



Quick Fixes

A. Country Overview “Hungary”

The Quick Fixes provisions have already been implemented into the Hungarian VAT legislation, with an effective date of 1 January 2020.

I. Transactions

1.1. Chain transactions

Under current law, the supply of goods is zero-rated for VAT purposes when goods are transported from Hungary to another EU country. The buyer must subsequently pay VAT on the acquisition of the goods in the country of destination.

Although chain transactions are not defined by the Hungarian VAT legislation specifically, we understand the transaction where the same goods are supplied successively, and they are dispatched as a consignment or transported directly from the first supplier in line addressed to the last customer in line as such. According to Section 27 of the Hungarian VAT Act, the rules of moving transport shall apply to one single supply of goods only within such a chain.

Therefore, only one of the transactions in the chain can qualify as an intra-EU sale of goods, the one that can be linked to the moving transport. Accordingly, only one supplier in the chain can issue a zero-rated invoice and only one buyer in the chain can pay VAT on the acquisition of the goods in the country of destination.

If the goods are transported by a customer who also functions as a supplier (the middleman), it shall be deemed that the middle man is acting in the chain as a customer, except if he communicates its VAT ID number to the seller granted to him by the country of dispatch.

As regards the other supplies of goods within the above chain, the Hungarian legislation prescribes as follows:

- in connection with the supplies made before the moving supply, the place of supply shall be deemed to be the place where the goods are located at the time when dispatch or transport of the consignment of goods addressed to the name of the customer begins;
- in connection with the supplies made after the moving supply, the place of supply shall be deemed to be the place where the goods are located at the time when dispatch or transport of the consignment of goods addressed to the name of the customer ends.

In Hungary, the triangulation simplification for chain transactions with three parties involved (A, B and C) is also applicable, if the following conditions are met:

- the “B” (middleman) is not registered in Hungary
- the goods are delivered to Hungary and “C” is a taxable person in Hungary
- “B” sells goods with Hungarian place of supply; this can happen in the following two cases:
 - “A” is the carrier, or
 - “B” is the carrier in its capacity as a buyer

Further formal requirements required by law are that:

- the “C” receives an invoice that refers to the triangulation simplification
- the “B” (middleman) reports the iC acquisition and the iC sales in its Recapitulative statement with reference to the triangular simplification

According to the simplification, the intermediate supplier (“B”) is not required to register in Hungary and to pay VAT, but the VAT should be reported and paid by the final customer (“C”).

In praxis the Hungarian Tax Authorities apply the triangulation simplification only if there are three parties involved in the chain.

1.2. Consignment stocks/call off stock

The simplification rules of the consignment stock regime (in line with the VAT Directive) may apply, provided that the below conditions are fulfilled:

I. Material preconditions:

- the goods shall be transported to Hungary with the intention that they shall be supplied to a future buyer
- the name and tax number of the future buyer must be known previously to the date of the transfer of goods to the call-off-stock
- the future buyer shall be a taxable person registered for VAT purposes in Hungary
- the future supplier shall not be established in Hungary (the previous precondition was stricter stipulating that the future supplier shall not be registered in Hungary for VAT purposes)
- the goods shall be supplied to the future buyer within a 12-month deadline calculated from the next day to date of arrival (this condition did not previously exist)

II. Administrative preconditions

- the future supplier has to keep records on the movement of the goods in and out the call-off stock
- the future supplier has to report the sale of goods at the date of release of the goods from storage in its recapitulative statement using the correct Hungarian IC VAT ID number of the buyer

Regarding the administration and registers, our national VAT Act refers back to the provisions of Council Implementing Regulations No. 282/2011 set forth under Art. 54a without entering into further details.

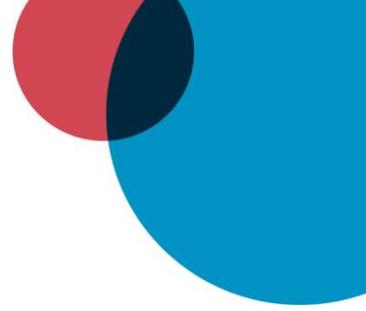
The list is exhaustive, and every condition has to be fulfilled to set up a call-off stock in Hungary. In case the above conditions are met, the supplier does not have to get registered in Hungary for VAT purposes and may treat its supply to the Hungarian client as tax-exempt intra-Community sales at the time of withdrawal.

The simplification cannot be applied if the above preconditions are not fulfilled (even if the administrative preconditions are not met) meaning that in this case at first a deemed intra-Community supply shall be reported and at the time of the actual sale 27% Hungarian VAT is to be charged. Such scenarios might be:

- the deadline is exceeded
- the goods are transported to another Member State (unless the goods are transported back to the supplier and it was recorded in the register of the call-off-stock) etc.

1.3. Proof of Intra-Community transport

In order to benefit from the VAT exemption for iC supplies, the VAT law requires that transportation of goods to another EU member state has to be proven.



According to the Hungarian VAT law in order to be able to profit from the exemption the buyer must have a valid VAT number in another EU country and this VAT number has to be communicated to the seller prior the transaction. Furthermore, the transaction has to be reported to the Hungarian tax authorities correctly in the seller's EC-Sales List. If the information is not reported or incorrectly reported, the use of the zero-rated VAT on the sale may be denied.

As the indication of the VAT identification number of the customer is a precondition of the exemption, it is of high importance of the supplier checking that the indicated VAT identification number is valid and it belongs to the customer.

The Hungarian Tax Authority accepts the following ways of checking the validity of the customer's VAT number:

1. Inquiry in the VIES system: in this case the inquirer must indicate his own VAT ID number while filing the inquiry in the VIES system. It is only fully acceptable if the name and address of the business partner is also visible in the VIES system. The inquiry will have an individual identification number. It is important that the taxpayer keeps the record of the inquiry within his files indicating the search results and the individual identification number of the inquiry.

2. Inquiry at the Hungarian Tax Authority: it is possible to inquire after the validity of the customer's VAT number via phone, post or electronically. However, via phone, only the validity of the VAT number can be confirmed, name and address not. They only confirm the inquiry as "identical" or inform the taxpayer that it is "not identical" with the foreign tax authorities records (but they do not provide data). Please note that the system will give a "not identical" result even if the data are not accurately indicated in the inquiry, e.g. the nature of the public area (street, square etc.) is missing. A confirmation may be required with the date of the inquiry or of an earlier date indicated in the inquiry. Written inquiries may be filed either using the standard form of the Hungarian Tax Authority or any other written form without formal constraints. Please note, however, that a confirmation cannot be required per email anymore. Even the data of more than one business partners may be confirmed in one inquiry. Written confirmation on the inquiry will be provided within 8 workdays (in case of a phone call, a written confirmation will only be provided upon the special request of the taxpayer).

Article 45a of the Implementing Regulation 282/2011 is directly enforceable. Accordingly, if the supplier disposes of the documents listed in the Implementing Regulation, it shall be presumed that the goods were dispatched or transported to another Member State and the Hungarian Tax Authority may not require further proof (unless the Tax Authority rebuts the presumption).

Nevertheless, if the supplier does not have any documents supporting the presumption laid down in the Implementing Regulation, it does not automatically exclude the applicability of the tax exemption but it may be justified in other ways that the goods were dispatched or transported to another Member State. As such, the guideline of the Hungarian Tax Authority on the acceptable supporting documents referred to above is still applicable.

II. Other relevant information

Some guidelines for clarification are available at the site of the Hungarian Tax Authorities.