

Government Decree 109/2020 (14 April)
on retail tax introduced to provision the Epidemic Fund for the implementation of the
Economy Protection Action Plan

The Government,
acting within its original legislative power laid down in Article 53 (2) of the Fundamental Law, having regard to the provisions of Act XII of 2020 on the containment of coronavirus,
acting, with respect to section 10, within its original legislative power laid down in Article 53 (3) of the Fundamental Law, on the basis of authorisation by the National Assembly under section 3 (1) of Act XII of 2020 on the containment of coronavirus,
acting within its function laid down in Article 15 (1) of the Fundamental Law,
decrees as follows:

1. Interpretative provisions

Section 1 For the purposes of this Decree,

1. *retail activity* means an activity classified in
 - a) division 45.1, with the exception of wholesale trade services of motor vehicles and trailers,
 - b) division 45.32,
 - c) division 45.40, with the exception of repair and wholesale trade services of motorcycles,or
 - d) divisions 47.1 to 47.9of the Unified Sectoral Classification System of Economic Activities as in force on 1 January 2020 (hereinafter “TEÁOR’08”), provided that the activity is offered to also private persons as buyers;
2. *net turnover* means
 - a) the net turnover from sales within the meaning of Act C of 2000 on accounting (hereinafter “Sztv.”) in the case of a taxable person falling within the scope of the Sztv.,
 - b) the net turnover under section 40/C of Act C of 1990 on local taxes in the case of a taxable person preparing its individual accounts in accordance with IFRS specified in point 2 of section 3 (10) of the Sztv.,
 - c) the small business revenue under the Act on small business lump-sum tax and small business tax in the case of a small business under the Act on small business lump-sum tax and small business tax,
 - d) the revenue without value added tax under the Act on value added tax in the case of a taxable person falling within the scope of the Act on value added tax,
 - e) the consideration without value added tax for selling a product delivered in Hungary in the case of a person or organisation non-resident in Hungary which performs its activities under section 2 by means other than a branch.

2. Tax liability

Section 2 Retail activities, and selling products by persons or organisations non-resident in Hungary by means other than a branch that are delivered to buyers in Hungary, shall be taxable.

3. Taxable persons

Section 3 Taxable persons shall be persons or organisations resident or non-resident in Hungary who pursue an activity under section 2 on a commercial basis.

4. Tax base

Section 4 (1) The tax base shall be the net turnover of a taxable person from an activity under section 2 for the full tax year within which any of the days of the period between the day of entry into force of this Decree and the day of the end of the period of state of danger declared by Government Decree 40/2020 (11 March) on the declaration of state of danger (hereinafter “state of danger”) fall, having regard to the provisions of section 5.

(2) The turnover of the supplier (producer, distributor) of a product obtained for retail sale from a service provided, in connection with selling the obtained product, by the taxable person and the amount of discount provided by the supplier of a product for retail sale to the taxable person shall be calculated into the tax base under paragraph (1).

5. Consolidation of tax base for the prevention of tax avoidance

Section 5 (1) When assessing the tax of a taxable person qualifying as affiliated undertaking under the Act on corporate tax and dividend tax, the net turnover from activities under section 2 of taxable persons affiliated to each other shall be added together, and the amount calculated on the basis of this sum by applying the tax rate under section 6 shall be divided between the taxable persons in a way that the share of each taxable person corresponds to the proportion of the net turnover from activities under section 2 of the taxable person concerned in the total net turnover from activities under section 2 of all the taxable persons affiliated to each other.

(2) Tax advance shall be assessed by applying the tax calculation method under paragraph (1), having regard also to the provisions of section 8.

(3) For the performance of the calculations under paragraphs (1) and (2), taxable persons affiliated to each other shall be obliged to cooperate. Calculations shall be documented (including also their preparation and retention) by each one of the taxable persons affiliated to each other. The documents on calculations shall be presented to the state tax authority upon request.

(4) The provisions of paragraphs (1) to (3) shall apply to affiliated undertakings whose status as such is the result of a division or partial division performed after the promulgation of this Decree or if a legal entity pursuing an activity under section 2 on the day of the promulgation of this Decree transfers, or provides for use, its assets enabling the pursuit of the activity under section 2 to another affiliated economic operator following the promulgation of this Decree.

(5) The provisions of paragraphs (1) to (4) shall not apply if the taxable person furnishes proof that the transactions specified in paragraph (4) were performed not to circumvent the provisions of this Decree, but solely for economic reasons.

6. Tax rate

Section 6 The tax rate shall be

- a) 0 per cent on the part of the tax base not exceeding 500 million forints,
- b) 0.1 per cent on the part of the tax base exceeding 500 million forints, but not exceeding 30 billion forints,
- c) 0.4 per cent on the part of the tax base exceeding 30 billion forints, but not exceeding 100 billion forints,
- d) 2.5 per cent on the part of the tax base exceeding 100 billion forints.

7. Tax amount

Section 7 The tax amount shall be equal to the part of the amount calculated by applying the tax rate under section 6 to the tax base under section 4 (1), having regard to section 5, that corresponds to the proportion of the number of days of the period between the entry into force

of this Decree and the day of the end of the period of state of danger in the calendar days of the full tax year under section 4 (1).

8. Procedural provisions

Section 8 (1) A taxable person shall assess and declare, on the form regularly used for this purpose, to the state tax authority its tax liability by the 30th day following the end of the tax year in which the period of state of danger ends or, if the tax year ends within the period of state of danger, following the end of the period of state of danger.

(2) A taxable person shall declare to the state tax authority the (monthly) amount of tax advance for a month by 31 May 2020.

(3) The monthly amount of the tax advance shall be one twelfth of the amount calculated on the basis of the net turnover of the taxable person from activities under section 2 for the last tax year completed before the entry into force of this Decree for which there are accounts (and if the tax year is shorter than 12 months, of the annualised net turnover), by applying the tax rate under section 6 and having regard to section 5.

(4) The amount of the monthly tax advance payable by a taxable person who has no completed tax year under paragraph (3) by the day of the entry into force of this Decree shall be one twelfth of the amount of its tax to be expected for the tax year in accordance with section 4 (1).

(5) A taxable person shall pay, until the last day of the calendar month concerned, the monthly tax advance calculated in accordance with paragraphs (3) and (4) to the state tax authority for the month within which the day of entry into force of this Decree falls and for each calendar month following the entry into force hereof in which the state of danger persists for at least 1 day.

(6) At the request by of the taxable person, the state tax authority shall reduce the amount of tax advance in a way that is proportionate to the reduction in turnover if the net turnover from activities under section 2 for the month before the date of the monthly tax advance becoming due does not reach 60 per cent of the net turnover from activities under section 2 for the same month of the preceding year.

(7) If the sum of tax advance amounts paid in accordance with paragraph (5) exceeds the tax amount under section 7, the taxable person may claim a refund for the difference from the day of filing the tax declaration under paragraph (1) in accordance with the rules on tax refunds of the Act on the rules of taxation.

(8) A taxable person not liable to tax payment shall not be obliged to file a tax or tax advance declaration.

(9) The state tax authority shall perform the administrative tasks in connection with the tax; the revenue generated by the tax shall constitute a revenue of the central budget.

9. Final provisions

Section 9 (1) With the exception specified in paragraph (2), this Decree shall enter into force on 1 May 2020.

(2) Section 10 shall enter into force on 15 May 2020.

Section 10 The Government extends the temporal scope of this Decree until the end of the period of state of danger under Government Decree 40/2020 (11 March) on the declaration of state of danger.