

EU MIRROR EN WIRBÓB

A Dél-alföldi HEURégió Pont Egyesület
Free Information Material
2010/I.

2010, Szeged

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It's Taxation in the EU

The European Union is only aiming to harmonize indirect taxes. Concerning other types of taxes it set the member states' systems' harmonization as a goal. The communal strategy sets of the general goal the lasting reduction of taxation in the EU. The European Union prescribes a coherent and adjusted regulation system concerning the direct taxes, such as value added tax and excise tax. In case of direct taxes (e.g.: corporate tax, personal income tax) Hungary only had obligation to law harmonization in case of a number of capital operations between companies.

Indirect taxes

Value added tax

The EU has a unique VAT-principle that includes framework rules to be followed uniformly.

According to this:

- measures of tax: there should be one normal and to preferential keys, the preferential key should be at least 5% and the norm of key cannot be lower than 15%

- the classification of the single for services and products in case of objective tax exemption is compulsorily prescribed, and on the preferential key can only be those problems and services which are recited by the principle
- the taxation of exports going out to the community is in the 0 key (there is no communal VAT taxation), products arriving into the community have to pay for the product import.

Since the previous tax bracket structure (zero, 12, 25%) is basically fitting the prescription, only 0 bracket had to be altered because of the EU accession and and raise it to the minimum 5%. Since January 1, 2004 the new tax brackets became five 15, 25%. Since 2006 the Hungarian VAT keys: 5, 15, 20%. Present VAT- keys: 5, 20%.

Transitional exceptions:

- until 31 December 2007 a not less than 12 % preferential tax bracket can be used in case of a number of fuels (coal, firewood, compressed



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slack, peat). In case of these products the transition to normal brackets will happen in one-step on January 1, 2008.

- until 31 December 2007 a not less than 12% preferential tax brackets can be used in case of restaurant services .

Excise tax

excise taxes must follow the minimum tax measures of the European Union though the Hungarian government managed to receive transitional exemption. The local excise tax brackets on the other hand , most of the times are suiting the EU conditions. The excise tax of cigarettes –on the tax brackets of the member states- must reach at least 57% of the retail price or in the same time €64 per 1000 pieces. As a result of negotiations Hungary reached –also as a result of continuous tax increase- that this threshold value has to be met only until December 31, 2008. Raising cigarettes excise tax bracket in one step would have caused significant inflation, an increase in black-commerce. By applying exemption this effect breaks down into several years. It also had a



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favorable price effect that non-harmonized consumption tax (in case of coffee and gold in the community countries) came to an end. There is a considerable difference between the domestic and communal excise system concerning commercial alcohol distillation. Private persons alcoholic beverage distillation is not as supported in the EU as in Hungary. The reason for this is that in the old member states traditionally different alcoholic beverages are

made and their fruit production culture is different. Finally the domestic and communal systems have been synchronized during the negotiations in a way that the domestic Pálinka distillation system can operate, only the producible amount has been reduced. The special discounted tax on private distillation can be requested up to 50 liters of Pálinka \ household \ year. The amount of the tax has to be at least 50 % of the normal tax bracket, but this is



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equal to the previous regulation. Excise tax of gasoline bought by professional road freighters will be 0.35 Euro per Liter after 2010 in all number states of the European Union. The synchronisation that started 1 July 2003 serves the aim to prevent distortions of competition on the European market. At the moment in 15 member states that the excise tax on gasoline is different therefore in border regions there is so-called tax-tourism. The lowest tax is in Greece

(0.245 Euro per liter) and the highest is in Great Britain (0.742 euros per liter).

Direct taxes

They are part of national sovereignty, common co-ordination is not tried on this field. Hungary only has obligation to harmonize legislation concerning certain capital operations between companies.

Corporation tax

Regulation in harmony with communal law took effect 1 January 2003. According to this, multinational companies operating in Hungary can not have the 8-10 years tax benefits (0% tax bracket) that they used to have. The considerable tax benefits that have been given to big investors have to be downsized gradually, because European Union regulations classify tax benefits as state support.

Tax at source

In the five years long transitional periods following the EU accession the communal governing principle concerning common taxation system does not have to be applied in case



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of member states companies and subsidiaries. The transitional periods the tax at source and not be higher than 20%.

The average corporation tax level drops noticeably between 1996 and 2002 in the European Union from 39% to 32.5%.

Personal income tax

On the basis of the Union practice

- marginal keys are decreased (the income on taxes does not decrease because the lower tax keys resolved in more taxpayers)
- Tax brackets are broadened but their number is not increased
- the minimum wage is not taxed.

Social Security

Social Security is not part of the taxation system and belongs to the member states' independent decision-circle. In case of income received inside the union Social Security has to be paid in the member country where the employee receives the salary.

Taxation of e-commerce

The taxation of electronic commerce

represents a problem in case of internet commerce between the EU and the USA. Since 2004 the import tax on online goods from outside the EU is between 15 and 20%. Revaluation of the role of local taxes. According to the point of view of the EU the ratio of local taxes in Hungary has to be increased. It is 5% now while it is 30% in the EU. Tax revenues linked to local developments and benefits from the utilization of additional expenses (tourism tax, real estate tax, communal tax of private persons) have to be connected to the settlements, while corporate tax linked to entrepreneurial activities has to be connected to the regional level. You can find additional information about direct taxation in the European sheets and the official website of the European Union. Value added tax in the EU.



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Value added tax in the EU

The Hungarian VAT regulation is completely an ordinance with the EU regulation. The provisions of the so-called principle 6 -77/388. (EEC) , comprehensive regulations of the EU VAT system- has been taken by the domestic VAT regulations on 1 May 2004.

On 1, January 2008 the law (1992. LXXIV) concerning value-added tax has been modified. The recent Hungarian VAT law (2007. CXXVII.) is still completely in accordance with all of that EU provisions, though the words of a few related paragraphs and sections concerning communal regulations have been changed. The actualization of these changes is still being done on our website.

The EU has its own VAT principle that contains the frame rules to be followed. Accordingly:

- tax measures: there can ask them to preferential and one normal monkey; preferential has to be at least 5% the normal key cannot be lower than 15%

- the classification of certain products and services in case of objective tax exemption is itemized on compulsorily prescribed, under the preferential key component in those product and services that are recited

- export going to the digression of countries outside the community below the 0% key (it doesn't have communal VAT), import incoming from outside the community has product import

- traffic between tax subjects inside the community doesn't count as export and import (tax free realization inside the community, acquisition inside the EU), but the regulation is practically the same as the well known domestic export-import regulation (if an Austrian producer sells to an Italian-merchant, he\she does not have a VAT but can apply for VAT refunds and the Italian merchant can also apply for tax refunds if he



EU MIRROR

or she resales product and the margin creates tax paying obligation). The tax free traffic between tax subjects –described above- can be followed on the administrative level: products sent to other member states have to be registered (value, quantity, type etc). To know if the buyer is a VAT-tax subject, he\ she has to show the EU tax card. (if he or she does not have one, he\she is not entitled to sell without VAT).

- transaction between subjects of taxation and different membership backgrounds are not subject to VAT (for example: a German private person sells furniture to a French customer)

- if a subject to tax inside the community sells to another member state's non subject to tax, the seller bears the tax measures (the non-subject cannot show a buyer tax-number, therefore seller is not entitled to sell without tax). If a Dutch national person buys bread, camera etc. in a Finnish store, Finnish VAT has to be paid and often

arrival to the Netherlands there are no further tasks.

-there is a separate through for new transportation tools transit between member states (e.g.: a car that hasn't been put into traffic longer than six months and ran maximum 6000 kms). In this case the seller car dealer is not counting the local VAT in the price both in the buyer has to pay in his or her member state the prescribed amount of taxing his or her country. So if a Greek person purchases a new car in Belgium, he or she has to calculate with Greek VAT.

-taxing services inside the community is a bit more complicated: Crystal fixes to all types of services is the buyer or seller's seat is the place of the service actually, or a differently calculated member state's VAT has to be applied.

-there was no real difference concerning the determination of tax-base and tax-paying obligation in the Hungarian system prior to the EU accession



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- the rules to practice tax-deduction rights are general: subjects to taxation have the right to deduct VAT if the purchase is in relation with taxable activity and is not serving pains that are not connected to the enterprise (especially satisfying personal consumption of employees or luxury expenses, entertainment or representation). In order to prevent abuse member states can introduce further restrictions, certain for the arts can be partially or fully shut out of the circle of deduction,

-small businesses have simplified modes of taxation and exemption to pay taxes (in Hungary the limit is €35,000),

-the taxation of travel agencies and used product commerce is practically very similar even before the accession,

-prescriptions concerning invoices are included in the current VAT law.

You can find further information concerning VAT regulations of the EU in the European sheets and on the website of APEH and the official website of the European Union.



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Excise tax in the EU

Products subject to excise tax the prerequisite of the operation of the communal excise tax system is that all member states apply the common rules to exactly the same product. The 92\12 EEC governing principal first defines the range of products that are regulated on the communal level. These are: petrol products, alcohol and alcoholic beverages and tobacco products (this range of products can be called ABC products because of the initials of alcohol benzine (gasoline) and cigarette).

Basic principles of excise taxation, tax suspension

the basic governing principle defines those taxation principles that should be applied uniformly from which the most important are regulation of tax-paying obligation and taxability. Accordingly, taxability and obligation to pay taxes in case of excise tax are linked to separate events and therefore are separated. Obligation to pay tax arises when products bearing excise tax are produced and when they are imported from a third country to the EU.

The obligation to pay tax becomes actual when the product becomes available for sale and in case absence of the product is established in the way that it cannot be accounted tax-free. Between taxability and obligation to pay tax, taxes are suspended. Tax suspension may prevail during the product's time in a tax warehouse, procession or storage furthermore in case of transportation that can be undertaken while tax is suspended. This latter means transportation between tax-warehouses and from tax warehouse to registered and non-registered merchants. Placing a product with excise tax under communal costume procedure belongs to the same category as tax suspension, just like keeping in the procedure during import and export. These cases form the suspension arrangement according to the governing principle.

Putting a product up for consumption -to what the creation of the obligation to pay taxes is connected- happens when the product gets out from the procedure of tax suspension or or in case when it becomes taxable and does not become part of a tax suspension procedure.



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Resulting from the previous the tax has to be paid at the place where the product became available for consumption. (This is important because of the taxation of the traffic between member states which will be detailed later.)

Tax ware houses and tax warehouse system

Tax warehouses are of key importance in the regulation of commune excise rules - from the points of view of taxation structure and following up the transit of excise product between member states. The basic governing principle prescribes that product subject to excise tax can only be produced and processed and stored until the payment of taxes in tax warehouses.

In tax warehouse is excise tax is suspended. The tax warehouse is the place where with a license received from the official national authorities product subject to excise tax can be stored, handled and handed out tax-free. Special tax warehouses can be established that are only used for tax-free storing of products subject to excise tax. These are the so-called commercial tax warehouses where pro-

ducts are stored tax-free for the aim of commercial distribution.

Tax warehouses approved by single member states can not only store and transfer excise taxed products domestically but also inside the community – with tax suspension.

Establishing and operating tax warehouses are connected to conditions. Some of them are compulsory and defined by the governing principle and some of them are recommended by the commission and are not compulsory. Additionally, member states can create further conditions but those can be applied only on their own tax warehouses and they have to accept warehouses authorized in other countries.

The governing principle specifies that the warehouse must register the supplies and the movement of product. It is a general condition to let the authorities conduct inspections. Therefore it cannot prevent them from inspections and if the authority asks the warehouse must present the product.



EU MIRROR

Finally it is a general rule that the licensed tax-warehouse must guarantee that the suspended tax will be paid. In case of tax-suspended traffic inside the EU insurance must be presented. This cannot be exempted by any member state's regulations. The member states' practice -which had been formed with respect to the communal regulations- is that the official authorities inspect substantially the company that is requesting license. This inspection targets the operation of the company, its planned excise related operations and the conditions of these operations.

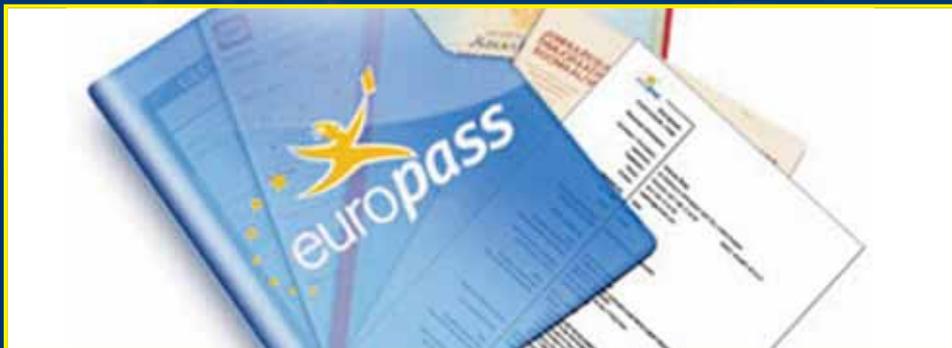
Taxation procedural rules of product trafficking inside the Union

As it can be seen the free flow of products with excise tax has been created by extending tax warehouse system

from national to communal level. The system of tax warehouses of the Union consists of the authorized tax warehouses of the member states, therefore traffic between them is possible by suspending the tax and this results transportation between countries. The institution of registered and non-registered merchants was specifically created to extend the tax suspension system and have it operating on the communal level. It's so similar to the creation of legislation on tax representatives.

Principle of taxation according to the destination country

Excise tax becomes available when the product becomes available for sale. This principle means in relation with products moving between member states that the tax has to be paid



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EU MIRROR

in the member State that is becomes available for consumption (gets out of the tax suspension procedure). In other words: the excise taxation in the EU is based on the principle of the destination country.

The practical implementation in case of trading un-taxed products

- implementation of tax suspension according to the connection of member states
- regulation of the trade of taxed products and refund of taxes that have been already paid.

There is one exception from this rule (of paying tax in the destination country): private purchase of private individuals from another member state. In this case the product is taxed accordingly the place of acquisition (the country of origin principle). The criteria of a private purchase are: the quantity does not exceed the quantity fixed in the governing principle (for example: 800 cigarettes, 10 L of alcohol, 110 L of beer) and the private person transports the product from one member State to another personally. The legal status of the person that is another purchase and the receipts of

the product have to be also taken into consideration. All of these conditions decide if the principle of the destination country or the principle of the country of origin will be ruling.

Application of tax suspension for transport inside the community

Products subject to excise tax can only be transported from a tax warehouse of the member states to another tax warehouse of another member State or from a tax warehouse of member states to a registered\ non-registered merchant. In these relations it doesn't represent a problem to use the principle of the destination country because the product is being moved without counting the tax of the country of origin. The tax is being paid by the tax warehouse of the host member state when the product is made available for sale (it is sold in the relation where the tax suspension does not prevail), or by the registered\ non-registered merchant upon receiving the product.

Given the fact that an irregular exit from the tax suspension system also means making available for sale, the

EU MIRROR

tax has to be paid even if the product disappears during the transport. its own member state.

In this case it has to be considered to be released for consumption where it disappeared and in case it is not possible to determine the location, then where the disappearance has been discovered and ultimately the member state of dispatch. Based on the previous lines, this member state is entitled to the tax (where the product disappeared or by the disappearance has been discovered for the dispatching state) and the measure of the tax is regulated conduct member state legislation (it has to be paid from the collateral).

The tax warehouse of the dispatching state is exempted from paying the suspension tax in case the recipient tax warehouse confirms the receiving of the goods. The tax exemption is in relation with the quantity of the confirmed goods. In addition, the losses occurred during the transfer can be deducted with the amount the recipient state's legislation allows (also vis major can be taken into account). Beyond that however the loss of the sender is not exempted from paying taxes that for their have to be paid in

Excise goods can only be transported inside the community with tax suspension if they have assurance (valid in all member states) and valid documentation (regulated by Daisy governing principle and commission regulation 2719/92 EEC). The documents to be used is the so-called AAD (Accompanying Administrative Document) which in the meantime is also used to confirm the takeover of the excise goods. In case the data matches commercial documents can also be used instead of the AAD.

The rules regulating the return of the AAD are very important given the fact that the exemption from tax suspension is connected to it. Therefore the basic directive requires that the receiving tax warehouse has to return a proof of receipt of the AAD (a fully completed copy) in 15 days to the dispatch tax warehouse.

This is also necessary to release the assurance that was given for the transportation.



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The accompanying document can be issued with automatic or electric data-process system. In these cases the authorities let the sender to sign the document with a special stamp instead of a signature. The sender will receive license to do so if he or she states in writing that he or she takes full responsibility for the goods that are travelling with the documents signed with such stamps. In the case of pipeline transport the affected member states may agree to authorize a computer-prepared report about the transported of goods(type, quantity) and this report can substitute the accompanying document.

Transportation of after-tax excise products inside the community

According to the already known general principle, the excise tax must be payed when the product is released for consumption (when leaving the tax suspension system). The given member states determines and imposes the tax according to its own legislation. The movement of the products –taxed in the member states- within the community and purchase by a member state’s merchant can not be obstructed by the mentio-

ned principle, therefore these relations had to be regulated by unique tax regulations.

According to the directive’s relevant ruling, commercial purchase and holding of a product in a member state that has been released (after tax) for consumption in another member state are liable to tax. By stating this, the principle of the destination country becomes governing here as well. Still -to prevent double taxing- the directive makes it possible to refund tax that has been paid in the first member state though several conditions are put up for the dealer and the purchaser as well.

Thus, the buyer must notify the competent authorities before sending the goods that he or she will accept product, subject to excise tax, from another member state and in the meantime he or she must provide assurance for the tax to be paid. After receiving the goods, tax must be paid and he or she must make the inspection possible for the authority. It is his or her further obligation to confirm immediately the reception of the cargo.



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The seller can only receive the refund after the product transferred to another member state if the tax re-fund papers have been submitted prior to the departure and a receipt of the tax payment is attached. The tax is reimbursed by the authorities only after the seller presents proof of takeover of the goods and that the buyer actually paid the tax.

This procedure is quite complicated and costly therefore very typical example of trade between member states. For this case, net billing prac-

tices has been developed, however, it can only work in case of a reliable partnership without the greater risks.

There is a special case of transit of taxed products that is mail order (distance sales). It has been mentioned before, in relation with the institution of tax representatives. Mail order trade is done by a person who transfers a taxed product to another member state and the transfer is done by him or herself and he or she acquired license from the authorities in his or her own member state. The mail order merchant pays tax of the sent



EU MIRROR

goods according to the recipient member state's taxation system (the country of destination principle). The tax has to be paid upon the takeover of the goods.

To avoid double taxation one can reclaim the tax paid in his or her own member state if the transfer has been announced previously at the local tax authority and he or she certifies the payment of the tax in the recipient member state. It is also necessary to give guarantee that the tax will be paid in the recipient member state and that the deliveries are registered. Given the difficulties of the procedure the typical practice is to use a tax representative to send the package and therefore subject to tax doesn't have to deal with the other member state's Tax authority.

The member states may establish detailed rules -in accordance with the EU provisions-regulating tax reimbursement of the member states in order to prevent fraud and abuses. Transporting taxed products inside the community is assisted by an accompanying document (SAAD, Simplified Accompanying Administrative Document). The application of

this document is regulated by the basic directive and the commission regulation 3649/92 EEC. The Hungarian SAAD's function is different from the one used in the EU. The Hungarian one is the documents of establishing obligation to pay tax and releasing For free trade. Their function is the same in terms of certification of tax refund and certification of tax payment.



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EU History

December 3, 1985.

The European Council had its meeting in Luxembourg to decide on the institutional reform and the extension of responsibilities of the community and its external policy's legal framework. The amendments are summarized in the Single European Act Document (SEA).

January 1, 1986

Spain and Portugal joins the European community.

February 28, 1986..

Governments of 12 member states are signing the Single European Act.

January 1, 1987.

The EPC secretariat is established in Brussels.

April 14, 1987.

Turkey requests inclusion to the EC.

July 1, 1987.

The Single European Act takes effect.

February 12, 1988.

The European Council meeting in Brussels agrees on a budget system

and the „Delors I” package at three forms the common agricultural policy is an increases the European Community's Structural Funds.

August 8, 1988.

Establishing diplomatic relationships between the European Communities and Hungary.

September 26, 1988.

An agreement is signed between the EEC and Hungary in Brussels concerning trade and economic cooperation.

June 18, 1989.

The third direct elections of the European Parliament.

June 27, 1989.

The European Council agrees at the Madrid meeting about calling for an intergovernmental conference in accordance with the “Delors-plan” (plan on establishing EMU in three steps).

June 29, 1989.

Spain joins the EMS (European Monetary System)



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July 17, 1989.

Austria request inclusion to the EC.

September 19, 1989.

Poland and the EC signs a treaty on economic and trade co-operation.

December 15, 1989.

The EC and 68 ACP states sign the fourth Lome Conventions.

December 19, 1989.

The countries of the EC and EFTA starts negotiations about strengthening cooperation and establishing the European Economic Area (EEA).

June 8, 1990.

A Treaty is signed in Brussels about opening a representation for the in Budapest and granting mutual diplomatic privileges and immunities.

July 1, 1990.

The first step of EMU starts.

July 4, 1990.

Cyprus requests inclusion to the EC.

July 16, 1990.

Malta requests inclusion to the EC

October 3, 1990.

A treaty unifying Germany takes effect. The five new provinces are part of the EC.

October 8, 1990.

The UK joins the EMS (European Monetary System).

June 25, 1991.

Spain and Portugal joins the Schengen treaty

July 1, 1991.

Sweden requests inclusion to the EC.

September 16, 1991.

The European Parliament ratifies the EC-Hungary, EC-Poland European agreements (Association contract) and recommends the Parliamentary ratification for the EC member states.

December 10, 1991.

The European Council summit meeting in Maastricht. The heads of state and governments agree on the draft of the Treaty of the EU.



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IMPRINT

EU Tükör (EU Mirror)

Publication of Dél-alföldi HEURégió Pont Egyesület

Publisher: Szabó Gábor, elnök

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Technical editing: Média Kalauz Bt.

Reader of translation: Dombi Edina

Printed by: Bába és Társai Nyomdaipari Kft.

Address: 6725 Szeged, Határőr street. 1.

Number of copies: 3000

Distributor: DKMT Euro-region

Free Information Material

The publishing of this issue has been supported by:

National Civil Fund (NCA)



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