange rates\textsuperscript{25}.

Pursuant to the provisions of the VAT Act\textsuperscript{26}, in connection with the supply of goods and/or services, if any payment is made before the fact, VAT has not been chargeable on receipt of the payment on account since 1 January 2013. So if the vendor receives any payment on account in connection to any intra-Community supply of goods, no invoice needs to be issued for the payment on account\textsuperscript{27} at the time when it is received, and its amount does not need to be included in the declaration or in the recapitulative statement. Instead VAT becomes chargeable when the document is issued in relation to the supply of goods for the total consideration, including also the payment on account, but not later than on the 15th day of the month following the date of supply (which, as they are transactions exempt from VAT, means that the supply must be included in the VAT declaration and in the recapitulative statement).

As of 1 January the facts of the case defined by the VAT Act on Intra-Community tax exempt supplies of goods were extended to include another provision\textsuperscript{28}. In accordance with this provision, if the tax subject performs Intra-Community tax exempt sales from a VAT warehouse exclusively as their only domestic economic activity, they are not required to be registered as domestic tax subjects. A condition of this is that their tax obligations related to the Intra-Community tax exempt status must be performed by the operator of the warehouse on the basis of the tax subject’s written authorization. In order for the authorization to be valid it is required that the tax subject be a person domestically unregistered and have no obligation to be registered either, and the operator of the tax warehouse must be a tax subject with a Community tax number. The authorization must be submitted to the customs authority which supervises the tax warehouse when the unloading of the goods from the tax warehouse is initiated together with the document on unloading. When the operator is meeting their tax obligations which they had accepted as a result of the written authorization, they are obliged to issue the invoice certifying the completion of the transaction in their position as the person authorized by the tax subject. They are also obliged to keep a register of these tax obligations separately for each tax subject and with each authorization. The data related to this transaction must be separately (separately from their own data) indicated in their tax returns and recapitulative statements.

**Chain Transactions**

Where the supply of goods also requires transportation, under the general rule it is taxable where it is fulfilled, i.e., in the country where the goods are dispatched as a consignment or where transportation begins. However, more complex rules must be applied for establishing the place of supply, if the product is sold on more than one occasion between the starting point of the transport (dispatch) and the arrival at the destination.

\textsuperscript{22} Section 80 (2) of the VAT Act
\textsuperscript{23} Section 80 (1) of the VAT Act
\textsuperscript{24} Section 80 (5) of the VAT Act
\textsuperscript{25} Section 80/A (3) of the VAT Act
\textsuperscript{26} Section 59 (4) of the VAT Act
\textsuperscript{27} Section 159 (4) of the VAT Act
\textsuperscript{28} Section 89/A of the VAT Act
These transactions are known as chain transactions. Consequently, a chain transaction is an instrument, aimed at the supply of products, when the product is sold on more than one occasion and is transported directly in a chain from the first vendor to the last customer. When judging such a transaction, the following must be kept in mind. The place of supply must be established for each transaction, i.e. when “A” supplies to “B”, “B” supplies to “C”, “C” supplies to “D” and the product is transported directly from country “A” to country “D”, the place of supply between “A” and “B”, between “B” and “C” and between “C” and “D” must be examined separately.

It is an important principle that, only one supply can be established during the chain pursuant to the rule outlined above (when the starting point of transportation is a factor that determines the place of supply), because the goods are transported only once, despite the multiple supplies, and that should be the supply, which is associated with the transportation. The transportation relates to the supply, in which the person transporting the goods in his own name, or the customer ordering such transportation is involved, i.e. the place of supply must be established according to the starting point of the transportation. The VAT Act states that where goods are dispatched as a consignment or transported by, or on the order of, the supplier, or by, or on the order of, the customer, the place of supply shall be deemed to be the place where the goods are located at the time when dispatch or transport of the consignment of goods addressed to the name of the customer begins. There may be cases when an interim person, involved in the chain transaction, transports or orders the transportation of the goods and that person is involved in two supplies at the same time. In that case it needs to be decided whether the interim taxable person performs or orders the transportation as the customer or as the vendor. If he transports or orders the transportation of the goods as the customer, then the transportation relates to the supply of goods to him (invoiced to him) and therefore that supply is taxable at the starting point of the transportation, while if he is involved in the transaction as the vendor, then the supply made by him will be taxed at that place. There is a legal presumption that then the interim customer (“B”) transports the goods or orders the transportation, then he proceeds the customer, i.e. the supply made to, or used by him, relates to the transportation (taxed at the starting point of the transportation). Consequently, as the general rule, in such cases the transportation or dispatch as a consignment is made in relation to the acquisition of such an interim member. In this case, the interim member is not deemed as the person ordering the transportation or the dispatch of the consignment as the customer if he can prove that the goods are dispatched as a consignment or transported as a vendor or if he can prove ordering the same from a third party as the vendor. According to that provision, that legal presumption may be refuted only by the taxable person himself. Such evidence could include the contents of the agreement between the parties, or a declaration made by the taxable person to the vendor in that respect and the use of a tax number, effective within the domestic territory, during the transaction. The place of supply of the other parties involved in the chain must be established as to whether the supply is made prior or after the transportation. The place of supply is determined by the starting point of the transportation in the first case and by the place of destination in the second case.

The example below contains four parties and three supply transactions, for which the places of supply need to be established.

29 Sections 26-27 of the VAT Act
30 Section 26 of the VAT Act
31 Section 27 (2) of the VAT Act
32 Section 27 (3) of the VAT Act
If the goods are transported or dispatched as a consignment by “A” to “D”, then the place of the supply of goods between “A” and “B” is determined according to the starting point of the transportation, while the place of all other subsequent supply of goods (B-C, C-D) will be the place where the transportation ends. If the goods are transported or dispatched as a consignment by customer “D” from the establishment (factory, etc.) of “A”, then the place of supply of goods between “C” and “D” is determined according to the starting point of the transportation, and the places of all prior supplies will be determined as the place where the product is located at the time when transportation begins.

If the goods are transported or dispatched as a consignment by “C” from “A” directly to “D”: according to the general rule “C” transports the goods as the customer, and therefore the place of supply of goods between “B” and “C” must be established according to the place of dispatch, and the place of any prior supply of goods (A-B) will be the place where the product is located at the time when the transportation begins, while the place of any supply, subsequent to that supply of goods (C-D) will be the place, where the transportation ends. If “C” confirms that during the transportation he acted as the supplier (vendor) and not as the buyer (customer), then the place of dispatch must be used in the supply between “C” and “D”, and the place of any prior supply will also be the place where the goods are located at the start of the transportation. If the goods are transported from the domestic territory, it must also be taken into account that the exempt intra-Community supply of goods can be applied only to the taxable person performing the last supply from the place of dispatch in the domestic territory in the chain transaction and, if the supply is made outside the Community, it must be the condition of the tax-exempt export.

**Triangle Transaction**

Special rules pertain to any supply which involves three taxable persons in possession of Community tax numbers, registered in different Member States (or non-taxable legal person in possession of a Community tax number). In a triangle transaction the taxable person of the Member State (“C”) (buyer) is supplied goods by a taxable person registered in another Member State (“B”) as an interim customer by purchasing the product from a third country of the Community (“A”). However, the product is not transported to the Member State of the interim customer because it is transported directly from Member State “A” to Member State “C”. Consequently, in a triangle transaction, the change of ownership does not reflect the actual movement of goods. While the taxable person of Member State “C” acquires goods from an interim customer “B” and a taxable person of Member State “A” supplies goods to interim customer “B”, the interim customer has a dual role in that transaction. It purchases goods from a taxable person of Member State “A” and it also supplies goods to a taxable person of Member State “C”.

Under the special VAT rule pertaining to a triangle transaction the taxable person of Member State “B” (interim customer) does not need to register as a taxable person either in Member State “A” or “C”, despite the fact that it supplies goods in Member State “C”, and “C” fulfills the tax liability for “B” in its own Member State. The condition of the exemption of “B” from taxation is that the transaction should be included in the recapitulative statement in Member State “B” indicating the role of “B” as interim customer and that the invoice should be issued according to the rules pertaining to invoicing, in which a reference is made to the fact that the tax liability for the transaction is fulfilled by taxable person “C”.

**Transfer of goods**

33 Section 91 (2) of the VAT Act
Cases when a taxable person transports or dispatches as a consignment goods forming part of his business assets or goods acquired for the activities that result in the liability for the payment of tax (including also goods received for commission) from the domestic territory to another Member State of the Community also constitute supply of goods and therefore fall within the scope of the VAT Act\textsuperscript{34}.

However, the transfer of goods itself is a transaction falling within the scope of the VAT Act, if no other supply of goods or service takes place in relation to it.

The following transactions do not qualify as supply of the goods and therefore the transfer of assets do not result in any VAT liability if the goods are transported for any of the following purposes\textsuperscript{35}:

- the product will be used for assembly or installation in another Member State of the Community;
- the goods are exported for the purposes of distance sales (distance sales are described in a separate chapter);
- if the goods are supplied on railway, water or air transport means, and performed in the course of any intra-Community transport of passengers;
- supply of the goods outside the Community territory;
- supply of goods related to international transport;
- in transactions qualifying the same as extra-Community supply of goods;
- the goods are transported for the purposes of exempt intra-Community supply of goods;
- the goods are transported, through personal transportation without any stopover outside the Community, by rail, water or air, where the point of department and the point of arrival of the passenger transport operation are located inside the Community;
- the goods are transferred to another Member State in order to be processed or worked on, or to be evaluated by an expert and they will be returned to the taxable person using the service in the Member State of the dispatch after the work has been completed;
- the owner uses the goods, based on which he is liable for the payment of tax, in another Member State temporarily, in order to supply a service;
- the goods are used temporarily, for a period of no more than 24 months in another Member State, where they would be fully exempt of tax under the title of temporary admission, were they imported from a third country;
- the goods are forwarded into a customer’s stock kept in another Member State;
- the sale of gas or electricity to a taxable trader through a gas pipeline. (A taxable trader is a taxable person whose consumption of those products for their own purposes is negligible.)

If any of the conditions listed above no longer prevails, the transportation and carrying of own goods between Member States must be deemed supply of goods on the date when the condition no longer prevails.

The taxable amount shall be the purchase price of the goods or of similar goods determined at the time the transfer takes place or, in the absence of a purchase price, the cost price, determined at the time when the chargeable event occurs \textsuperscript{36}, which must be adjusted by the

\textsuperscript{34} Section 12 (1) of the VAT Act
\textsuperscript{35} Section 12 (2) of the VAT Act
\textsuperscript{36} Section 68 of the VAT Act
factors defined in Sections 65-71 of the VAT Act, i.e. it must be increased, e.g. by the costs, associated with the supply (transport costs). The tax must be established according to the domestic tax rate prevailing to the goods (5%, 18%, 27%), if the taxable person does not register for tax purposes in the target country, where the products are transferred to.

If a resident transferor of goods fulfils his notification obligation in the target country (in the Member State to which the goods are transferred) in view of the transfer of goods as intra-Community acquisition, i.e. is a taxable person in that Member State in possession of a Community tax number, then he will pay tax for the transfer of assets in that Member State under the title of intra-Community acquisition\(^{37}\). In such cases the taxable person has an exempt intra-Community supply of goods in the domestic territory. The invoice issued for the transaction must contain his own Community tax number in the target country as the customer’s Community tax number. [When goods are transferred to Hungary, the other leg of the transfer of goods, falling within the scope of the VAT Act takes place in the domestic territory, and therefore it constitutes an intra-Community acquisition in the domestic territory. Consequently, it is an intra-Community acquisition when the taxable person transports or dispatches in a consignment goods owned by him, and used in another Member State in relation to activities taxable there, into the domestic territory for the purposes of economic activities.]

**Distance Sales**

The exempt intra-Community supply of goods described above (with the exception of the supply of new means of transport and certain excise products) takes place only if the supply is made to a taxable person or a non-taxable legal person who is in possession of a Community tax number. The situation is different, if the taxable person, acting in his own name or a third party acting on behalf of the taxable person supplies goods to a non-taxable person in another Member State of the Community, or to a person engaged only in activities with no right of deduction (including also taxable persons who have been granted individual exemption) or to agricultural producers operating under a special status or to a non-taxable legal person who/which does not have a Community tax number\(^ {38}\). (Booklet No. 27 contains detailed information on the cases when the taxable persons of the four latter categories are in possession of a Community tax number.) This type of the supply of goods is distance sales.

The person supplying the goods is liable for the payment of tax of the supply of goods to the group referred to above. The person supplying the goods can fulfil the tax liability in his own Member State, if the aggregate consideration, exclusive of the tax, for the supply of goods to that group does not exceed the limit defined by the Member State to which the goods are supplied for such cases either in the respective year or in the preceding year. The limits defined by each Member State are stated in the annex.

In such cases the taxable person in the domestic territory applies the respective domestic tax rates (5%, 18%, and 27%) for the goods (no exemption), i.e. reports the data in the respective domestic sales row of the 1765 VAT declaration. Considering that for the purposes of the VAT Act, such a transaction is not an intra-Community supply of goods, no data need to be indicated about the transaction in the recapitulative statement. Each supply must be documented with an invoice, in which the domestic tax rates must be indicated (5%, 18%, 27%).

\(^{37}\) Section 22 (1) of the VAT Act

\(^{38}\) Section 30 (1) of the VAT Act
If the aggregate consideration for the supply of goods of the taxable persons registered in the domestic territory to the specific group exceeds the limit defined by the target country (the Member State to which the goods are supplied) for such cases, the taxable person supplying the goods is obliged to register as a taxable person in the Member State to which the goods are supplied (target country)\(^{39}\). (The taxable person can also choose to pay the tax on those transactions in the other Member State even if the transactions do not exceed the limit specified in the other Member State for such purposes.) However, regardless whether the taxable person registered for VAT in the domestic territory pays tax in the other Member State either based on a choice, or due to the excess of the limit, this fact must be reported to the (Hungarian) State Tax Authority (as well) within 15 days from the decision or from the date on which the limit was exceeded. That choice must be maintained for two calendar years after the decision. In such cases no data of the supply of goods are indicated in the substantive part of the domestic VAT declaration (1765) and information is provided only in the details. (In such cases the transaction does not fall within the territorial scope of the Hungarian VAT Act, the VAT declaration must be submitted and the VAT must be paid in relation to it in the target country, and the invoice issued for the supply of goods must also indicate the value added tax, prevailing in the target country.)

When a taxable person, registered for VAT in another Member State of the European Community supplies goods to a person or organisation operating in the domestic territory without a Community tax number, then the tax on such supply of goods must be paid in the domestic territory, if the aggregate consideration for such supplies of goods, exclusive of the tax, exceeds EUR 35,000 in the respective year or in the preceding year\(^ {40}\).

The amount must be converted at the CBH exchange rate, prevailing on the date of Hungary’s accession to the EU. Calculated at the exchange rate, effective at the time of accession, EUR 35,000 equals to HUF 8,826,650\(^ {41}\). Taxation in the domestic territory can still be chosen even if the limit has not been achieved\(^ {42}\). If a taxable person registered in another Member State of the Community pays tax for such transactions in the domestic territory either because he exceeded the limit or based on his choice, he must complete the respective form and notify the National Tax and Customs Administration Directorate General for Priority Tax and Customs Affairs about it. If VAT is paid in the domestic territory based on choice, the decision for the current year must be notified by the last day of the preceding tax year. If the limit is exceeded, the notification must be made prior to that supply of goods, with the consideration for which the limit will be exceeded. The consideration for supply of goods generating a tax liability in the domestic territory must be included in a row of 1765 VAT declaration, pertaining to the relevant domestic tax rate and must be documented with an invoice (simplified invoice).

The website of the European Commission contains information about particular Member State threshold values:

Place of Supply of Services according to the General Rule

The supply of services is subject to value added tax in the domestic territory, i.e. VAT is payable for it, if its place of supply, established pursuant to the provisions of the VAT Act, is

\(^{39}\) Section 29 (1) of the VAT Act

\(^{40}\) Section 30 (2) of the VAT Act

\(^{41}\) Section 256 (1) of the VAT Act

\(^{42}\) Section 30 (4) of the VAT Act
in the domestic territory\textsuperscript{43}. According to the general rule the place of supply of a service depends on whether the customer is a taxable person or not (or if takes part in the transaction as a taxable person). According to the main rule, the place of supply of services between taxable persons is the place where the taxable customer has established his business or has a fixed establishment, or, in the absence of such, the place where he has his permanent address usually resides. [If, apart from the registered business, the taxable person has one or more fixed establishment, the place of supply is determined by the fixed establishment that is most directly involved in the transaction.] The place of supply of services rendered to a party other than a taxable person shall be deemed to be the place where the user of the service has established his business or, in the absence of such a place of business, the place where he has his permanent address or usually resides.

For the purposes of establishing the place of supply of services taxable persons include also resident, otherwise non-taxable legal persons who are (or should be) in possession of a Community tax number, as well as non-taxable legal persons of another Member State who are (or should be) in possession of a tax number in their own Member States\textsuperscript{44}. In general, taxable persons must be deemed taxable persons for all services supplied to them. That means that the taxable person supplying the service does not need to consider whether the taxable person will use the ordered service for his economic activities based on which he is liable for the payment of the tax or not and, with regard to any activity not falling within the scope of VAT, the place of supply must be determined as if the service were ordered by them as a taxable person. However, this rule cannot be applied when the taxable person, as the ultimate consumer, uses the service to satisfy the private needs of his own or his employees, in which case the place of supply must also be established as if the service were not used by a taxable person\textsuperscript{45}. It is another important rule that any person or organisation whose liability for the payment of tax is based only on the fact that they sell new means of transport or real properties in a series of transactions, need to be considered taxable persons for the purposes of establishing the place of supply only with regard to those services that are used by them in the interest of their activities, for which they are liable for the payment of tax\textsuperscript{46}. (When e.g., a private individual becomes a taxable person due to the sale of real properties in a series of transactions, he will be a taxable person in relation to any agency service used for the sale of new real properties, but will not proceed as a taxable person when hiring a vehicle.)

In view of the above, according to the general rule, when a service is ordered by a taxable person (irrespective whether he is registered in another Member State or in a third country) the place of the supply of the service will be the domestic territory, if the person to whom the service is supplied has an established business, or a fixed establishment that is most directly involved in the transaction in the domestic territory, irrespective where the service is actually supplied. When services are supplied to a non-taxable person, the place of the supply of the service will be the domestic territory, if the established business of the supplier or his fixed establishment that is most directly involved in the transaction or, in the absence of such a place of business, the place where he has his permanent address or usually resides is in the domestic territory\textsuperscript{47}.

In other words, any service that is not listed in the exceptions below is a service used by a taxable person registered in the domestic territory (in relation to their domestic established...

\textsuperscript{43} Section 2a) of the VAT Act
\textsuperscript{44} Section 36 (1) of the VAT Act
\textsuperscript{45} Section 36 (1) of the VAT Act
\textsuperscript{46} Section 36 (2) of the VAT Act
\textsuperscript{47} Section 37 of the VAT Act
business or fixed establishment) taxable in the domestic territory at the applicable domestic tax rate (5%, 18%, 27%) or is exempt of tax in a particular case.

If a taxable person who established business in the domestic territory is involved in a service supplied in the domestic territory as a customer, on the basis of the general rule he will have to pay VAT for the service, if the taxable person providing the service has not established a business in the domestic territory or, if there is no such established business, does not have his permanent address or the place where he usually resides in the domestic territory. From 1 January 2012, such transactions generate a VAT advance payment obligation in relation to import services but, contrary to the general rule, there is a difference that in such cases the payment on account cannot be considered an amount that also contains a proportionate amount of the payable tax. In other words, the tax must be charged on the payment on account. That rule was applicable first on advance payments received or credited on 1 January 2012 or afterwards.

Apart from the above, the place of supply of several services is defined contrary to the general rules under the VAT Act. There are some services, the place of supply of which is governed by particular rules in all cases, irrespective whether or not they are used by a taxable person or by a non-taxable person or organisation. Otherwise, there are also services, which are governed by the particular rules, other than the general rule only if the person to whom they are supplied is not a taxable person.

It is important to know that a taxable person who is in possession of a Community tax number must also submit a recapitulative statement (the detailed rules of which will be described in this booklet later) for the following:

- the supply of service falling within the scope of Section 37 of the VAT Act (i.e. the supply of service, where the place of supply must be established according to the general rule), including any payment on account, which is supplied to a taxable person registered in another Member State of the Community, or to a legal person, with a tax number who is not liable for the payment of the value added tax and therefore is liable for the payment of the tax in the Member State where the service is supplied, and for which the user is obliged to pay tax, and
- the use of service falling within the scope of Section 37 of the VAT Act (i.e. falling within the general rule pertaining to the establishment of the place of supply), including also any payment on account related to the use of supply, which is supplied by a taxable person in possession of a tax number in another Member State of the Community, and for which, as he will be obliged to pay the tax in the domestic territory as the user of the service.

Particular Rules Pertaining to the Place of Supply of Services

A) Services, for which the place of supply must always be established according to the particular rules, irrespective whether or not the person to whom they are supplied is a taxable person:

The place of supply of services connected with immovable property, shall be the place where the property is located. Private accommodation services are also services connected with immovable properties. A service connected with an immovable property is taxable in the

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48 Section 59 (3) a), Section 140 a) of the VAT Act
49 Section 39 of the VAT Act
domestic territory if the property is situated in the domestic territory. If a service connected with an immovable property is supplied by a taxable person, who does not have an established business in the domestic territory, then the taxable person, registered in the domestic territory, to whom the service is supplied, must pay the tax in relation to the service on behalf of the person supplying it as an imported service. However, if the person supplying the service has established the business in the domestic territory, the foreign person supplying the service is obliged to pay the VAT.

The place of supply of transport of passengers shall be the place where the transport takes place, proportionately in terms of distances covered, i.e., for the purposes of the VAT Act, only the distance covered in the domestic territory. If passenger transportation is supplied, based on the order of a domestic taxable person, by a foreign taxable person, who has not established himself in the domestic territory, the taxable person registered in the domestic territory will be liable for the payment of tax for the distance covered in the domestic territory. However, no positive tax rate must be applied to that distance, if it involves international passenger transportation, because it is exempt from tax.

The place of supply of the short-term lease of transport means shall be the place where the transport means are actually handed over to the lessee. Short-term lease of transport means that the continuous possession or use of the means of transport does not exceed a period of more than ninety days in the case of vessels and a period of more than thirty days in the case of means of transport. Consequently, the taxable person registered in the domestic territory has a tax liability in the domestic territory for the short-term lease of transport means, if the transport means are actually handed over to the lessee in the domestic territory (except when they are actually used in a third country - see point E)). If the short-term lessee of transport means is a taxable person registered in the domestic territory, he may also have a tax liability for the lease, if it is supplied in the domestic territory, but the person supplying it is a foreign taxable person, who is not established in the domestic territory.

The place of supply of restaurant and other catering services shall be the place where the services are physically carried out. Different rules pertain to the supply of the restaurant and other catering service if they are rendered during the transport of passengers within the territory of the Community on railway, water or air transport means, and performed, in which case the place of supply shall be the place where the transport of passengers begins. As regards roundtrip passenger transport services, the first leg and the second leg of the trip shall be treated separately, as independent passenger transport services. Passenger transport within the Community is any operation effected without a stopover outside the Community, where the point of departure and the point of arrival of the passenger transport operation are located inside the Community. The point of departure of a passenger transport operation is the first scheduled point of passenger embarkation within the Community (regardless of any stopover outside the Community made previously). The point of arrival of a passenger transport operation is the last scheduled point of disembarkation within the Community, regardless of any stopover outside the Community made afterward. That means that the
supply of restaurant and other catering services during the transport of passengers within the territory of the Community on railway, water or air transport means will be taxable in the domestic territory where the transportation of passenger starts from Hungary (or the first point of embarkation within the community is in Hungary).

B) Services, the place of supply of which must be established according to the particular rules only if they are not used by a taxable person:

Contrary to the general rule, the place of supply of services by an intermediary (otherwise known as a service provided by an intermediary, acting in the name and on behalf of another person) is the place where the underlying transaction is supplied. It is also important to note that when the place of supply of a service by an intermediary is in the domestic territory, the service can be exempt of tax, if otherwise the mediated transaction is exempt of tax with the right of deduction.

The place of supply of the transport of goods, other than the intra-Community transport of goods, performed for a non-taxable person shall be the travel route covered in the source of the supply of the service, i.e., for the purposes of the VAT Act, only the distance covered in the domestic territory. Nonetheless, there is no need to apply a positive tax rate for that distance, if the consideration for the transportation is included in the tax base of the imported goods (as certified by a customs resolution e.g.), or if such goods are transported that will leave the territory of the Community within the scope of an exit procedure.

Where intra-Community transport of goods is supplied for a non-taxable person, the place of supply shall be deemed to be the place of departure of the transport. Intra-Community transport of goods shall cover any transport of goods in respect of which the place of departure and the place of arrival are situated within the territories of two different Member States of the Community. For the purposes of that rule the place of departure of the transport of goods shall mean the place where the transport of the goods actually begins, irrespective of distances covered in order to reach the place where the goods are loaded, while the place of arrival is the place where the transport of the goods actually ends.

E.g., if the transportation of goods from Hungary to Austria is not ordered by a taxable person, the place of supply is the domestic territory (because it is the place of departure), and therefore the person supplying the service is liable for the payment of VAT in the domestic territory. The tax liability applies to the whole distance, and not only to the domestic section, and therefore the domestic tax rate (27%) must be applied to the consideration for the whole distance. However, if on the basis of the same order a taxable person registered in the domestic territory has to transport the goods from Austria to Hungary, the total distance is outside the scope of VAT, and the invoice issued for it must state that it does not fall within the scope of the VAT. (However, the Hungarian taxable person must bear in mind that, in relation to the service supplied in Austria, he may need to be registered as a taxable person in order to be able to fulfil the tax liability relating to the service.)

In relation to any ancillary service relating to the transportation of people or goods, any expert evaluation that involves work aimed directly at the goods (other than immovable

58 Section 38 of the VAT Act
59 Section 110 (1) of the VAT Act
60 Section 41 (1) of the VAT Act
61 Section 93 (2) of the VAT Act
62 Section 102 (1) b) of the VAT Act
63 Section 41 (2)-(4) of the VAT Act
property) or involving any work performed on the goods (other than immovable property) the place of supply is the place where the service is actually supplied, provided that it is supplied to a non-taxable person. Consequently, any such activity pursued in the domestic territory falls within the scope of the domestic VAT, while activities pursued abroad do not.

Any ancillary service relating to the transportation of goods abroad, including especially loading, handling and safeguarding of transport means, is exempt of tax (with the right of deduction), if it relates directly to goods leaving the territory of the Community or goods that have been imported. Handling is exempt of tax, even if the goods are stored in a customs free zone, customs free warehouse, a customs warehouse or a tax warehouse. Otherwise the applicable tax rate is 27%.

In the case of contract work, where a taxable person registered in the domestic territory performs the work on materials and goods made available by a foreign non-taxable client and as a consequence, the produced goods leave the territory of the Community, through exportation, endorsed by the customs office of exit, there will be no tax rate applied to it, but the service will be exempt of tax. The different rules relating to the Community are described in the next chapter. [If the taxable person not only sells the goods to be used for assembly or installation, but also installs (assembles) them, it will constitute a taxable supply of goods in the country where they are assembled or installed. If the party supplying the goods has not established a business in the country where the assembly takes place, the taxable person customer of the goods must pay the respective tax in his own country through self assessment.]

The place of supply of long-term hiring (for a period of more than thirty days and, in the case of vessels, for a period of more than ninety days) of a means of transport to a non-taxable person shall, from 1 January 2013, be the place where the customer private individual is established, or - failing this - has his permanent address or usually resides. However, in the case of long-term hiring of a pleasure boat to a non-taxable person, the place of supply shall be the place where the pleasure boat is actually put at the disposal of the customer, where this service is actually provided by the taxable person from his place of business or a fixed establishment situated in that place.

In the case of telecommunication services, radio and audiovisual media services and electronically provided services and if the user of those services is not a VAT subject, the place of supply is the place where the user of the service is established and in the absence of such a place, the place where they have their home address or where they are habitually resident. The Act determines and indicative list of particular services among the electronic services which are the following:

a) hosting, website supply, web-hosting, distance maintenance of programs and equipment;

b) supply of software and updating thereof;

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64 Section 43 of the VAT Act
65 Section 102 and Section 93 (2) of the VAT Act
66 Section 111 and 116 of the VAT Act
67 Section 101 of the VAT Act
68 Section 32 of the VAT Act
69 Section 139 of the VAT Act
70 Section 44 (2) of the VAT Act
71 Section 44 (3) of the VAT Act
72 Section 45/A of the VAT Act
c) supply of images, text and information and making available of databases;

d) supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment media services and events;

e) supply of distance teaching

provided that the service is performed and used via a global information network. However, the gaining and maintenance of contact between the provider and the user of the service (including making and accepting an offer) through such a global information network does not in itself qualify as an electronically provided service.

We would hereby like to point out that the VAT Act defined the place of supply in case of non-tax subject users of telecommunication services, radio and audiovisual media services and electronically provided services established in third countries to be the place of establishment before 1 January 2015 as well\(^{73}\). That is to say, if the user of such services was a non-tax subject resident in a (non-Community) third country, the place of supply was determined on the basis of their place of establishment, in the absence of that, their home address, and in the absence of that, their habitual residence. As a result of the new regulations, the stipulation regarding tax subjects in third countries was cancelled from the VAT Act; nevertheless, they are still to be applied as the above mentioned regulations are now applicable in the establishment of the place of supply of non-tax subjects established in both the Community and in third countries.

C) Cultural, Artistic, Scientific, Educational, Entertainment, Sporting and Similar Services

From 1 January 2011 the application of the particular rules pertaining to the place of supply of organisation of cultural, artistic, scientific, educational, entertainment, sporting or similar services (including especially the organisation of exhibitions, fairs and shows), including also the organisation thereof, as well as the ancillary services related to them depends on whether they are supplied to a taxable person or to a non-taxable person or organisation. If such a service is **not ordered by a taxable person**, the place of supply is determined by the place where the service is actually supplied\(^{74}\). That rule means that the domestic taxable person as the person providing the service has to pay value added tax at the rate prevailing in the domestic territory for such services supplied to a non-taxable person, if the service is actually supplied in the domestic territory.

If a service is **supplied to a taxable person** under that title, the place of supply will be established according to the general rule (Section 37(1) of the VAT Act), i.e. according to the place where the user of the service has established its business. As an exception, the place of supply of services in respect of admission to cultural, artistic, scientific, educational, entertainment, sporting or similar events (such as fairs, exhibitions and presentations), and of ancillary services related to the admission, supplied to a taxable person, is the place where those events, fairs, exhibitions and presentations actually take place, even if the customer is a taxable person\(^{75}\).

VAT shall be paid for such services by the customer identified for VAT purposes in the domestic territory, where the services are supplied at a place referred to in Section 37, in the

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\(^{73}\) Section 46, Points i)-k) of the VAT Act effective before 1 January 2015

\(^{74}\) Section 43 (1) d) of the VAT Act

\(^{75}\) Section 42 of the VAT Act
case of services of admission, in the domestic territory pursuant to Section 42 of the VAT Act, by a taxable person who has established his business outside the domestic territory\textsuperscript{76}.

D) Services Falling within the Scope of Section 46 of the VAT Act

In relation to the services listed here, the VAT Act extends the general rule pertaining to the determination of the place of supply of the services to taxable persons where the customer is a non-taxable person, to cases where the customer is a non-taxable person established (or in the absence of such a place the place where he has his permanent address or usually resides), outside the Community. (If the service is supplied to a non-taxable person or organisation in another Member State, the place of supply of the service to them must be established according to the general rule.) When the services listed below are supplied to a non-taxable person registered in a third country (outside the Community), the place of supply of the service must be defined according to the place of establishment of the customer outside the Community or, in the absence of such a place, where he has his permanent address, or usually resides. The services are the following:

a) temporary or permanent transfers and assignments of copyrights, patents, licenses, trademarks and similar rights;

b) advertising services;

c) the services of consultants, accountants, lawyers, tax experts, IT experts, translators and interpreters, and other similar services including - under the conditions set out in Paragraph (4) - the services of engineers as well;

d) data processing and the provision of information;

e) banking, financial and insurance transactions, including reinsurance, with the exception of the hire of safes;

f) assignment and or hiring-out of workers, the supply of staff;

g) the hiring out of movable tangible property, with the exception of immovable property and all means of transport;

h) the provision of access to a natural gas system, to the electricity system, or the transmission or distribution of natural gas, electricity, through these systems or networks, and the provision of other services directly linked thereto\textsuperscript{77}.

It is important to know that the physical place of the supply of the service is not important in relation to services specified in Section 46. According to the general rule in Section 37 of the VAT Act and its joint interpretation with Section 46, when a taxable person registered in the domestic territory supplies a service falling within the scope of Section 46, i.e. taxed at the place of establishment of the customer to a taxable person of the Community not established in the domestic territory or to a taxable person of a third country, or to a non-taxable person, then he will have no VAT liability irrespective where the service is supplied physically. If a taxable person registered in the domestic territory purchases the service specified in Section 46 from a foreign person not having a fixed establishment in the domestic territory, the actual place of supply of the service is not important, and the reliability for the payment of tax will arise under the title of import of services.

\textsuperscript{76} Section 140 a) and b) of the VAT Act

\textsuperscript{77} Section 46 of the VAT Act
E) Enforcement of the Principle of “Consumption and Actual Use”

The place of supply of hiring of a means of transport, including railway cars, is, irrespective of whether it is short-term or long-term hiring, the domestic territory if, according to the general rule and the particular rules pertaining to short-hiring and the hiring of means of transport by non taxable persons, the place of supply would be outside the territory of the Community, however, the services are in fact provided, and the relevant fees are charged in the domestic territory. The reversed version of this rule also applies, i.e., the place of hiring is outside the Community if the place of effective use of the service or financial gain takes place outside the Community, irrespective of whether the place of supply would be in the domestic territory pursuant to the general rules\(^78\).

If the provision of telecommunication services, radio or audiovisual media services or electronic services takes place to a non-tax subject, the place of performance is the place where the non-tax subject person using the services is established or where their habitual residence is located.

**The Person Obliged to Pay the Tax in (Cross-Border) Services**

According to the general rule, in connection with the supply of goods and/or services VAT is payable by the taxable person who carries out the transaction acting in his own name\(^79\).

Contrary to the general rule, if the place of supply of services is in the domestic country on the basis of the Section 37(1), or any paragraph of Sections 39, 40, 42, 44 or 45 of the VAT Act, VAT shall be paid by the customer identified for VAT purposes in the domestic territory, where the services are supplied by a taxable person who has established his business outside the domestic territory, or who, in the absence of such a place of business, has his permanent address or usually resides outside the domestic territory\(^80\).

It is important to know that only for the purposes of establishing the person obliged to pay the tax (for the purposes of Section 138 and 140 of the VAT Act) those taxable persons must also be deemed not established taxable persons, who have a fixed establishment in the Member State where the service is supplied, but that fixed establishment is not involved in, or affected by, the supply of the service\(^81\). In that latter case the taxable person to whom the service is supplied (including also a non-taxable legal person registered for VAT purposes) will be obliged to pay the tax. However, when the fixed establishment is involved in the supply of the service, the VAT will be applied and charged by the fixed establishment in the domestic territory of the taxable person supplying the service. When however, a taxable person established in the domestic territory and having a fixed establishment in another Member State supplies a service to a taxable person in the domestic territory, for which the place of supply is established according to the general rule, the taxable person supplying the service is obliged to pay the tax, irrespective whether or not the established business in the domestic territory takes part in the supply of the service. We also wish to note that in the VAT system the establishment has a separate meaning\(^82\).

The taxable person shall be entitled to deduct the VAT applied at the preceding stage in relation to services supplied outside the domestic territory (in a third country or in the territory

\(^{78}\) Section 49 of the VAT Act  
\(^{79}\) Section 138 of the VAT Act  
\(^{80}\) Section 140 of the VAT Act  
\(^{81}\) Section 137/A of the VAT Act  
\(^{82}\) Section 259 Point 2 of the VAT Act
of the Community), but only to the same extent as they would give rise to the deductibility of VAT if they had been carried out in the domestic territory\(^{83}\).

**Particular Rules Pertaining to Invoicing**

**It important to note** that the taxable person must ensure that an invoice is also issued for the supplies of goods or services outside the domestic territory, in the territory of the Community or in a third country, provided that the taxable person has established his business that is most directly involved in the transaction in question inside the domestic territory (or, in the absence of such a place of business, has his permanent address or usually resides inside the domestic territory). In the case of the supply of goods and services outside the domestic territory but within the Community, another statutory condition of issuing an invoice is that the person to whom the goods or services are supplied must be liable for the payment of the tax\(^{84}\).

If in the above cases the taxable person is obliged to issue an invoice, then from 1 January 2013 the invoice issued for the supply of goods and services outside the domestic territory must contain the following information: the words “fordított adózás” (“reverse charge procedure”)\(^{85}\), provided that the customer will be obliged to pay the tax in his country.

Although the law does not specify that the words “Outside the territorial scope of the VAT Act” should be indicated in relation to supplies made abroad but, considering that the document must contain clear data and that it must be clear from it why it does not contain VAT, it is recommended to include a reference to not falling within the territorial scope of the VAT Act in each invoice that documents a transaction performed abroad.

As of 1 January 2016 those taxable persons who (which) does not have a domestic dwelling place or customary place of residence for economic purposes and who performs their tax payment obligations on the provision of services defined in Section 45/A of the VAT Act in accordance with the Member State regulations which corresponds to the contents of Articles 358-369k of the VAT Directive (pays taxes in the MOSS (mini-one-stop-shop) system). This rule is however unapplicable in a case where the user of the service requests the tax subject to issue an invoice. In case of the issue of an invoice the taxable person is exempt from the provision given in Section 172 of the VAT; that is, he does not have to indicate the output tax in Hungarian Forints on the invoice, if the other data are given in foreign currencies\(^{86}\).

**Declaration, Recapitulative Statement**

**Taxable persons who are in possession of a Community tax number cannot make annual declarations**, and therefore, if the taxable person has not yet had a Community tax number and started the year as a taxable person preparing an annual declaration, he must change for quarterly declarations in relation to the issue of the Community tax number\(^{87}\).

Taxable persons subject to VAT who are in possession of a Community tax number must use the 17A60 form (recapitulative statement) for declaring the following:

a) supply of goods falling within the scope of Section 89(1), (3) and (4) of the VAT Act, to customers who are in possession of a tax number in other Member States of the Community, including also cases when the indirect customs law representative submits a declaration, on

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\(^{83}\) Section 121 a) of the VAT Act

\(^{84}\) Section 159 (2) c)-d) of the VAT Act

\(^{85}\) Section 169 n) of the VAT Act

\(^{86}\) Section 165/A of the VAT Act

\(^{87}\) Annex 1 of point I.B.3. of the Taxation Act
behalf of the importer or the tax warehouse operator, on the supply of goods by the importer or the taxable subject (intra-Community supply of goods),

b) supply of goods to customers who are in possession of a tax number in other Member States of the Community, to whom the supplies were made as intra-Community acquisitions pursuant to Section 52 of the VAT Act, and acquisition of goods from vendors who are in possession of a tax number in other Member States of the Community, which were supplied in compliance with Section 52 of the VAT Act (acquisition and supply of products as the interim party in a “triangle transaction”),

c) supply of services to a taxable person who is in possession of a tax number in another Member State of the Community, or to a legal person who is in possession of a tax number but is not liable for the payment of value added tax, falling within the scope of Section 37 of the VAT Act (i.e. the supply of services, for which the place of supply must be established according to the general rule), including also any payment on account, which is taxable in the Member State where it is made and for which the user is obliged to pay tax.

d) the acquisition of services from a taxable person, who is in possession of a tax number in another Member State of the Community and the acquisition of services falling within the scope of Section 37 of the VAT Act (i.e. the place of supply must be established according to the general rule), including also any payment on account related to the acquisition of the service, for which the taxable person submitting the declaration is obliged to pay the tax as the customer or user of the service,

e) on the amount of the adjustment applied in any subsequent tax base reduction pursuant to Section 77 of the VAT Act.

For legal aspects, the recapitulative statement shall be treated as a tax return.

The taxable person, liable for the payment of VAT must submit a recapitulative statement at the same frequency as the frequency of declarations. Consequently, taxable persons obliged to prepare monthly VAT declarations according to the general rule must submit it to the State Tax Authority monthly, by the 20th day of the subsequent month, while taxable persons obliged to submit quarterly VAT declarations must submit it quarterly, by the 20th day of the subsequent month, simultaneously with their declarations and, in the same way as their declarations are submitted, i.e. electronically. If there is a change in the frequency of declarations (from quarterly to monthly) and when a recapitulative statement would have to be prepared on the commercial deals within the Community in the fractional period, the recapitulative statement must be submitted simultaneously with the VAT declaration prepared for the fractional period. No statement needs to be prepared for the period, in which the taxable person liable for the payment of VAT was not engaged in any intra-Community trade.

In addition to the above, another special rule pertaining to the frequency of submission of the recapitulative statement must also be noted: Irrespective of the frequency of the respective value added tax declaration, the taxable person must switch from the quarterly recapitulative statement to a monthly recapitulative statement, if the aggregated consideration, exclusive of VAT, for the intra-Community supply of goods (defined in Section 89(1) and (4) and supply of goods corresponding with that defined in Section 91(2) of the VAT Act) or their Community acquisitions (Intra-Community acquisitions defined in Sections 19, 21 and 22 (1) of the VAT Act) exceed the amount equivalent to EUR 50,000. In such cases the

88 Annex 8 of point 1.A) of the Taxation Act
recapitulative statement for the period pertaining to the shift must be filed for the period from the first day of the respective quarter to the last day of the month in which the limit is exceeded, by the 20th day of the subsequent month. Then the first monthly recapitulative statement must be submitted from the first month following the month in which the threshold was exceeded.

If the taxable person does not exceed the EUR 50,000 limit in any of the subsequent four calendar quarters (and, according to the general rules pertaining to the frequency of declarations, he is no longer obliged to prepare monthly VAT declarations for the tax assessment period that follows the fourth calendar quarter) the taxable person can return to the quarterly declarations again after the fourth calendar quarter.\(^89\)

The recapitulative statement must be made in the 17A60 form for the acquisition and supply of goods and services, where the various types of transactions must be indicated on different pages.

A recapitulative statement must be prepared for Community trade transactions (amount) for the period, during which the tax liability emerged (tax liability in the case of exempt intra-Community supply of goods and the supply of services not falling within the scope of the VAT Act). When the tax base of a Community transaction already included in the recapitulative statement (intra-Community exempt supply of goods, intra-Community acquisition of goods, intra-Community supply and acquisition of service), and, if the supply of services are outside the scope of the VAT Act, the consideration for it, has subsequently reduced pursuant to Section 153/B(1) of the VAT Act, the taxable person does not need to retroactively adjust the recapitulative statement, originally containing the transaction, but needs to indicate the adjusted amount (the difference) in the recapitulative statement that is made for the period, in which the person acquiring the goods or services was informed of the amount of the adjustment.

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National Tax and Customs Administration

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\(^89\) Annex 8 of points 1.B)-(C)-(D) of the Taxation Act