

# **EAS Rules of operation**

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# EAS Rules of operation

On the basis of Paragraph (14) of Section 156/A of Act XCII of 2003 on the Rules of Taxation (henceforward: Act on RT), the Government Regulation (henceforward: Regulation) no. 66/2014 on the detailed procedural rules of the suspension or restriction of practicing the right of lien outside judicial foreclosure, this present document contains the technical conditions and particular rules of operation of electronic auctions. These stipulations and conditions are applicable in the auctions performed on the NTCA's Electronic Auction Surface where such objects are auctioned off which the NTCA came to dispose of in the course of procedures of its tax, customs and criminal sectors and which became marketable on the basis of legal provisions. They are also applicable for auctions defined in the Regulation. By clicking on the "I Accept Conditions" button the user assumes liability of accepting the Rules of Operation of the Electronic Auction Surface.

An auction qualifies as tax administration auction if the tax authority has seized the movable property, share or immovable property in the course of a tax execution procedure and decided to sell it in an auction in accordance with the relevant rules.

Auctions executed for the sale of objects that the NTCA came to dispose of as a result of procedures conducted by its customs and finance guard and criminal sectors qualify as customs authority auctions.

The auction qualifies as a pledged property auction only if a residential real estate is auctioned off upon a request filed in accordance with the Regulation is submitted by the authorized party. Special rules pertaining to auctions published upon request are given in Chapter V.

## I. Common rules of electronic auctions

### 1. Conditions of participation

The [public](#) information regarding online auctions operated by the NTCA can be accessed by everyone; however, [participation](#) either in person or through a representative in an electronic auction is conditioned upon [registering](#) at the Government Window (creating a Client Gate registration), and [logging in](#) the EAS. Natural persons, legal persons and other organizations without a legal personality (the latter through natural persons acting in their name and having rights of representation) may act as [auction purchasers](#). [Bidders](#) participating in the auction and the winner of the auction (auction purchaser) will remain anonymous to third parties both in the course of the auction and after the auction.

## 1.1 Registration

In order to participate in the auction the application for a unique identifier and a secret password is required for the electronic Client Gate that forms a part of the electronic service system (KR) according to the rules pertaining to the electronic Client Gate. Participation is only possible with the use of those. Registering at the Client Gate can be initiated by either showing up in person at the Central Office for Administrative and Electronic Public Office Services, at the government offices in Budapest or in the country, at the district offices of the government offices in Budapest or in the country, at the National Tax and Customs Administration, at the Hungarian Post Ltd, or at the diplomatic or consular representations of Hungary or electronically in a way suitable for certified identification. An authority that is empowered to create a Client Gate registration will also offer to create it to any individual who proceeds with them in person, and will also create it without delay upon request.

1.1.1 Those users who are registered at the Client Gate can participate in the electronic auctions with the unique identifier and secret password they received there.

## 1.2 Log in

Log in is done on the EAS with the password and identifier received for the electronic service system (KR). When logging in, the data required for the identification of the natural person taking part in the auction (tax identification code, name, date and place of birth, mother's name, citizenship, place of residence, temporary place of residence, phone number, e-mail address); and in case of a legal person, economic company or other organization without a legal personality, the name of the [legal \(organizational\) representative](#), their personal information, the name, seat and tax number of the organization must be given. Besides natural identifiers, in case of a foreign person, the passport (or travel document) number or the number of the residence permit and the country of the permanent residence or seat must also be given. A bidder has no contact with either the debtor or other bidders in the course of the auction. The tax authority handles the information related to the electronic auctioneer in accordance with the rules regarding tax secrecy. Participation in an electronic auction in the lack of a tax identification code is not possible. When a bid is made, the system generates a serial number for the user which serves as an identifier in the auction until the end of the auction.

**1.2.1** Any adult person who needs the approval of a legal representative or the consent of an authority to make a legal statement may only log in when – besides the conditions laid out above – the additional conditions given in point 2.2 of this Chapter are complied with.

## **2. Rules of Representation**

### **2.1 Representation of organizations**

In the course of the electronic auctions, the legal representation of legal persons and other organizations lacking legal personality is to be reported by filling out the appropriate headings of the EAS, and the tax administration checks the right of representation during the entire duration of the electronic auction. Following the end of the auction, the auction purchaser is obliged to present the original document (e.g. specimen signature) certifying its authorized status for representation. In case the right of representation was issued after the start of the auction, the representative can participate in the auction if they present the relevant document to the acting execution administrator until the end of opening hours of the day when the auction is closed at the latest.

### **2.2 The legal representation of private individuals**

Any grownup natural person who needs the consent of their legal representative or an authority consent to make a legal statement may only participate in the auction if they present the statements given in the legal regulation defining conditions of the acquisition of the property to the administrator indicated in the auction notice prior to the auction. The administrator adopts a decision on participation in the auction after they have studied the documents until the start of the auction.

### **2.3 Representation of private individuals on the basis of authorization or mandate**

**2.3.1** The actions of a representative on the basis of authorization or mandate (henceforward together: authorization) are valid only if the party giving the authorization reports this separately on the electronic form F-180 created for this purpose and downloadable from the NTCA webpage and the auction purchaser presents the original, signed authorization to the tax authority after the auction had been closed. The termination of the right of representation on the basis of an authorization will also need to be reported on an electronic form downloaded from the NTCA website by the party giving the authorization.

**2.3.2** Until the time of reporting the termination, the bid made by the authorized party qualifies as a bid made with legal effect; however, there is no further opportunity to bid after the report has arrived. Any restriction in the authorization on the amount of the bid, the acquisition of a certain property or the participation in a specific auction or any other restriction bears no legal effect towards the tax administration. The party giving the

authorization assumes liability for the actions of the authorized party and acknowledges the bid, or other legal statements made by the authorized party on the EAS as obligatory for him.

**2.3.3** Rules given in point 2.3.1 of this chapter are applicable with respect to the termination of the authorization.

**2.3.4** The report made on the authorization or the termination thereof will be registered by the tax authority without delay and the tax authority will inform the party giving the authorization on the receipt number generated by the KR system on the registration or termination on the electronic mail account indicated by the party giving the authorization. The act of authorization must be confirmed by the party giving the authorization on the EAS; consequently, both parties must be validly registered on the EAS. In the course of confirmation, the receipt number must be indicated in the cell “Authorization Identifier” in the “Authorization” (“Meghatalmazás”) menu item of EAS; and simultaneously, the square next to the question “Are you a party giving authorization?” (“Meghatalmazó-e”) must be checked. The authorized party participates in the EAS with their own data, but an authorized person who has won an auction will be required to present the original, paper-based and regularly filled out authorization to the tax authority.

### **3. Detailed rules regarding the use of the EAS**

#### **3.1 Rules regarding the posting of an auction**

**3.1.1** The tax authority will perform every measure related to the electronic auction on the EAS (e.g. announcement, management and end of an auction) and also publishes all information (e.g. the ranking and data of current bids) there.

**3.1.2** The tax authority will set an auction by means of an [auction notice](#) which it publishes on a day preceding the start of the auction, in the case of a real estate property, the notice is released at least 45 days before the auction, and the notice on a movable property is released 20 days in advance on the EAS surface. Any **notice will contain the following data:**

- a) name of the NTCA tax directorate that enacted the execution, or the name of the person who requested the execution,
- b) indications of the VAT or EVA (simplified entrepreneurial tax) status of the debtor,
- c) the starting and end dates of the auction,
- d) information on the property being auctioned off (detailed description on the basis of available data, indication of characteristic features, a photograph
- e) the appraised value of the item of property,
- f) [the minimum price](#),
- g) the location and date where and on which the item of property will be displayed.

The specific data of notices of real estate auctions are given in point 1 of Chapter III.

**3.1.3** The start of an auction or [the failure](#) of an auction to [come off](#) is published by the tax authority on the EAS and notifications in any other form are not sent. The auction remains to be running if a debtor begins to settle a debt after the auction has already been started; however, if the tax authority learns about the debt settlement post factum or establishes that other legal conditions of the of the auction were not present, the auction is suspended and cancelled, and this fact is immediately communicated to the participants of the auction exclusively on the EAS surface.

**3.1.4** According to the regulations of law, the tax authority has no legal liability for a failure of an auction to come about or its cancelling, neither the debtor nor the tax authority is bound to make the offer on the basis of the notice. A bid is only valid in the particular auction in which it is made. A new bid qualifies as participation in an auction repeated due to the failure of a previous auction's failure to come about, its cancelling or its lack of success, no bids made in a previous auction can be taken into consideration.

#### **4. Managing an auction**

**4.1** The period available for making auction bids ends at 21.00 on the third day counted from the starting date indicated in the auction notice, unless otherwise determined in this section. In case a valid bid is made within a two minutes period before an auction closes, the timeframe of the auction is automatically extended by five minutes. This rule is also applicable for any subsequent ending times of the auction. On the basis of this, the auction is carried on with until a five minutes period elapses for the first time after the end at 21.00 in the final two minutes of which no more valid bid is made which is higher than the last valid one.

**4.2 The starting and ending times of an auction** (the duration of the auction), and the establishment of the validity of announcements made regarding the auction is based on the date and time indicated on the EAS page.

**4.3** If a [technical breakdown](#) ongoing for at least an hour occurs in the EAS system, the period available for the auction is automatically extended by 24 hours. The auction is extended by 24 hours regardless of the duration of the technical breakdown if the breakdown occurred within a four hours period of the closing of the auction. Information and announcements regarding technical breakdowns are published on the EAS and NTCA websites.

**4.4** A newer auction announced on account of an auction's [previous failure to come off](#) does not qualify as a new auction.

## 5. Making bids and purchase

**5.1** A bidder does not get to contact either the debtor (the original owner of the property being auctioned off) or other bidders in the course of the auction.

**5.2** Bids can be made in one of the following methods:

a) Making a bid by the indication of particular amount of money:

The offered price is to be entered in the data field created for this purpose on the surface with due attention paid to the contents of 6.3 of this chapter. In this case there is an opportunity to make an offer not necessarily higher than the currently highest one; however, the amount **must be given with rounding to thousand HUFs**.

b) Automatic bids:

The bidder indicates the highest purchase price deemed acceptable by them (limit amount). The system will automatically raise the currently highest bid until the limit amount is reached by amounts that can be adjusted by the bidder, but not less than the ones given in point 5.3 in this chapter. The limit amount can be modified in the course of the auction but it may only be reduced to the highest offer made by the bidder up until that point in time.

**5.3** The amount by which the bidding can be raised is set, offers **within the ranges of the following put-up prices (appraised values)** can be made in the following manner:

in case of an appraised value of 100,000 HUF or less, the minimum raise is 1,000 HUF,

in case of an appraised value between 100,001 HUF and 500,000 HUF, the minimum raise is 5,000 HUF,

in case of an appraised value between 500,001 HUF and 5,000,000 HUF, the minimum raise is 20,000 HUF,

in case of an appraised value between 5,000,001 HUF and 10,000,000 HUF, the minimum raise is 50,000 HUF,

in case of an appraised value larger than 10,000,001 HUF, the minimum raise is 100,000 HUF.

**5.4 A bid already made cannot be retracted.** In case of bids made with the same amount of money, the bid which appeared earlier on the EAS will prevail over the one arriving later. In case of manually and automatically made bids of the same amount, the manually made offer prevails.

**5.5** The prices indicated on the EAS pages are given in HUF, and the obligation to pay is settled by the auction purchaser also in Hungarian Forints.

**5.6** The most important data of auctions already closed are accessible on the EAS for 30 days following the end of the auction.

**5.7** The auction is won by the bidder making a valid bid with the highest amount of purchase price on the EAS surface within the deadline stipulated in accordance with 5.2 of this chapter.

**5.8** The winner of the auction (and in the case of auctioning off a movable property, bidders making the 2-5. highest offers) will be immediately notified by the authority running the auction about the ending of the auction and that a final result will be announced after the regularity of the auction is reviewed.

**5.9** The tax authority running the auction will review the regularity of the auction on the first working day following the end of the auction. In case of an irregular auction, the authority running the auction will declare the auction to be failed (abortive). In case of a regular auction, a final result is announced at 20.00 on the EAS on the working day following the day of closing the auction. The winner of the auction is notified by means of an electronic message sent by the tax authority to the email address given by the eventual winner at registration. The electronic notification contains the information that the winner must show up in 8 days following the receipt of the notification at the tax authority running the auction and pay the purchase price electronically or – in the case of a movable property – in cash or certify that the purchase price has been settled by means of a transfer order or remittance or through a cash substitute (debit card).

**5.10** In the case of auctioning off a movable property, the bidders making the second to fifth highest offers will only be notified by the tax authority about winning the auction only if the parties making larger offers have failed to perform their obligations within deadline.

## **6. The exclusion of liability**

**6.1** The tax authority is not liable for the technical breakdowns of the internet network or the breakdown of the computers of users, or consequences arising from reasons not attributable to the operation of the EAS.

**6.2** Neither the debtor nor the tax authority is obliged to vouch for the property auctioned off. The [appraised value](#) of the goods is determined by the tax executors who have the appropriate expertise taking the characteristic features and condition of the object, as well

as its market value into consideration; at the same time, the notice does not provide a comprehensive description of the characteristics of the movable property. The tax authority assumes no responsibility for defects undetected or unrecognized by participants in the course of the public display or the potentially occurring actual or suspected shortcomings of movable property.

Before every auction the tax authority provides the opportunity to participants for personally inspecting immovable property in a location and at a time determined in the notice.

## **7. Protection of rights relating to personality**

In the course of using the EAS only the data required for the identification of the bidders are used. The information on bidders are put in the archives following a [successful auction](#) and are kept in compliance with the regulations pertaining to the tax authority on record keeping. The tax authority only releases information related to auctions on the EAS when this is officially requested in an authority procedure and only such information which are defined in legislative provisions. The tax identification code of a bidder is handled confidentially and in accordance with the rules on tax secrecy.

## **II. Special rules of the electronic auction of immovable property**

### **1. General rules**

**1.1** In the case of immovable property the minimum price is – except for the motor vehicles seized in accordance with Paragraph (5) of Section 103 of the Act on Judicial Enforcement (henceforward: Act on JE) – the 50 percent sum of the appraised value, offers below that are not registered. In the case of motor vehicles seized in accordance with Paragraph (5) of Section 103 of the Act on JE, the minimum price may be higher than 50% of the appraised value. In such cases the price determined by the Regulation of the Ministry of Justice no. 13/2001 (X. 10.) on the exemption from the seizure of motor vehicles indispensable for the profession of the debtor is indicated as the minimum price and the notice features the amount given in this legislation. If there are not at least two offers reaching the minimum price, the [auction is unsuccessful](#).

**1.2** [A registered offer](#) is a valid offer at least as high as the minimum price or higher; at the same time, valid offers are at most the 5 highest registered auction offers. The person making a valid offer on the EAS remains bound to their offer until the end of the auction. Valid auction offers are indicated on the surface in an itemized manner, whereas registered and valid offers with the intention to provide information only.

**1.3** In case of movable property auctions on EAS pages, only movables seized by the NTCA and in possession of the NTCA are auctioned off. The [movable properties](#) are displayed in the time and premises indicated in the auction notice.

## **2. Liabilities and legal consequences**

**2.1** After the [end of an auction](#), the bidder making the highest auction offer is obliged to settle the purchase price and carry the movable property. The winner of the auction (and every bidder making a valid offer) receives notification on the email address provided by them; at the same time, they are also notified about the method of payment and the circumstances of carrying the movable property away. The winner of the auction has 8 days from the notification for paying the purchase price and carry of the movable property away.

**2.2** In case the winner of an auction fails to pay the purchase price until the deadline set in Point 3.1 of this chapter, the person making next highest [valid auction offer](#) will step in their place. The winner has the burden to pay the differential amount between the two purchase prices, and the tax authority adopts a decision to oblige them to do so. When there is only one valid offer, the winner will be imposed the obligation to pay the highest purchase price offered by them. In this case the auction purchaser acquires the ownership of the immovable property only if they pay the purchase price until the decision adopted on the payment obligation enters into force at the latest.

The decision establishing the obligation of a payment defaulter is an executable document in the tax administration procedure, the NTCA makes measures to collect the amount of the obligation. The [difference in the purchase prices](#) increases the amount incoming from the execution, and the part of the price exceeding the debt is to be accounted in the same way as the execution costs.

**2.3 Bidders making valid offers** acknowledge that – in case of the exclusion of the person making an offer ranked above theirs – they **may qualify as winners with their offer**, and in that case they would be obliged to pay the purchase price on the basis of the above detailed rules of responsibility and carry the movable property. The tax authority notifies the persons making valid offers about the payment of the purchase price by bidders making offers ranked above theirs in email.

**2.4** In case of non-compliance with the obligation described in Points 3.1 and 3.2 of this Chapter (the settlement of the purchase price) the auction purchaser may not participate in another auction until the settlement of the payment obligation established in a legally binding way.

**2.5** If the winner of the auction fails to carry the moveable property away after they had settled the purchase price, the NTCA will be guarding this item in accordance with the rules regarding possession without a legal title as defined in the Civil Code for a period of maximum 90 days from the day of payment. The tax authority will adopt a decision to oblige the winner of the auction to pay the costs generated as a result of the guarding. The decision on the obligation to pay is an executable document in the tax administration procedure.

### **III. Special rules of the electronic auction of real estate property**

#### **1. Rules regarding the notice**

In cases where the electronic auction of real estate property takes place, the notice contains – besides the data defined in Point 4.1.2. of Chapter I – the following pieces of information:

- a) the real estate property data in accordance with the estate records (topographical lot number, cultivation, situation), the charges defined in Paragraph (1) of Section 137 of the Act on JE (e.g. easement rights, public rights of use, usufruct rights entered into the estate records),
- b) accessories and characteristic features of the real estate property,
- c) information if the real estate property is being sold in an occupied or vacant status, in the latter case, information whether the municipal government of the settlement where the residential property is situated has a right of first refusal,
- d) the amount of the auction deposit (henceforward: deposit) and the account where it is transferred.

#### **2. Rules of paying the auction deposit and purchase price**

**2.1 Only those are eligible to participate** in a real estate property auction who have paid the 10% of the appraised value of the property as **a deposit** by the start of the auction at the latest **via a transfer** made to the bank account indicated in the auction notice make by the tax authority. As a main rule, the amount of the deposit should be paid, whenever possible, at a time that ensures that the amount is **credited** to the bank account indicated in the notice **before the start of the auction**. The time of processing at financial institutions must be taken into consideration for this, which usually lasts 2 working days.

**2.2 If the transfer takes place within two working days before the start of the auction, the bidder must present the debit notification of the transfer to the executor indicated in the notice and a copy must be handed over. Following a discussion via telephone, there is an opportunity to certify the payment of the deposit at the directorate which is closest to the location of the participant.**

**2.3** After the appropriate amount is credited in the bank account, the person interested in the participation in the auction can access the bidding surface of the particular real estate property. This surface is deactivated until the entire amount of the deposit is credited on the invoice or the payment is certified. The parties interested who had not paid the deposit can only see the information on the auction notice.

**2.4** The deposit paid by the winning bidder is counted when the purchase price is paid. The tax authority automatically transfers the deposit back to the bidders other than the auction purchaser to the account from which the payment had been initiated.

### **3. Right of pre-emption by the municipal government competent where the residential property is situated**

**3.1** In accordance with Section 85/F of Act LXXVIII of 1993 on the Particular Rules on the Rent and Sale of Residences and Premises (Act on PRSP), the municipal government, competent at the territory where the vacant residential real estate under sale is located, holds rights of pre-emption in the context of the auction. In the case of such real estate property, the municipal government in question receives detailed information and a unique control code for practicing this right in the particular auction. **The municipal government may practice its right of pre-emption when the debtor has put a request forward a request for the acquisition of the rental rights for the residential real estate and the municipal government issues a written statement to the effect that the purchased residential real estate will be leased for an indefinite period of time to the debtor of the execution procedure with the conditions stipulated in the Act on PRSP and the regulation of the municipal government on leasing.**

**3.2** On the basis of Paragraph (6) of Section 156/A of the Act on ART, the municipal government may exercise this right in respect of the **highest purchase offer** on the EAS until 17:00 hours of the working day following the time of conclusion of the auction in accordance with the conditions of Paragraph (2) of Section 156/A of the Act on ART. In case the request described in Point 3.1 is granted, a person defined in the rules of organization and operation of the municipal government will indicate that by filling out the form placed in the appropriate menu item of the EAS and by providing the control code given in the letter of notification.

**3.3** Besides the conditions given in Point 5.1 another condition of exercising the right of pre-emption is that the person defined in the rules of organization and operation of the municipal government certifies their rights for representation and hands over the statement given in Point 3.1 to the executor named in the auction notice or to another person appointed by them.

**3.4** The bidder making the highest valid bid for the vacant residential real estate property described in Point 3 may only acquire the ownership rights of the real estate if the municipal government has failed to practice its right of pre-emption within deadline. The person making the highest valid bid receives prior notification of this fact on the e-mail address provided by them, and is also electronically notified of the final outcome in the light of whether the right of pre-emption has been practiced or not.

#### **4. Special rules regarding payment**

**4.1** Valid auction offer in the case of a real estate property is the highest offer reaching at least the 65% of the appraised value, and 75% of the appraised value in the case of residential real estate properties.

**4.2** In the case of auctioning real property in the framework of tax execution procedures the tax authority may grant a 60 days postponement for payment by simultaneously charging interests if the large sum of the purchase price or another important circumstance justifies that. Such a request can be filed in writing or in minutes taken up of a personal meeting with the organizational unit indicated in the auction notice issued by the tax authority which proceeds in the case. In accordance with Paragraph (1) of Section 6:48 of the Civil Code, the rate of interest is identical to the prime rate of the Central Bank. When the payable interest is calculated, the prime rate valid on the last day preceding the calendar year half in question is used for the entire duration of the calendar half year.

#### **5. Liabilities and legal consequences**

**5.1** After the end of an auction posted in the framework of a tax execution procedure, the bidder making the highest valid bid is obliged to pay the purchase price with the exception of the case given in Point 3.2. The winner of an auction receives a notification on the email address they had provided as well as information on the method and deadline of payment. The winner has 8 days available for paying the purchase price after the electronic notification has been delivered. In the case of practicing the right of pre-emption, the municipal government qualifies as the winner of the auction and the deadline of 8 days provided for the payment of the purchase price is counted from the day following the day when practicing the right of pre-emption was announced by the municipal government.

**5.2** After an auction in the framework of a tax execution procedure is closed and the winner fails to pay the purchase price within deadline, the winner loses the deposit they had paid. The previous auction buyer may not participate in the second auction. If, in the repeated action, the real estate property is sold at a price lower than what the previous auction purchaser had

offered to pay, the previous auction buyer incurs the obligation to pay the difference on the basis of the decision of the tax authority performing the execution. The decision establishing the payment obligation of the defaulting auction bidder is a document executable in the tax authority procedure and the NTCA makes measures to collect it. The lost deposit must be taken into account when the payable amount is calculated.

## **6. Auctioning a real estate property in joint ownership**

**6.1** Co-owners with the debtor may together request that the entire real estate property be auctioned off until the auction is posted. The request must be filed as a statement incorporated in the minutes by the executor or in a document by the public notary.

### **6.1.1** In this case

- a)* any of the co-owners may participate in the bidding for the real estate property with the exception of the debtor (and with the exception of persons excluded in I. 2.2),
- b)* the co-owner participating in the auction is allowed to pay a deposit proportionately reduced by the amount corresponding to their holding, and once they buy the real estate, they are not required to pay the part of the purchase price which corresponds to their holding,
- c)* the holding of a co-owner may only be auctioned off for a price under the appraised value with their consent,
- d)* the executor subtracts the costs of sale defined in a separate legal regulation proportionate to the holding of the co-owner from the amount received from the sale of the co-owner's holding.

## **7. Pre-bidding right in case of a real estate auction**

**7.1** When a holding is auctioned in a real estate property, the co-owners are entitled to a **pre-bidding right** instead of the **pre-emptive right** mentioned above. On the basis of Paragraph (5) of Section 5:81 of Act V of 2013 on the Civil Code (henceforward: Civil Code), a co-owner may exercise their **pre-emptive right** in the course of an executory auction too, in which case this is considered a **pre-bidding right** in accordance with the Act on JE. According to Paragraph (2) of Section 123/A of the Act on JE, the person holding a pre-bidding right may receive information about the auction through the publication of the auction notice or – if the law stipulates the delivery of the notice to them – through its delivery.

### **7.2** Realization of the pre-bidding right

If a co-owner wishes to practice their pre-bidding right, they – besides having to comply with the legal conditions of participation in the auction – must indicate this before the start of the auction. The co-owner can report their intention to realize the pre-bidding right by using the menu item “ELŐÁRVEREZÉS” (“PRE-BIDDING”) where the serial number of the auction is to be entered. The administrator of the particular auction controls if the pre-bidding right in fact exists on the basis of the information in the estate records. The applicant receives electronic notice on their e-mail address provided at registration if their pre-bidding right has been granted or rejected.

### **7.3 Bidding as a pre-bidding right holder**

The pre-bidding right holder – besides the option of participating as a seller at the auction – may exercise their pre-bidding rights by making an offer with an amount identical to the highest valid offer at the end of an auction. In practice, this can be done by clicking the “Tartom” (“I hold”) button on the auction bidding surface. In case no higher valid bid comes, the pre-bidding right holder is entitled to the legal status of the person making the highest bid.

## **IV. Legal regulation**

### **1. Legal rules related to the auction posted in the framework of tax authority execution**

The main rules of auctioning on the EAS are contained in Sections 120-129, 132, 132/A and 141-156 of Act LIII of 1994 on Judicial Enforcement (Act on JE) with differences regulated by Sections 156-156/A of Act XCII of 2003 on the Rules of Taxation (Act on RT).

Section 156/A of the Act on RT regulates **the special rules of electronic tax authority auctions** in the following way:

*“(1) Electronic auctions shall be governed by the provisions of Sections 120-129, Section 132, Section 132/A and Sections 141-156 of the JEA, subject to the exceptions set out in this Section. The provisions of the Act on the General Rules of Administrative Proceedings and Services pertaining to applications for continuation, and Subsection (1) of Section 38, Subsections (1)-(4) of Section 124, Sections 125-126, Subsections (1)-(3) of Section 147, Subsection (2) of Section 149 and Section 154/B of the JEA shall not apply.*

*(2) In electronic auctions, bidders may bid by way of electronic means in the Electronic Auction Page (hereinafter referred to as “EÁF”) that may be accessed through the tax authority’s official website, as well as the municipal governments holding rights of pre-emption under specific other legislation in connection with the auction of residential*

*properties (hereinafter referred to collectively as “electronic bidders”). Before the closing of the electronic auction, no representation is permitted under a power of attorney or authorization, unless the electronic bidder, being the principal or customer, notifies the tax authority to that effect through the central electronic services network. Minors and the representatives of minors may not participate in the auction.*

*(3) The electronic auction notice posted on the EÁF by the tax authority shall contain an indication that auctioning is conducted by way of electronic means only. Viewing the electronic auction notices, participating in the auction and bidding is free of charge. The tax authority shall carry out all actions and convey all information relating to a pending electronic auction through the EÁF.*

*(4) Electronic bidders wishing to participate in an electronic auction may place their bids through the central electronic services network, via the customer port of entry.*

*(5) In respect of an auction of real estate property, bidders shall pay 10 per cent of the appraised value of the property as auction deposit before the commencement of the auction to the account published by the tax authority, by way of credit transfer. If the amount of the deposit is not credited to the account published by the tax authority before the time the auction is scheduled to begin, however, the prospective bidder’s account has already been debited by the financial institution, the prospective bidder affected may provide credible proof to the tax authority that the transfer had in fact been executed irrevocably.*

*(6) The duration of an electronic auction shall start at the time of opening indicated in the auction notice and shall end at 21:00 hours on the third day; in respect of the highest bid, municipal governments holding rights of pre-emption under specific other legislation in connection with the auction of residential properties may exercise this right until 17:00 hours of the working day following the time of conclusion of the auction. When placing a bid, the EÁF displays the highest bid quoted on the auctioned article up to that point, and an electronic time display showing the length of time remaining of the auction period. In the event of any malfunction in the system of a length of up to one hour, twenty-four hours shall be added to the original duration of electronic auction. The duration of auction shall be extended by twenty-four hours regardless of the length of the malfunction, if it occurs inside the last four-hour-period before the closing time of the auction. If a valid bid is received inside of two minutes before the closing of the electronic auction, the duration of the auction shall be automatically extended by five minutes, and this shall apply to any subsequent times of closing the auction.*

*(7) Bids shall not be accepted below 1,000 forints, or 5,000 forints if the reserve price is 100,000 forints or more, or 20,000 forints if the reserve price is 500,000 forints or more, and 50,000 forints if the reserve price is 5 million forints or more, or 100,000 forints if the reserve price is 10 million forints or more. Municipal governments holding rights of pre-emption under specific other legislation in connection with the auction of residential properties may exercise this right by making a purchase offer matching the amount of the highest bid.*

*(8) Valid bids shall comprise the five highest bids above fifty per cent of the appraised value in the case of movable tangible property, or the highest bid above sixty-five per cent of the appraised value in the case of real estate property or seventy-five per cent in the case of residential property, registered in the EÁF before the closing time indicated in the auction notice. In the event of bids of the same amount, the one registered on the EÁF earlier shall be declared winner. Bids may not be withdrawn.*

*(9) In connection with the sale - by way of electronic auction - of a motor vehicle that was seized according to Subsection (5) of Section 103 of the JEA, bids shall be accepted only if high enough to cover the estimated costs of the enforcement procedure and the amount due to the judgment debtor according to Subsection (1) of Section 170/A of the JEA. In these cases the minimum amount of bids shall be indicated on the EÁF.*

*(10) The highest bidder shall be declared winner of the auction, however, the competent municipal government shall be declared winner if exercising its right of pre-emption granted under specific other legislation in respect of such highest bid. The tax authority conducting the auction shall notify the winner by way of electronic means, immediately upon the conclusion of the electronic auction. The electronic notice shall advise the winning bidder to appear at the tax authority conducting the auction within eight days following receipt of notice and to pay the purchase price electronically or in cash in the case of movable tangible property, or to provide proof of payment of the purchase price by way of credit transfer or postal money order. In connection with real estate property, the tax authority may provide a respite of sixty days for paying the purchase price, if it is justified in the case of high-price properties or for other important reason.*

*(11) If the winning bidder has paid the purchase price and provided sufficient proof of payment, however, he fails to collect the goods within fifteen days of receipt of electronic notice, the tax authority shall safeguard the goods in question for a period of ninety days according to the principle of wrongful possession provided for in the Civil Code. The costs incurred in connection with wrongful possession shall be covered by the winning bidder as charged by way of a resolution of the tax authority. The resolution requesting payment of the*

*said costs shall be treated as an enforcement order in tax administration proceedings. If the winning bidder fails to pay the purchase price with sufficient proof of payment, the bidder with the next highest offer shall be declared the winner.*

*(12) If an article previously unpaid for is bought at a price lower than offered by the defaulting electronic bidder, such defaulting bidder shall be liable to pay the difference as ordered by the tax authority in a formal resolution. If there was only one bidder, this bidder shall be obliged to pay the highest price he has quoted. In this case, title to the movable property shall be transferred to the auction buyer only after payment of the purchase price before the operative date of the resolution containing the payment order. The resolution containing the auction buyer's payment obligation shall be treated as an enforcement order in tax administration proceedings. The amount of difference shall be added to the price received in the course of the auction, and any sum in excess of the debt shall be accounted the same way as enforcement costs. Until satisfaction of the payment obligation imposed by final decision, the auction buyer may not participate in further electronic auctions.*

*(13) If the second electronic auction is unsuccessful, after thirty days in the case of movable property and after six months in the case of real estate property the bailiff may reschedule the auction where this is deemed warranted by circumstances. If the rescheduled electronic auction is also declared unsuccessful, the auction may be repeated at not less than six-month intervals within the term of limitation for the enforcement of taxes. The provisions of the JEA pertaining to continued auctions shall not apply to electronic auctions.*

*(14) The state tax authority shall publish the technical requirements concerning electronic auctions and the detailed regulations on how it is operated on its official website as well."*

## **2. Regulation on the acquisition of real estate property by foreigners**

**A foreign person (non-Community citizen)** may acquire the ownership rights of a real estate property not qualifying as a land for agricultural or forestry utilization (arable land) on the basis of a **preliminary authorization** issued by the territorial authority with a general scope of competence (Capital or County Government Office) at the location where the real estate property is situated in accordance with Paragraph (1) of Section 9 of the Government Regulation no. 251/2014 on the acquisition of real estate property by foreign persons.

A Community citizen, or a citizen of the European Union or a citizen of a **country party to the Agreement on the European Economic Area**, or a citizen of a country under identical considerations with Hungary under an international agreement, or a **legal person or an**

**organization without a legal personality registered in these countries** may acquire the ownership rights of a real estate property not qualifying as a land for agricultural or forestry utilization (arable land) **under the same conditions as domestic persons (without any special authorization).**

*The preliminary authorization must be shown to the competent executor before the start of an auction when the real estate property is presented for display. In the case this is not possible, a scanned copy of the authorization is to be sent to the email address [eaf@nav.gov.hu](mailto:eaf@nav.gov.hu) with the indication of the identification number of the particular real estate property auction. Participation in the auction is not possible otherwise. On the basis of the presented documentation, the executor adopts a specially prompt individual decision in the subject of participation in the auction. The executor informs the foreign person about their decision on the spot or in the form of an electronic reply on the acceptance of the document attached to the electronic mail. The presented documentation must always be attached to the documentation in copies.*

In the case where the winner of an auction is a foreign person, the executor sends the copy of the **auction minutes** and the **preliminary authorization** to the government office competent in the territory where the real estate property is situated for the purpose of their adding a clause. Entering the change in the ownership in the estate records may only take place after the clause has been added.

#### **251/2014. Government Decree 251/2014 (X. 2.) on the Acquisition by Foreigners of Real Estate Other Than Agricultural and Forestry Land**

*9. § (1) Where a foreign person intends to buy a real property by way of auction, the Budapest and county government agency shall grant authorization in advance for such acquisition. The authorization issued in advance (hereinafter referred to as “prior authorization”) shall not contain any information relating to a specific property, for it shall constitute entitlement for the acquisition of any real property offered by way of auction in the area of jurisdiction of the Budapest and county government agency.*

*(2) The prior authorization shall be valid for a period of one year from the date when it becomes final and binding.*

*(3) Paragraphs b) and c) of Subsection (2) of Section 2, Subsection (1) and Paragraph a) of Subsection (2) of Section 4, Section 6 and Section 8 shall not apply to proceedings for the grant of prior authorization.*

*(4) The Budapest and county government agency shall grant prior authorization if the acquisition of real property is not against public interest.*

*(5) Where the acquisition of real property is effected by way of auction, registration of ownership in the real estate register shall be carried out upon the prior authorization being endorsed by the Budapest and county government agency entering on the auction report the address of the property thus purchased, the name of the municipality and the land register reference number. The Budapest and county government agency shall comply with the request of the applicant for endorsement within eight days of submission thereof. In the case of auctions conducted in enforcement procedures, the request for endorsement shall be submitted by the bailiff or the auction buyer.*

*(6) The prior authorization may not be endorsed if it was not valid at the time of the auction.*

### **3. Legal remedies regarding a posted auction:**

*Rules of the kinds of legal remedy that can be submitted in the course of tax execution are given in Section 159 of the Act on RT:*

*"(1) The judgment debtor or the judgment creditor and any person whose right or rightful interest has been injured by the enforcement may file a demurrer of enforcement with the tax authority of the first instance carrying out the enforcement procedure concerning any of the tax authority's rulings and against the unlawful actions of the tax administrator (including a court bailiff when acting on behalf of the tax authority) or his failure to take action, within eight days of gaining knowledge thereof. After six months following the time of commission of the unlawful action, or the omission thereof, no demurrer of enforcement may be submitted. This deadline shall apply with prejudice; no application for continuation shall be accepted upon missing the deadline. If the demurrer of enforcement is filed in delay, or if filed by a person other than the rightful person, the tax authority of the first instance shall refuse it without any examination as to merits.*

*(2) The tax authority carrying out the enforcement shall forward the demurrer of enforcement submitted to the superior authority with all documents attached within fifteen days, with the exception if the tax authority carrying out the enforcement is in agreement with all points of the demurrer and it notifies the person having filed the demurrer thereof. The superior authority shall decide such demurrer of enforcement within fifteen days, during which time it shall sustain, overturn or annul the contested measure or shall order the tax administrator to carry out the omitted measure within the prescribed deadline. A demurrer of enforcement lodged in connection with the remuneration of an independent court bailiff acting on behalf of the tax authority carrying out the enforcement shall be heard - in accordance with specific other legislation - by the district court of jurisdiction for the place where the bailiff is established. If the taxpayer files a demurrer of enforcement in connection with an enforcement measure taken for the enforcement of a liability that is shown in the state tax authority's records based on the data disclosed under Subsection (1a) of Section 43, the*

*state tax authority shall forthwith contact the competent authority for requesting the final resolution. The authority having passed the resolution shall fulfil the request within eight days of receipt. In this case the time limit for deciding the demurrer of enforcement shall commence at the time of receipt of the definitive resolution establishing the payment obligation.*

*(3) A demurrer of enforcement, unless filed for the second time and with the exception if the demurrer is lodged after the date of auction is announced and that does not contest the legitimacy of the auction, shall have a suspensory effect concerning further acts of enforcement. Upon receipt of a demurrer of enforcement the tax authority shall notify the court bailiff immediately."*

A demurrer of enforcement is subject to duty. The duty of a demurrer of enforcement is 5,000 HUF which is to be transferred to the account no. 10032000-01076064 for the collection of payments related to the duty of tax administration procedures held by the NTCA (NAV) at the Hungarian Treasury. A taxpayer owning a domestic payment account can settle the amount of duty via transfer, including here also the option of payment through the subsystem determined in a separate legal provision for electronic payments and accounts. Taxpayers who do not have a domestic payment account transfer the amount of duty from a domestic current account or by a cash remittance order. The duty can also be paid by a debit card at the appropriate NTCA customer services.

#### **4. Rules related to the use of the KR system**

On the basis of Paragraph (1) Section 123 of the Government Regulation no. 83/2012 (IV. 21.) on regulated electronic administration services and the services obligatorily provided by the state a natural person can initiate the registration required for the use of the Client Gate either in person at the registration authorities with the competence of creating Client Gate registrations or by using an electronic form submitted to the administrator of the electronic database.

(2) The registration authority identifies the client – personally or in advance in case the user has shown up personally. When registration was initiated by the submission of an electronic form mentioned in Paragraph (1), identification is done on the basis of the data in an authority document presented by the user and eligible for the certification of identity as defined in a separate legal regulation. The registration authority will compare the natural personal identification data provided by the user as well as the citizenship with the information available in the registry, and also controls the validity of the document eligible for personal identification that had been presented in the course of the personal meeting.

#### **5. Tax and duty payment obligations in an auction**

## 5.1 Rules of paying the value added tax:

**5.1.1** In accordance with Section 16 of the Act CXXVII of 2007 (Act on VAT) the supply of goods and services is treated equally whether they are supplied under contract, pursuant to a legal regulation, by court decision or decree (ruling) of an authority, or by way of auction. On the basis of this referenced provision if an item of property that had been seized in the course of an execution procedure is sold in the framework of an auction performed by the tax authority, this sale qualifies as a sale of goods in accordance with Section 9 of the Act on VAT provided that the debtor is otherwise the subject of the value added tax.

In consequence, in cases where the debtor is a non-taxable person or organization, no obligation of VAT payment arises regarding the sale in the course of an auction.

**5.1.2** However, when the debtor is a subject of VAT, the auction sale of their property item must be considered as a sale of goods in accordance with Paragraph (1) of Section 9 of the Act on VAT. In the context of the Act on VAT, this supply of goods is always performed by the debtor to the auction purchaser; therefore, the taxable event takes place between the debtor and the auction purchaser. As a result, the VAT payment takes place along the line of the following: [\[1\]](#)

<b>If the debtor is a VAT or EVA (simplified entrepreneurial tax)</b>		
<i>Auction purchaser</i>	<i>Can it be the subject of reverse taxation?</i>	<i>Indicating the purchase price in the invoice</i>
VAT subject (except for exempt taxpayers, and taxpayers performing agricultural activities only, and opting for special tax assessment), EVA subject	YES	If the transaction is a reverse taxation transaction, the amount without VAT is to be indicated, if it is not, the amount calculated with VAT is indicated (provided that the sale is a taxable sale)

Non-VAT subject (or exempt taxpayers, and taxpayers performing agricultural activities only, and opting for special tax assessment), non-EVA subject	NO	The amount calculated with VAT is indicated (provided that the sale is a taxable sale)
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**5.1.3** The sale of real estate property located in Hungary is under the effect of the Hungarian Act on VAT regardless of the citizenship or tax resident status of the acquirer of the property (private individual or legal person, other organization).

## 5.2 Rules of duty payment:

A purchase through auction is dutiable from the point of view of the winner of the auction in accordance with Point c) of Paragraph (2) of Section 18 of Act XCIII of 1990 (Itv), the rate of which is – according to general rules {Paragraph (1) of Section 19 of the Itv} – is 4% of the circulation value (the purchase price in most cases) counted without additional tax burdens.

In accordance with Paragraphs (1)-(2), (6) and (7) of Section 24 of the Itv and in respect of the acquisition of title to a motor vehicle the rate of duty is determined on the basis of the capacity of the motor vehicle's engine, shown in the relevant official records in kilowatts, and on the motor vehicle's age from the year of manufacture, as per the following:

Engine capacity (kW)	The age of the vehicle counted from the year of manufacture		
	0-3 years	4-8 years	over 8 years
0-40	550 HUF/kW	450 HUF/kW	300 HUF/kW
41-80	650 HUF/kW	550 HUF/kW	450 HUF/kW
81-120	750 HUF/kW	650 HUF/kW	550 HUF/kW
over 120	850 HUF/kW	750 HUF/kW	650 HUF/kW

If the power of the motor vehicle is given in horse power only in the authority register, the power expressed in horse power is to be divided by 1.36 and the result is to be rounded to an integer in accordance with the general rules of rounding. If the authority register contains no information about the power of the motor vehicle, the tax authority turns to the competent transport authority with the identification information of the motor vehicle in order to receive the information regarding its engine power. In this case, the thus received information is considered as the basis of the payable duty.

- The duty to be paid for the acquisition of the ownership title of trailers is 9,000 HUF if the maximum allowed weight of the trailer does not surpass 2,500 kg, and 22,000 HUF otherwise.
- No duty needs to be paid if the acquirer of the property item requests the release of a temporary license plate number starting with Z for the purpose of leaving the country, simultaneously with the reporting of the acquisition as long as the release of a registration

book for the durable domestic use is not requested or the motor vehicle is not sold domestically.

- The acquisition of ownership title of a motor vehicle or trailer is exempt from the duty on quid pro quo transfer of property when it is acquired by an entrepreneur, at least 50% of the net profits of whom was generated from the sale of motor vehicles and trailers (motor vehicle trader), or an entrepreneur conducting financial lease according to the register kept by the authority performing the supervision of the financial intermediary system;  
The acquisition of the ownership title or the right expressible in terms of value for an eco-friendly motor vehicle is exempt from the duty on quid pro quo transfer of property;

### **5.2.1 Special rules of duty payment for real estate property:**

According to Paragraph (1) of Section 19 of the Itv., the general rate of duty on quid pro quo transfer of property – unless the law stipulates otherwise – in case of the acquisition of real estate property or the acquisition of a deposit in a company having domestic real estate assets is 4% up to a billion HUF per real estate, and 2% for the part of the market value above that, but at most 200 million HUF per real estate. In case of the acquisition of a share of title to a real estate property, the 4% duty is applied on the part of the 1 billion HUF proportionate to the part of the share and the maximum 200 million HUF of duty per real estate property is also taken into account in proportion of the property share. In the case of acquisition of other prescribed rights related to real estate property the rate of 4% of duties are to be applied on a part of the duty base, and the part of 200 million HUF is to be taken into account in proportionate to the rate of the prescribed rights in the market value of the real estate property. When a real estate property is acquired with a burden of property value on it – including the prescribed rights generated simultaneously with the acquisition of property – the 4% is to be applied to a rate of the 1 billion HUF that is proportionate to the market value reduced by the value of the prescribed rights and a part of the 200 million HUF is to be taken into account which is proportionate to the property value in the market value of the real estate property.

### **5.3 Other payment obligations:**

The use of the EAS in the case of movable property is free of charge, no registration fee, deposit of purchase price or guarantee needs to be paid by either the visitors of the page or the bidders. In the case of real estate properties, the payment obligation of a deposit described in Point 2.1 of Chapter III will be imposed upon the participant of the auction.

On the basis of Paragraph (1) of Section 32/A of Act LXXXV of 1996 on the amendment of Act XCIII of 1990 on duties and the service fee of certified property deeds (Act on Fees) a fee of 6,600 HUF must be paid by the auction purchaser for the first instance procedure for the

registration of property rights after each of the real estate properties involved in the change unless the law stipulates otherwise.

## **V. Regulation relating to the sale of pledged property outside judicial foreclosure**

According to Paragraph (2) of Section 5 of the Government Decree 66/2014. (III. 13.) on the detailed procedural rules of the enforcement of the mortgage outside judicial foreclosure and of the suspension and restriction of the exercising of the right of satisfaction, if the pledged property is a residential property, the mortgagee can **only** sell it on the Electronic Auction Surface (EAS) operated by the state tax authority.

The EÁF was originally established by the NTCA for the transaction of the auctions of the tax authority and these Rules of Operation basically refers to it as well. The mortgagees in respect of the validation of their mortgage perform auctions - as it were technical assistance - on this surface as well, however that is unrelated to tax enforcement.

Due to the “shared use” several technical rules and rules of the transaction are identical; however, the differences in rules are hereby summarized:

**1.1** The obligor of the procedure is entitled to acquire the pledged property at the auction directly or indirectly, the general rule of exclusion (point I/2.) does not prevail.

**1.2** During the sale procedures pursuant to the Regulation the tax authority indicates the name and the data of the authorized party in the auction notice but does not provide information about the VAT or EVA (simplified entrepreneurial tax) status of the debtor. The notice contains:

- a) the name, seat and availability of the mortgagee,
- b) the name of the mortgagor and the amount, the legal title of the claims,
- c) the lowest selling price determined in the agreement between the mortgagor and the mortgagee, if it is higher than the 70 per cent of the appraised value.

**1.3** In sale procedures conducted in accordance with the Regulation the rate of the auction deposit is 2% and the legal consequences regarding the failure of payment are identical to the consequences of non-payment of the deposit in tax execution procedures. The rate and amount of the deposit is given in the auction notice.

**1.4** In sales procedures conducted in accordance with the Regulation, the value of the residential real estate property is appraised by the authorized party, and in exceptional cases, the expert appraiser requested by the tax authority conducting the auction.

**1.5** A valid auction offer in sales procedures conducted in accordance of the Regulation is the highest offer reaching the 70% of the appraised value or if the parties have agreed upon a higher minimum price, the highest offer reaching the minimum price.

**1.6** The winner of an auction posted on the basis of a request is informed by the tax authority by electronic means only. In such sale procedures the **payment of the purchase price is not**

**made to the tax authority conducting the auction**, but to the mortgagee or a third person determined by him.

**1.7** The winner of the electronic auction must receive and sign a copy of the minutes of the electronic auction from the tax authority conducting the auction within 8 days from the end of the auction. Simultaneously, he must present every such document which – in accordance with the present Rules of Operation – must subsequently be presented.

**1.8** In sales procedures conducted in accordance with the Regulation, **the municipal government may practice their rights of pre-emption until 17:00 of the 30<sup>th</sup> day** following the end of the auction.

**1.9** In sales procedures conducted in accordance with the Regulation the tax authority has no information regarding conditions of settlement. Such information can only be provided by the mortgagee indicated in the auction notice, and determining the settlement conditions is their exclusive right.

**1.10** In sales procedures conducted in accordance with the Regulation the authorized person can realize their claims against the auction purchaser and the municipal government practicing their rights of pre-emption in a court procedure. The deposit is counted into the purchase price. If the winning bidder has not settled the purchase price, they cannot participate in the repeated auction of the residential real estate property unless the authorized person makes a statement to the contrary.

**1.11** In sales procedures conducted in accordance with the Regulation, the sale in accordance with Point III. 6. may not take place.

### ***Regulation of sales of residential real estate property outside judicial foreclosure***

*The Government Regulation (henceforward: Regulation) no. 66/2014 on the detailed procedural rules of the suspension or restriction of practicing the right of lien outside judicial foreclosure*

**„Section 5 (1)** *The residential real estate in accordance with Paragraph (4) of Section 147 of Act LIII of 1994 on judicial foreclosure (henceforward: residential real estate) qualifies as residential real estate for the purposes of this regulation.*

*(2) A residential real estate is publicly sold by the state tax authority competent in the area where the residential real estate is situated (henceforward: tax authority), by means of using the Electronic Auction Surface (henceforward: EAS) operated by them (henceforward: electronic auction).*

*(3) The preliminary notice according to Section 5:131 of the Civil Code (henceforward: preliminary notice) must also make a reference to the fact whether or not the municipal*

government competent in the area where the real estate is situated has a pre-emptive right in the sale in accordance with Paragraph (2) of Section 85/F Act LXXVIII of 1993 on the particular rules of the renting and sale of residences and premises (henceforward: Lt).

(4) In the context of the planned method, place and time of sale [Points e) and f) of Paragraph (3) of Section 5:131 of the Civil Code], the preliminary notice informs the authorized parties about the application of the electronic auction and the time of initiating it.

(5) The mortgagor must be called upon for the release into possession by simultaneously informing them that if they present the written undertaking of obligation by the municipal government in accordance with Paragraph (3) of Section 85/F of Lt (henceforward: undertaking of obligation by the municipal government), they become obliged to leave the residential real estate property vacant until the date indicated in the notice, but at most 30 days after the date when they will have received a written notification from the mortgagee to the effect that the ownership title of the real estate has been acquired by an entity different from the municipal government. In the lack of an undertaking of obligation by the municipal government, the mortgagee releases the residential real estate property for sale with the burden of the obligation of leaving it vacant in accordance with Paragraph (2) of Section 5:132 of the Civil Code.

**Section 6 (1)** The mortgagee may initiate the posting of the residential real estate for an electronic auction at the tax authority.

(2) The information given in Points a)-h) of Section 7 must be indicated on the form used for initiating the posting of an electronic auction, and the following items must be attached to the form

a) an expert assessment of the market value of the vacant real estate issued within six months from the initiative,

b) Photographs or video recordings suitable for the identification of the major characteristics of the residential real estate and made within the three months preceding the initiative,

c) the certification of the payment of a lump sum of costs of 25 thousand HUF per residential real estates.

(3) The tax authority compares the appraised value of the expert assessment with the register defined in the act on the rules of taxation and containing comparable values. If the difference between the appraised value and the value given in the register surpasses 30 percent, the tax authority refrains from posting the electronic auction and informs the mortgagee accordingly. In this case, the mortgagee can only initiate the posting of an electronic auction with the price appraised by the expert ordered by the tax authority at the charge of the mortgagee. In case there is information indicating that a criminal offence has been perpetrated, the tax authority initiates the procedure of the investigation authority and

*refrains from posting the electronic auction by simultaneously informing the mortgagee thereof.*

*(4) If the pieces of information provided in the initiative for the posting of an electronic auction are insufficient for the issue of an auction notice, the tax authority sends a written notification to the mortgagee thereof by simultaneously informing them that the posting of the auction may take place after the missing information had been provided.*

**Section 7 (1)** *The tax authority publishes the auction notice within 10 working days from the receipt of an initiative suitable for posting the electronic auction on the EAS, and informs the mortgagee thereof by simultaneously sending them a copy of the notice.*

*(2) The auction notice contains:*

*a) the name, place of residence or seat, the availabilities and the current account number of the mortgagee,*

*b) the name of the mortgagor, the legal title and amount of the main claims,*

*c) estate records data of the residential real estate (topographical lot number, cultivation, situation, name of owner, rights related to the real estate property and legally important facts registered for the real state property),*

*d) accessories of the residential real estate property, its characteristic features,*

*e) information if the residential real estate is auctioned off in a used or vacant status,*

*f) the appraised value of the residential real estate and the lowest purchase price which can be taken into consideration [Paragraph (3) of Section 9], and the deadline of the settlement of the part of the purchase price remaining above the auction deposit,*

*g) the date when the residential real estate property is put on display which can be within at least 10, but at most 50 days from the posting of the auction notice,*

*h) the fact if the municipal government has a right of pre-emption in accordance with (3) of Section 5 or if another person has such right,*

*i) the account number of the account onto which the auction deposit required for the participation in the electronic auction is to be transferred and the amount of the auction deficit,*

*j) information about the extent to which the reserve price of the electronic auction can be reduced,*

*k) the starting date of the auction which must be a day within at least 45 days, but at most 60 days from the publication of the auction notice,*

*l) a reference to the fact whether only electronic bidding is possible or not.*

*(3) On the basis of the auction notice the mortgagee is obliged to inform the mortgagor and other entities – entities entitled to pre-emptive rights and in case of an undertaking of an obligation by the municipal government, the municipal government of the area where the residential real estate property is situated – entitled to be informed without delay about the*

identification number and the starting date of the electronic auction indicated in the auction notice.

(4) After the issue of the preliminary notice, but until the publication of the auction notice at the latest, the mortgagor can indicate the purchaser of the residential real estate property and may request that the residential real estate property be sold to the person indicated by them who intends to purchase the residential real estate with a purchase price at least as high as the lowest purchase price indicated in the auction notice.

(5) In the case described in (4) the mortgagee – with the consent of the entities entitled to information besides the mortgagor – can refrain from the public sale procedure of the residential real estate and sell it to the person intending to purchase it.

(6) If the residential real estate has been sold in accordance with (4)-(5), this fact must be reported by the mortgagee to the tax authority without delay.

**Section 8** (1) Anyone can participate in an electronic auction as a bidder except for an underage person or their representative. Representation can take place on the basis of an authorization reported to the tax authority through the central electronic services system by the bidder of the electronic auction.

(2) Participation in the electronic auction is possible through the central electronic services system, the client gate.

(3) A pre-condition of participation in an electronic auction is that the electronic auction bidder pays a deposit of 2% of the appraised value of the residential real estate until the start of the electronic auction at the latest to the bank account published by the tax authority and certifies this payment to the tax authority until the start of the electronic auction.

(4) Accessing the auction notice and the participation and bidding in the electronic auction – apart from the obligation of deposit payment detailed in (3) – is free of charge. The tax authority performs and publishes every measure and information related to an ongoing electronic auction on the EAS.

(5) Detailed information on the technical requirements of an electronic auction are published by the tax authority on its website.

**Section 9** (1) The electronic auction lasts until 21:00 of the third day counted from the starting date indicated in the auction notice. The EAS shows the highest bid made on the object of the electronic auction, and a counter indicating the time remaining until the end of the auction. In case of a technical breakdown lasting at least an hour, the duration of the electronic auction is extended by 24 hours. The auction is extended by 24 hours regardless of the duration of the technical breakdown if it occurred within 4 hours from the end of the auction. If a valid offer is made within two minutes from the end of the electronic auction, the duration of the electronic auction is automatically extended by five minutes and this rule is reapplied for any subsequent ending times of the electronic auction.

(2) A bid must be at least 1,000 HUF higher than the previously highest valid offer. In case of a reserve price larger than 100,000 HUF, the bid must be at least 5,000 HUF higher than the previously highest valid offer. In case of a reserve price larger than 500,000 HUF, the bid must be at least 20,000 HUF higher than the previously highest valid offer. In case of a reserve price larger than 5,000,000 HUF, the bid must be at least 50,000 HUF higher than the previously highest valid offer. In case of a reserve price larger than 10,000,000 HUF, the bid must be at least 100,000 HUF higher than the previously highest valid offer.

(3) The highest bid of at least 70% of the appraised value received through the EAS until the ending time of the auction qualifies as a valid auction offer.

(4) An auction offer may not be retracted.

(5) An entity having pre-emptive rights for a residential real estate can practice its right of pre-emption until 17:00 of the 30<sup>th</sup> day after the end of the electronic auction by holding the highest valid offer. Written notice to that effect is to be sent to the tax authority.

**Section 10** (1) The winner of an electronic auction receives an electronic notice about their win by the tax authority after the end of the electronic auction and without delay.

(2) Deposits of non-winning offers are immediately transferred back by the tax authority after the end of the electronic auction without interests.

(3) The winner of the electronic auction must receive and sign a copy of the minutes of the electronic auction from the tax authority conducting the auction within 8 days from the notice mentioned in (1). If the bidder fails to comply with this obligation within deadline, they lose the auction deposit which is simultaneously transferred to the mortgagee by the tax authority together with a notice described in (4). The mortgagee is obliged to account this amount as a profit generated from the mortgaged object.

(4) The tax authority informs the mortgagee about the winner and the important information of the electronic auction with the simultaneous sending of a copy of the minutes, and of the failure of compliance with the obligations of the winner of the auction given in (3).

**Section 11** (1) If the holder of a right for pre-emption does not exercise their pre-emptive right, the tax authority

a) notifies the mortgagee and the winner of the electronic auction thereof by electronic means,

b) transfers the deposit of the winning bid to the payment account provided by the mortgagee.

(2) If the holder of the right of pre-emption exercises their pre-emptive right, the tax authority

a) notifies the mortgagee and the winner of the electronic auction thereof by electronic means,

b) immediately transfers the deposit of the winning bid back to the payment account provided by the winner of the electronic auction.

(3) On the basis of the notification of the tax authority pursuant to paragraph (1) or (2) the mortgagee ensures the drawing-up of the document that is in line with the content of the protocol specified in paragraph (4) of Article 10 and that is appropriate for the registration of the change in ownership into the real estate registry and its submission to the real estate supervisory authority.

(4) The mortgagee can realize their claims against the winner of the electronic auction or the person authorized for pre-emption rights in court or he may initiate the repeated electronic auction of the residential real estate in accordance with the general rules by optionally stipulating the condition that the winner of the previous auction who had failed to comply with their obligations may not participate in the repeated auction.

(5) The information provided to the tax authority qualifies as tax secrecy, knowledge about them is made possible to the mortgagee in accordance with the general rules of a tax authority procedure and – with the exception of the address and identification data of the auction purchaser – the mortgagor.

(6) The tax authority is not liable for the possible damage caused by the mortgagee's providing of incorrect or faulty information.

**Section 12** If the electronic auction remains unsuccessful, the tax authority informs the mortgagee thereof who – in turn – is obliged to inform all of the entitled parties of this circumstance without delay. In this case, the mortgagee

a) may initiate a repeated posting of the electronic auction at a later date, or

b) may enter into an agreement with the mortgagor – with the consent of the other entitled parties – in another method of sale.

**Section 13** Contents of Sections 7-12 are applicable for the posting of the repeated electronic auction with the condition that a requirement of the repeated posting is the payment of the lump sum of 25,000 HUF by the mortgagee”.

## **VI. Electronic auction sale of particular property items seized in the course of penal, excise and customs authority procedures of the NTCA**

On the basis of Paragraph (1) of Section 10 of the Government Regulation 273/2010. (XII. 9.) on the organization of the National Tax and Customs Administration and the assignment of its particular organs (henceforward: Government Regulation on NTCA), besides the property items seized in the course of tax execution procedures, the tax directorates perform the electronic auction of movable property confiscated in the course of procedures conducted by all other sectors (customs, penal, excise etc.) of the NTCA with the order to return them when the authorized party not taking them. The sale takes place on the Electronic Auction Surface (EAS) of the NTCA with the menu item **CUSTOMS and PENAL AUCTIONS** created for this purpose. The EAS is available on the internet website of the NTCA ([nav.gov.hu](http://nav.gov.hu)), or directly at the page [arveres.apenh.hu](http://arveres.apenh.hu).

### **1. Rules identical with the general rules of auctioning in the course of tax execution procedures**

- 1.1** Prior registration required for participation is done through the client gate.
- 1.2.** The auctioned object is put on display at a time and place indicated in the auction notice.
- 1.3** The procedural rules of the participation of an authorized person or organizational representative are identical to the rules of electronic auctions conducted in the framework of tax execution procedures.
- 1.4** The procedural rules governing the duration, technical supervision and extension of electronic auctions are identical with the rules of electronic auctioning in the framework of tax execution procedures.
- 1.5.** The establishment of the outcome of auctions, the payment of purchase prices, the certification of payments, and the legal consequences of the failure of payment are identical with the rules of electronic auctioning in the framework of tax execution procedures.

## **2. Differences from the general rules of electronic auctioning**

- 2.1.** The Heading for Administrator VP contains information regarding the characteristics of the auctioned object, the place and date of its public display, the licenses required for its circulation and the customs legal destination of the movable property (information about the auctioned item). Regarding the rules of conducting the auction (registration, mode of bidding etc.), the operation of the IT system, the posting of the auction and the establishment of the result (information about the auction) the NTCA staff member indicated in the Heading for the Administrator can provide information.
- 2.2.** In cases where the movable property can only be acquired when the applicant has a special license, the IT program informs the user about the type of license required for the acquisition and circulation of the object and the legal consequences of the unlicensed circulation in pop up window which also contains the information about the authority which issues licenses.
- 2.3.** In the auctioning of an object that requires metal trade license, bids can only be made by licensed metal traders and their representatives (metal trade license). The IT system checks the validity of the metal trade license by means of comparison with the basic registered information, and prevents offers made by persons not having valid licenses.
- 2.4.** In the case of movable property the circulation of which requires a license, the minutes of the bidding contains the required license and the name of the authority issuing the license. The administrator of the auction provides information to the auction purchaser regarding the mode of initiating the procedure of the acquisition of the required license when the movable property is handed over. In the case of goods with a non-Community customs law status, the goods can only be released to the purchaser after the customs law destination of the goods has been settled.
- 2.5** Regarding other issues the rules of the procedure are identical with the electronic auctions conducted in the framework of a tax execution procedure which are described in detail in this regulation.

## VII. Terms of reference

<a href="#"><u>debtor</u></a>	The taxpayer against whom the execution has been initiated by the tax authority and whose movable or real estate property is being auctioned off. In sale procedures performed in accordance with the Government Regulation 12/2003. (I. 30.) on the rules of sale of pledged items outside judicial foreclosure, the mortgagor.
<a href="#"><u>valid auction offer</u></a>	An offer at least as high as the minimum price, in case of movable property, the five highest registered offers.
<a href="#"><u>invalid registered offer</u></a>	A registered offer the amount of which is lower than the amount of valid offers.
<a href="#"><u>registered offer</u></a>	An offer at least as high as the minimum price.
<a href="#"><u>bidder</u></a>	A person making a registered offer for the purchase of a property item posted for sale between the starting and ending time of an auction.
<a href="#"><u>closure of an auction</u></a>	When the bidder of the winning auction bid has paid the purchase price for the property item.
<a href="#"><u>end of an auction</u></a>	The expiry of the auction period.
<a href="#"><u>auction not coming off</u></a>	An auction that had been announced but failed to start.
<a href="#"><u>successful auction</u></a>	An auction with at least one valid offer or an auction not qualifying as unsuccessful.
<a href="#"><u>unsuccessful auction</u></a>	An auction with no offers or with no offers at least as high as the minimum price and the auction of a moveable property which – although successful – none of the parties making a valid offer pays the purchase price offered by them.
<a href="#"><u>failed auction</u></a>	A reason or condition arises until the start of the auction on the basis of which the legal regulation excludes the sale or the performance of the auction would be rendered unlawful.
<a href="#"><u>auction notice</u></a>	A chart containing the information related to the sale of a given property item.
<a href="#"><u>auction purchaser</u></a>	The bidder making the winning offer on an auction.
<a href="#"><u>appraised value</u></a>	The value of a property item assessed by the tax authority on the basis of its market price and potentially with the assistance of an expert.

<a href="#">registering</a>	Filling out and sending a form required for the participation and bidding in an auction on the EAS surface.
<a href="#">announce results</a>	The announcement of the final status of a lawfully conducted auction.
<a href="#">relative</a>	Civil Code – Paragraph (1) of Section 8:1 1. Close relative: a spouse, direct relative in the ascending line, adopted child, adopting parent and sibling; 2. Relative: close relative, life companion, spouse of a relative in the ascending line, a spouse’s relative in the ascending line, their sibling and a sibling’s spouse;
<a href="#">foreign private individual and legal person</a>	Foreign private individual: a non-Hungarian citizen except for an immigrant or a person recognized as a refugee; A legal person, a person without a legal personality and other organization which has resident status in Hungary qualifies as a foreign legal person
<a href="#">limit amount</a>	The highest amount purchase price indicated by the bidder when automatic offers are selected.
<a href="#">auction posted upon request</a>	An auction of a residential real estate property initiated by the authorized persons in sale procedures performed in accordance with the Government Regulation 12/2003. (I. 30.) on the rules of sale of pledged items outside execution in court.
<a href="#">minimum price</a>	The lowest amount offer by means of which the movable or real estate property can be won (in case of moveable property it is the 50% of the appraised value except for the contents of 1.1. of Chapter II. It is 75% of the appraised value in case of residential real estate property, and 65% of the appraised value in case of other real estate property). It is either 70% of the assessed price or an amount determined by the parties in sale procedures performed in accordance with the Government Regulation 12/2003. (I. 30.) on the rules of sale of pledged items outside judicial foreclosure.
<a href="#">public data</a>	Data generated in the course of an auction except for data related to the personality of the bidders.
<a href="#">registration</a>	A procedure required for registering at the Client Gate.
<a href="#">Rules of operation</a>	A document detailing the rights and obligations of participants of an auction and the rules of participation.

<a href="#">technical breakdown</a>	A technical problem preventing or critically influencing the proper operation of the EAS or the Client Gate.
<a href="#">Member State citizen</a>	A citizen of the European Union or a citizen of a country party to the Agreement on the European Economic Area, or a citizen of a country under identical considerations with Hungary under an international agreement;
<a href="#">Member State organization</a>	A legal person registered in a country of the European Union, or in a country party to the Agreement on the European Economic Area, or in a country under identical considerations with Hungary under an international agreement or an organization without a legal personality in any of the above countries.
<a href="#">legal (organizational) representative</a>	A representative of a legal person or economic company without a legal personality or other organization with a right of representation in accordance with the relevant legal rules whom the state taxation authority has registered as a permanent representative.
<a href="#">difference in purchase prices</a>	The difference between the purchase price offers (a maximum of 5 valid offers in the case of the auction of a movable property) in a successful auction.

**[1] Reverse taxation: a special case defined in Section 142 of the Act on VAT**