

Basic rules of the acquisition and supply of new means of transport within the Community 2021

In this information booklet you may find information about the tax liabilities related to the acquisition and supply of new means of transport – certain vehicles, boats and planes – and the possibilities of tax exemption.

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1. Who is liable to pay tax?

If any new means of transport are supplied between Member States of the European Union (hereinafter: Community) – as a result of which the new means of transport is transferred from one Member State to another – **the rules of taxation in the target country shall be applied.**

This means that

- the purchaser is subject to VAT in the Member State of acquisition in respect of **an intra-Community acquisition**, and
- the supply of goods is exempt from VAT in the Member State of supply in respect of **an intra-Community supply of goods.**

1.1 Acquisition

In case of intra-Community acquisition of new means of transport every buyer is liable to pay VAT,

- even if being a VAT taxable person having or not a Community tax number, and
- even if not being subject to payment of VAT.¹

1.2. Supply

By the intra-Community supply of a new means of transport, if, even once, a new means of transport is dispatched or transported from the territory of the country to a destination outside the territory of the country but to the Community, **every supplier becomes a taxable person for VAT purposes.**²

However, this does not mean that the VAT has to be paid on the supply, as such supply of the new means of transport – whoever the person selling the goods is – is exempted from tax if certain conditions³ are met.

2. What is a new means of transport?

A new means of transport⁴ is the following land vehicle, vessel or aircraft, suitable for carrying passengers and/or cargo:

- motorised **land vehicle** the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts, and where the date of sale is within six months from the date of first entry into service or where the vehicle has travelled for no more than 6000 kilometres

¹ Paragraph (2) of Section 143 of the Act CXXVII of 2007 on value added tax (furthermore referred to as Act on VAT)

² Point a) of Paragraph (4) of Section 6 of Act on VAT

³ Conditions included in Paragraph (1), (1a) or (2) of Section 89 of Act on VAT (see later)

⁴ Paragraph 25 of Section 259 of the Act on VAT

- **vessels** exceeding 7.5 meters in length (with a few exceptions⁵), where the date of sale is within three months from the date of first entry into service or where the vessel has sailed for no more than 100 hours, moreover
- **aircraft** (with a few exceptions⁶) the take-off weight of which exceeds 1550 kilograms, with the exception of aircraft, provided that the date of sale is within three months from the date of first entry into service or where the aircraft has flown for no more than 40 hours.

Apart from the general rules, all intra-Community supply and acquisition of goods that involve a new means of transport as indicated above are **also governed by the special rules pertaining to intra-Community supply and acquisition of goods** as follows.

3. Intra-Community acquisition of new means of transport

A taxable acquisition of a new means of transport from another Member State of the Community takes place if

- it is acquired **for consideration** and
- the place of commencement of the transportation (dispatch as a consignment) is a Member State of the Community **outside Hungary**,
- while the place in which transportation of the consignment of goods ends is Hungary.⁷

Transportation of goods shall also mean where the means of transport supplied is transported by covering the distance between the place of dispatch and the place of destination on its own power.⁸

3.1 The determination of the tax liability

Self-assessment

In principle, the tax liability is assessed by the person acquiring the goods

- **through self-assessment**,
- meeting the deadline in accordance with the tax return frequency when
 - submitting the **VAT return No. '65** and
 - fulfilling the payment obligation.

In principle, **VAT liability** on the acquisition of a new means of transport within the Community - like other intra-Community acquisition of goods - arises **on the date of issue of**

⁵ Except for the vessels used for navigation on the high seas and carrying passengers for reward, and of vessels used for the purposes of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing

⁶ Except for the aircraft used by airlines operating for reward exclusively or chiefly on international routes

⁷ Paragraph (1) of Section 21 of Act on VAT

⁸ Point 24 of Section 259 of Act on VAT

the invoice, but no later than the 15th day of the month following the month including the date of the supply of the transaction.⁹

As a general rule the **VAT base** is the **consideration** expressed in monetary terms, **the VAT rate is 27%**.¹⁰

In addition to the VAT return, a taxable person who determines his tax liability via self-assessment shall also submit **recapitulative statement**¹¹ **'A60** for his intra-Community acquisition of goods besides the VAT return.

The recapitulative statement shall - in principle¹² -

- be submitted on a monthly basis by the taxpayer liable for the monthly VAT return, **by the 20th day of the month following the month in question**, while
- the taxpayer liable for the quarterly VAT return, **by the 20th day of the month following the quarter**.

However, in the case of a taxpayer liable for submitting the tax return on a quarterly basis it can happen that the obligation to make a recapitulative statement may have to be fulfilled not on a quarterly basis, but on a calendar month basis¹³.

The recapitulative statement is a tax return in terms of legal consequences and shall be submitted electronically on an electronic manner provided by the NTCA for this purpose.¹⁴

Tax assessment by the NTCA

In the case of intra-Community acquisition of a new means of transport, if

- the new means of transport is **also falling within the scope**¹⁵ **of the Act on Motor Vehicle Registration Duty**, and
- its purchaser is the person, organisation specified **in point d) of Article 20 (1) of the Act on VAT** or any other non-taxable person, organisation, and
- the purchaser is also **subject to the registration duty**,

⁹ Paragraph (1) of Section 63 of Act on VAT

¹⁰ Section 72 and Paragraph (1) of Section 82 of Act on VAT

¹¹ Point 1. f) of Annex 4/A of the Act on VAT

¹² Point I.2. of Annex 4/A to the Act on VAT

¹³ Point I.2. of Annex 4/A to the Act on VAT. Contrary to the general rules according to point I.3. of the Annex 4/A to the Act on VAT the taxable person – irrespectively of the frequency of the filing requirement applicable – the taxable person required to file the recapitulative statement quarterly shall switch to filing monthly, if the total value of the goods supplied under Subsections (1) and (4) of Section 89, and the goods supplied within the framework of transactions according to Subsection (2) of Section 91, or the total value of the intra-Community acquisition of goods under Section 19, Section 21 and Subsection (1) of Section 22 for the quarter, exclusive of VAT, exceed the sum equivalent to 50,000 euro. In this case, the recapitulative statement for the period when the transition took place shall cover the period beginning on the first day of the quarter and shall end on the last day of the quarter when the amount limit was exceeded, and shall be filed by the 20th day of the following month.

Point I.9 and 10 of Annex 4/A to the Act on VAT

¹⁴ Points I.9-10 of Annex 4/A to the Act on VAT

¹⁵ Paragraph (1) of Section 1 of Act CX of 2003 on Motor Vehicle Registration Duty (furthermore referred to as Act on RD)

the tax is assessed by the NTCA.¹⁶

On this basis, in the case of the acquisition of **a passenger car that is considered to be a new means of transport and a motorcycle covered by the Act on Motor Vehicle Registration Duty** from another Member State of the Community, **the NTCA determines the VAT (taxation by imposition) by a decision, if the customer:**

- is a non-value added taxable private individual or other organisation;
- is a non-value added taxable legal person;
- is a taxable person carrying out only tax-exempt activity which does not entitle him to deduct tax (a taxable person carrying out only a tax-exempt supply of goods or services pursuant to Article 85 (1), Article 86 (1) or Article 87 of the Act on VAT);
- is a tax-exempt taxable person;
- is a taxable person engaged in an agricultural activity with a special status, whether or not it has a Community tax number, and provided that the customer is also subject to registration tax ie. registration tax is also levied on him after the acquisition.¹⁷

Passenger car is

- a vehicle under tariff heading 8703¹⁸, and

a motorcycle covered by the Act on Motor Vehicle Registration Duty is

- any vehicle that fits the definition of motorcycle or power-assisted bicycle contained in Decree No. 1/1975 (II. 5.) KPM-BM on Traffic Regulations¹⁹ (hereinafter referred to as “KRESZ”), furthermore,
- any four-wheeled motor vehicle that was placed into service as a passenger car and that, based on its gross weight and engine capacity, fits the definition of four-wheeled motor vehicles treated as a motorcycles under the KRESZ²⁰

4. Intra-Community supply of new means of transport

4.1. VAT-exempt supply

The intra-Community supply of a new means of transport - if a new means of transport dispatched as a consignment or transported from the domestic territory is supplied outside the domestic territory but into the territory of the Community²¹ - **may be VAT-exempt when certain conditions are met**, and the related VAT content may be deducted under certain conditions specified by law.²²

¹⁶ Paragraph (2) of Section 154 of Act on VAT

¹⁷ Point b) of paragraph (1) of Section 141 of the Act CL of 2017 on the rules of taxation (furthermore referred to as Act on RT), paragraph (2) of Section 154, point d) of paragraph (1) of Section 20 of the Act on VAT

¹⁸ Point b) of paragraph (1) of Section 124 of Act on VAT

¹⁹ Decree No. 1/1975 (II. 5.) KPM-BM on Traffic Regulations (furthermore referred to as : KRESZ)

²⁰ Paragraph 10 of Section 2 of Act on Motor Vehicle Registration Duty

²¹ Paragraphs (1) and (2) of Section 89 of Act on VAT

²² Chapter VII of Act on VAT

Conditions of the tax-exemption:

- **whoever is the person acquiring the goods, the transportation or dispatch as a consignment** of the new means of transport **to another Member State is justified**²³,
- **where the acquirer is a taxable person** acting as a taxable person in another Member State of the Community or **a non-taxable legal person** registered in that Member State liable for payment of VAT in respect of his intra-Community acquisitions in the Member State of acquisition²⁴, then as of 2020 the further condition of the tax-exemption is that
 - **this person acquiring the goods has a tax number in the other Member State of the Community** and provides the person supplying the goods with it²⁵, and
 - **the person supplying the goods completely and correctly submits the recapitulative statement**, otherwise proves that the omission, error or fault occurred in his good faith and replaces or corrects the statement²⁶.

In order for the application of the tax-exemption, the customer shall have a tax number in another Member State of the Community and shall provide it to the supplier, and the supplier shall also submit a recapitulative statement of the transaction, but only if the customer acts as a taxable person subject to VAT in another Member State, or a registered non-taxable legal person who (which) is liable to pay tax on an intra-Community acquisition.

If the customer

- is a value added taxable person with a special status, and is engaged in agricultural activities pursuant to the law of his own member-state,
- is a taxable person carrying out only tax-exempt activity which does not entitle him to deduct tax,
- is a legal person not liable for tax payment and not considered to be as a value added taxable person, who (which) are in other case (if the subject of the acquisition is not a new means of transport) not obliged to pay tax after their intra-Community acquisitions,
- any other non-taxable person,

the supply is exempt from tax even if the acquirer does not have a VAT number in another Member State of the Community or does not provide it to the supplier.

[Further information on conditions regarding the customer's tax number and recapitulative statement and certification of the delivery of the goods are delineated in separate informative leaflets. (<https://nav.gov.hu/nav/ado/afa>)]

²³ Paragraphs (1)-(2) of Section 89 of Act on VAT

²⁴ Point b) of paragraph (1) of Section 90 of Act on VAT, the transaction is not subject to the member-state regulation according to Article 3 (1) of Council Directive on the common system of value added tax in the member-state where the acquisition took place

²⁵ Paragraph (1) of Section 89 of Act on VAT

²⁶ Paragraph (1a) of Section 89 of Act on VAT

4.2. Request for Community tax number

Even a single intra-Community supply of a new means of transport is subject of value added tax. Consequently, **even a person making only one supply must register at the NTCA and apply for a Community tax number.**²⁷

After the transaction, the Community tax number may be terminated even during the year, unless it has to be kept for other regulations.²⁸

4.3. Issuance of invoice

It is **mandatory to issue an invoice** for the supply.²⁹ If the new means of transport is supplied to another Member State, the invoice must contain the generally required data, as well as³⁰:

- the date of first licensing for traffic of the means of transport and that in case of land vehicles maximum of 6 months, and in case of vessels and aircrafts maximum of 3 months have been passed from this date,
- for land vehicles the mileage, for vessels the number of hours on the water, for aircraft the number of flown hours,
- for land vehicles, and the cylinder capacity of its installed driving unit and power rating, for vessels the length of the vessel, for aircraft the total weight of the aircraft in take-off.

It is also mandatory to **indicate** in the invoice, by reference to a legal regulation, or with some other clear reference, **that the supply of the goods is exempt of the tax.**³¹

4.4. Right to deduction

Any taxable person who/which becomes liable for the payment of VAT only in relation to the supply of a new means of transport within the Community will have the right to deduct the tax on the purchases. The right to deduction is effective from the day of supply of the new means of transport.

However, **the amount of the VAT deducted by the taxable person cannot be higher than the amount he should pay, if the supply of the new means of transport was not exempt of VAT.**

²⁷ Point b) of Paragraph (1) of Section 257/B, Paragraph (3) of Section 257/B of Act on VAT

²⁸ Section 29 of Act on the Act on the Rules of Taxation

²⁹ Paragraph (1) of 159 and Paragraph (2) of Section 165 of Act on VAT

³⁰ Point o) of Section 169 of Act on VAT

³¹ Point m) of Section 169 of Act on VAT

Even such a taxable person may exercise the right of deduction only in possession of a document duly certifying the amount of the charged VAT.³²

4.5. Tax return, data provision

The tax liability on the exempt intra-Community supply of a new means of transport (which, being an exempt transaction, means the entry of the transaction in the VAT return and the recapitulative statement) becomes chargeable **on the day on which the invoice is issued**, but at the latest on the 15th day of the month following the month in which the transaction was carried out.³³

The supply must be declared in **VAT return No. '65** for the tax period including the above date, until the 20th day of the month following the tax assessment period.

Anyone who **supplies** a new means of transport within the Community **to a customer** resident in another Member State of the Community and **not having a Community tax number**, must also prepare a data supply together with the declaration. The data supply obligation shall be fulfilled by completing the '65A-A88 page of the VAT declaration, by the same date.

While performing the data supply obligation, **information must be provided on**

- the name of the customer
- the address of the customer,
- the identification data of the new means of transport,
- the consideration of the new means of transport, exclusive of VAT,
- the date of issue of the invoice,
- and the date of first licensing for traffic, if it is prior to the date of issue of the invoice.³⁴

Any taxable person supplying a new means of transport to a customer with a Community tax number, resident in another Member State of the Community must indicate the supply of the new means of transport on the VAT declaration, as well as on the 'A60 recapitulative statement to be submitted according to the frequency of declarations by the general rule, i.e. monthly or quarterly, by the 20th day of the subsequent month.³⁵ This will be a condition for the tax exemption from 2020 onwards.

The tax-exempt supply of the new means of transport must be indicated in row 03 of page '65A-01-01 of the VAT declaration in both cases.

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³² Paragraphs (1)-(2) of Section 122, Paragraph (3) of Section 127 of Act on VAT

³³ Paragraph (4) of Section 60 of the Act on VAT

³⁴ Point III of Annex 4/A to the Act on VAT

³⁵ Points I.1. c) and I.2. of the Annex 4/A to the Act on VAT. See special rule in footnote 12.