

**Government Decree 109/2020 (IV. 14.)
on Retail Tax for the Purpose of Provisioning of the
Anti-Epidemic Fund for the Implementation of the Economy
Protection Action Plan**

The Government,
acting within its original legislative power conferred under Article 53(2) of the Fundamental Law, having regard to the provisions of Act XII of 2020 on Measures for the Control of Coronavirus,
acting within its original legislative power conferred under Article 53(3) of the Fundamental Law with respect to Section 10, based on authorisation obtained from Parliament under Section 3(1) of Act XII of 2020 on Measures for the Control of Coronavirus,
acting within its competence conferred under Article 15(1) of the Fundamental Law,
has adopted the following Decree:

1. Interpretative provisions

Section 1 For the purposes of this Decree:

1. ‘retail trade’ shall mean – in accordance with the uniform system for classification of economic activities (hereinafter referred to as “TEÁOR’08”), in force on 1 January 2020, the activities classified

- a) in sector 45.1, apart from wholesale trade in vehicles and trailers,
- b) in sector 45.32,
- c) in sector 45.40, apart from wholesale trade in repairs of motorcycles, and
- d) in sectors 47.1 to 47.9,

in the context of which the purchaser may also be a natural person;

2. ‘net turnover’ shall mean

a) net turnover from sales provided for in Act C of 2000 on Accounting (hereinafter referred to as “Accounting Act”) of taxpayers covered by the Accounting Act,

b) net turnover provided for in Section 40/C of Act C of 1990 on Local Taxes of taxpayers who prepare their individual accounts in accordance with IFRSs as provided in Point 2 of Section 3(10) of the Accounting Act,

c) in respect of small businesses covered by the Act on the Fixed-Rate Tax of Low Tax-Bracket Enterprises and on Small Business Tax, the revenue of small businesses covered by the Act on the Fixed-Rate Tax of Low Tax-Bracket Enterprises and on Small Business Tax,

d) in respect of taxpayers covered by the Personal Income Tax Act, revenue provided for in the Personal Income Tax Act, exclusive of value added tax,

e) in respect of any nonresident entity or organisation pursuing the activity referred to in Section 2 by way other than through a branch, compensation received in connection with the supply of goods in Hungary, exclusive of value added tax.

2. Tax liability

Section 2 Tax liability shall apply to any retail trade activity, and also to the supply of goods by any nonresident entity or organisation by way other than through a branch, if delivered to the customer in Hungary.

3. Taxable person

Section 3 The tax shall be payable by any resident or nonresident entity or organisation the business of which is to carry out the activity defined in Section 2.

4. Taxable amount

Section 4 (1) The tax payable shall be based on the taxable person's net turnover from the activity defined in Section 2 for the full tax year covering any day of the period between the date of entry into force of this Decree and the day when the state of danger declared by Government Decree 40/2020 (III. 11.) on the Declaration of State of Danger (hereinafter referred to as "state of danger") is lifted, having regard to Section 5.

(2) The taxable amount provided for in Subsection (1) shall include the turnover from the service provided by the taxable person, in the context of the marketing of goods purchased for the purpose of a retail sale (the manufacturer or distributor of the goods), and the amount of income from the discount granted to the taxable person by the supplier of such goods for the purpose of a retail sale.

5. Aggregation of taxable amounts for preventing tax avoidance

Section 5 (1) The tax of taxable persons classified as affiliated enterprises within the meaning of the Act on Corporate Tax and Dividend Tax shall be calculated by adding up the net turnover from the activities referred to in Section 2, pursued by taxable persons acting as affiliated enterprises, and the sum calculated based on that result by the tax rate provided for in Section 6 shall be divided between the taxable persons affected in proportion with their respective net turnover from the activities referred to in Section 2, compared with the total net turnover from the activities referred to in Section 2 earned by all the affiliated taxable persons.

(2) The amount of tax advance shall also be determined by the calculation method provided for in Subsection (1) hereof, having regard to Section 8 as well.

(3) In carrying out the calculations described in Subsections (1) and (2) the affiliated taxable persons affected shall be required to cooperate. Each of the affiliated taxable persons affected shall document the calculations, including the results and the process, as well as safeguarding. The documentation of calculations shall be presented to the state tax authority upon request.

(4) The provisions of Subsections (1)–(3) shall apply to affiliated enterprises where affiliation was the result of division, separation executed following the date of promulgation of this Decree, or where an entity pursuing the activity referred to in Section 2 on the date of promulgation of this Decree transferred or granted use of its assets for pursuing the activity referred to in Section 2 to another affiliated economic operator after the date of promulgation of this Decree.

(5) Subsections (1)–(4) shall not apply if the taxable person is able to evidence that it executed the transactions referred to in Subsection (4) solely for economic reasons, and not to circumvent the provisions set out in this Decree.

6. Tax rate

Section 6 The tax rate shall be:

- a) 0% of the tax base up to 500 million forints,
- b) 0.1% of the tax base between 500 million forints and 30 billion forints,
- c) 0.4% of the tax base between 30 billion forints and 100 billion forints,
- d) 2.5% of the tax base above 100 million forints.

7. Amount of tax payable

Section 7 The amount of tax shall be determined based on the taxable amount provided for in Section 4(1), calculated by the rate provided for in Section 6 having regard to Section 5, in the proportion the number of days between the date of entry into force of this Decree and the day when the state of danger is lifted represent in the calendar days of the full tax year provided for in Section 4(1).

8. Procedural regulations

Section 8 (1) Taxable persons shall establish and declare to the state tax authority their tax payment liability by the 30th day following the year when the state of danger is lifted or – if the tax year ends during the period of state of danger – of the 30th day following the day when the state of danger is lifted, using the form prescribed for that purpose.

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

(3) The amount of tax advance payable for a month shall be one-twelfth of the sum calculated based on the net turnover from the taxable person's activities referred to in Section 2 in the last completed tax year from before the date of entry into force of this Decree, for which accounts have been adopted (annualised if the tax year is shorter than 12 months), by the tax rate provided for in Section 6, having regard to Section 5.

(4) If a taxable person has not completed a tax year as provided in Subsection (3) before the date of entry into force of this Decree, the amount of monthly tax advance payable by such taxable person shall be one-twelfth of the amount of the tax estimated for the tax year provided for in Subsection (1) of Section 4.

(5) As regards the calendar months covering the day of entry into force of this Decree, and the months following the date of entry into force, when the state of danger is in effect for at least one day, taxable persons shall be liable to pay to the state tax authority the tax advance calculated according to Subsections (3) and (4) by the last day of the calendar month in question.

(6) Where the net turnover from the activities referred to in Section 2, achieved in the month preceding the due date of the monthly tax advance fails to reach 60% of the net turnover from the activities referred to in Section 2, achieved in the same month of the previous year, the state tax authority shall, at the taxable person's request, proportionately reduce the amount of tax advance by such loss of revenue.

(7) If the total amount of the tax advances paid according to Subsection (5) hereof exceed the tax amount provided for in Section 7, the taxable person may request a refund of the difference from the day of submission of the tax return under Subsection (1) hereof pursuant to the provisions of the Act on the Rules of Taxation on tax refund.

(8) The taxable persons not required to pay tax shall be exempted from the obligation of declaration of tax and tax advance.

(9) The administrative duties in connection with the tax shall be handled by the state tax authority. The proceeds of such tax shall constitute revenue for central budget.

9. Closing provisions

Section 9 (1) This Decree – subject to the exceptions set out in Subsection (2) – shall enter into force on 1 May 2020.

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

Section 10 The Government shall extend the term of this Decree until the state of danger provided for in Government Decree 40/2020 (III. 11.) on the Declaration of State of Danger is lifted.