

<b>Project ID</b>	HUHR/1101/1.2.3/0001
<b>Acronym</b>	PANNON FLAVOURS
<b>Project Title</b>	Development of cross-border gastronomy routes in the Pannonian Basin



# The process of becoming a local producer

legal background and operational  
requirements

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## 1. Introduction

This paper provides an insight to the process of becoming a (primary) small-scale producer, in an informative way, presenting the legal background and conditions of doing so. After presenting the types of small-scale producers it gives information on the operational requirements affecting them and details the specific regulations affecting the product categories they produce and sell.

It is the objective of this paper to provide assistance and guidance to local producers to establish the appropriate practice of business operation. Links to useful references are placed at multiple locations within the chapters to provide more information for those interested in the specific issues.

## 2. Presentation of local producers

Local producers may also choose other legal forms for their business, in addition to being small-scale producers they can also operate as private entrepreneurs or registered companies. Therefore this section presents the qualification criteria for small-scale producers, private entrepreneurs and companies as well. This chapter also discusses the definitions of family (estate) farms, family farmers and agricultural smallholder, and products and activities of small scale agricultural producers (broken down according to animal and plant products) are also listed.

### 2.1. Who qualify as small-scale agricultural producers?

According to Act CXVII of 1995 on personal income tax (*hereinafter: Personal Income Tax Act*) "small-scale agricultural producer" shall mean a private individual above the age of 16 who is not a private entrepreneur but possesses a small-scale producer licence and is engaged in activities aimed at producing the products listed in Schedule No. 6 on his own farm, including private individuals registered as agricultural producers in the register of the body in charge of agricultural and regional development aid and the private individual who qualifies as a family estate farmer, and any members of the family of such private person who participate in the family homestead in a form other

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than employment, with respect to all of them in connection with the revenue (income) from the activity or activities aimed to produce the products listed in Schedule No. 6.

### 2.1.1. Family farms and the definition of family farmers

The tax obligations of private individuals registered as agricultural producers in the register of the body in charge of agricultural and regional development aid and the private individual who qualifies as a family estate farmer, and any members of the family of such private person who participate in the family homestead in a form other than employment shall be performed according to the regulations on small-scale agricultural producers, by the last day of the tax year, unless regulated otherwise in law.

According to Section 5 (4) of Act CXXII of 2013 on transactions of agricultural and forestry land, any agricultural economic operation registered at the agricultural administration authority as a family estate farm shall be considered a **family farm**.

According to Section 20 of this act, the basic organisation unit of the means of agricultural production (land, agricultural equipment, other assets) operated with the same objective shall be considered *agricultural economic operations*, which is also a basic unit of production through economic cooperation.

Also, pursuant to Section 3 (21) of this act, the *centre of agriculture economic operation* is the real property or farmland with agricultural, residential or office buildings, owned or used by the farmer or the agricultural cooperative, serving the purpose of agricultural or forestry activity, or agricultural or forestry activity and its ancillary activity, which is also the registered location of agricultural production at the agricultural administrative authority.

Within the scope of this law:

→*agricultural and forestry activity*: crop production, horticulture, animal husbandry, the queen rearing, fishing, fish farming, propagation, hunting, forestry and mixed farming with ancillary activities;

→*ancillary activity*: rural and agri-tourism, craft activities, timber processing, feed production, manufacturing of food from agricultural products, tobacco processing, biofuel production from agricultural and forestry by-products, , recovery of plant and animal waste, the processing thereof for non-food purposes, as well as direct producers'

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sales of products made from such products, agricultural services and the utilisation of factors of production related to the agricultural economic operation, and the sale thereof;

→ **members of the producers' family:** the family farmer and the spouse, domestic partner, minor child, grandchild thereof, and also the child of legal age, parent, grandparent, sibling registered as the member of the producers' family; the adopted and foster child shall also be considered child for this purpose.

### 2.1.2. Definition of agricultural smallholders

The definition of agricultural smallholders is also specified in act CXVII of 1995 on personal income tax. According to the act, "agricultural smallholder" shall mean any small-scale agricultural producer whose revenue from such activities does not exceed 8 million forints in a tax year (Personal Income Tax Act, Section 3 (19)).

## 2.2. Products of small-scale agricultural producers

The products and activities of small-scale agricultural producers are listed below, with the indication of names, customs tariff headings and the official serial number, pursuant to Schedule No. 6 of the Personal Income Tax Act.

### A) Animals, animal products

1. Live animals (including bee colonies, queen bees, pupae, and swarms) under 0101-0106 excluding: saddle horses, race horses, dogs, cats, laboratory animals, virus and serum animals, pets and zoo animals, wild game and species living in game parks, protected animals and species whose capture is forbidden, under 0306, under 0307
2. Milk and milk products 0401-0406
3. Bird eggs in the shell excluding: breeding eggs for therapeutic purposes, eggs of birds living in the wild 0407
4. Natural honey (including comb honey, homemade and other natural honeys) 0409

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5. Products of animal origin: unprocessed animal fur for non-textile industry purposes, unprocessed feathers cleaned at most, unprocessed wool, unprocessed fine or rough animal fur 0502-0503, under 0505, under 5101, 5102
6. Unprocessed bees' wax and residual products under 152190 91 00 under 152200 99 00
7. Propolis (bee gum), and under 130190 90 99 Royal jelly under 0410 Raw pollen under 121299 80 00 Bee venom under 300190 99 00 Bee products not elsewhere classified under 210690 98 99

*B) Plants, plant products*

8. Live plants under 0601, excluding: seaweed, and algae under 0602
9. Flower, buds, leaves, branches and other plant parts for the purpose of making decorations or wreathes excluding: moss, lichens, branches of coniferous trees 0603, under 0604
10. Vegetables, fresh, refrigerated, frozen, temporarily preserved or dried edible roots and tubers, also cleaned, harrowed, peeled, cut, and pitted vegetables, potatoes 0701-0714
11. Fruits and nuts, as well as fresh, refrigerated, frozen, temporarily preserved or dried edible rinds of citrus fruits and melons, also cleaned and processed fruits cut in quarters or halves 0801-0814
12. Herbs and spices: Ground paprika under 0904 20 Juniper berries under 0909 50 Saffron 0910 20 Thyme under 0910 40 Anise seed 0909 1000 Caraway seed 0909 30 Dill seed under 0910 99 Other domestic herbs and spices under 0709 90 under 1211 90
13. Cereal grains, wheat, rye, barley, oats, maize, rice, sorghum, buckwheat, millet, canary seed, triticale and other hybrids excluding: those processed by the milling industry 1001-1005, 100610, 1007-1008
14. Oil seeds and oleaginous fruits: Soya beans, peanuts, linseed, rapeseed, sunflower seed, castor beans, mustard seed, saffron seed, poppy seed, hempseed 1201-1207
15. Seed for sowing, fruits or spores for propagation 1209
16. Industrial plants: - hops and lupulin 1210, - plants and parts of plants, if such are raw materials for the perfume industry, pharmaceutical industry, pesticide and similar

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industries (angelica root and seed, ergot of rye, basil, quince seed, great burdock, borage, Siberian squill bulb, walnut leaf, absinth, mugwort, elder, pine bud, galangal root, dandelion, woolly foxglove, linden flowers and leaves, hellebore, cornflower, hyssop, chamomile buds, pasque-flower, valerian, poppy-head, thorn apple, mint, pyrethrum, belladonna, iris, horehound, mullein, mallow, rosemary, rose petals, rue leaves, bitter-apple, sweet woodruff, coot root, gentian, plantain, wild marjoram, vervain, speedwell, bogbean, sage, etc.) domestic herbs under 1211 - carob, sugar beet, sugar cane, apricot and plum pits, unroasted chicory root 1212 - cereal straw and cereal glume 1213 - forage crops: rutabaga, cattle-turnip, field beet, mangel-wurzel, hay, alfalfa, clover, Burgundy hay, feeding kale, lupin, vetch 1214

17. Raw materials for weaving or for the production of brooms or rushes: reeds, sedge, willow branches 1401, 1403

18. Processed (permanently preserved or conserved, or instantly edible) vegetables, fruits and nuts 2001-2009

19. Grape-wine in packaging over 2 litres 2204 29, excluding 22042999

20. Grape-must 2204 30

21. Vegetable products for animal fodder: acorn, wild chestnuts, maize cob, maize stalk, maize husks, maize blade, beet top, vegetable rinds, fruit waste, etc. 2308 00 40, under 2308 00 90

22. Unprocessed tobacco, dried as well, but not pickled or fermented, waste tobacco under 2401

23. Organic fertilizers 3101

24. Grape vine under 4401

25. Stakes, piles, pegs, poles, rods, etc. produced solely by splitting wood under 4404

26. Flax and hemp (*Cannabis sativa* L), unprocessed under 5301, under 5302

27. Christmas tree under 0604

28. Lees, raw tartar under 2307

### C) Activities

For 1999 such products and services defined as a supplement to those listed in Points A)-C) by a government decree.

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### 2.3. Activities of small-scale agricultural producers

In addition to the above-mentioned point C, Schedule No. 6 of act CXVII of 1995 specifies the following with regard to small-scale agricultural production activities:

Small-scale agricultural production activities shall include the growing of plants, orchards, breeding of animals, and processing of products at an individual's farm, if this occurs using base materials which are themselves produced at the farm, the collection of certain agricultural products at an individual's own farm which does not violate the law, and forestry activities conducted in an individual's own forest area, if, in respect of all of the aforementioned activities, the product produced or the activity falls under either of the categories listed in Point II to this Schedule (*listed above in points A and B - editor's note*).

The unabridged text of the already referenced Personal Income Tax Act and Schedule No. 6 thereto can be viewed by clicking on the following link:

[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=99500117.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99500117.TV)

### 2.4. Who qualify as private entrepreneurs?

The main properties of private entrepreneurs and private companies are regulated in Act CXV of 2009. The unabridged text of the referenced act can be viewed at:

<http://net.jogtar.hu/jr/gen/getdoc2.cgi?dbnum=1&docid=A0900115.TV>

The act on private entrepreneurs regulates the conditions of commencing, carrying out, suspending and terminating private entrepreneurial activity and the incorporation, operation and termination of private companies with a registered office in Hungary, and also the rights and obligations of the members thereof.

The private entrepreneurial licence is not required for commencing and carrying out private entrepreneurial activity, but upon request of the private entrepreneur, the Authority shall issue the private entrepreneurial licence.

Pursuant to act CXV of 2009 the following may apply to operate as private entrepreneurs:

a) citizens of Hungary,

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- b) citizens of a Member State of the European Union or any other state that is party to the treaty on the European Economic Area, also the persons with an identical legal standing as citizens of other countries of the European Economic Area regarding establishment based on a treaty between the European Community and its members states and a state not party to the treaty on the European Economic Area,
- c) persons subject to the law on freedom of movement and entry and residence of persons with the right of residence and free movement, not mentioned in point b), who exercise the right to residence and free movement in the territory of Hungary,
- d) persons with the legal standing of immigrants or residents subject to the act on the entry and residence of third-country nationals, persons with residence permits issued for the purposes of gainful employment, family reunification or studying, and also the accepted residents and stateless persons with a residence permit issued for humanitarian aims.

Pursuant to act CXV of 2009 the following may not apply to operate as private entrepreneurs:

- a) persons of limited legal capacity or incompetency,
- b) those sentenced to imprisonment in a final decision of the court
- ba) for crimes against the incorruptibility of public life [Chapter XV title VII of Act IV of 1978 on the Criminal Code], crimes against international public ethics (Chapter XV Title VIII.), financial crimes or (Chapter XVII) or crimes against property (Chapter XVIII), effective until 30 June 2013,
- bb) for corruption [Chapter XXVII of Act C of 2012 on the Criminal Code], damaging violence (Chapter XXXV), crime against property (Chapter XXXVI), crime against intellectual property (Chapter XXXVII), against the circulation of cash and stamps (Chapter XXXVIII), damaging the national budget (Chapter XXXIX), money laundering (Chapter XL), crimes against the regulations on business conduct (Chapter XLI), crimes against the interests of consumers or the fairness of competition (Chapter XLII) or crimes of forbidden gathering of data or against IT systems (Chapter XLIII), while they are not relieved from the detrimental impacts of the sentence,
- c) persons sentenced to imprisonment exceeding a year for wilful criminal conduct, while they are not relieved from the detrimental impacts of the sentence,

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d) members of private companies or members of business associations with unlimited liability.

## 2.5. Private entrepreneurial activities

The scope of activities of private entrepreneurs is practically not regulated, the List of Activities of Individual Entrepreneurs (ÖVTJ) in effect, compiled from the "TEÁOR" (unified sectoral classification system of economic activities) numbers includes the list of activities to be performed by private entrepreneurs.

The unabridged text of the current ÖVTJ list can be viewed at:  
[https://www.ksh.hu/docs/osztalyozasok/ovtj2/ovtj\\_forditokulcs\\_2015\\_2014.pdf](https://www.ksh.hu/docs/osztalyozasok/ovtj2/ovtj_forditokulcs_2015_2014.pdf)

Pursuant to Act CXV of 2009 the only requirement is that private entrepreneurs may engage in the pursuit of an activity that is rendered conditional upon specific qualifications by law, if they are able to satisfy such qualification requirements. Unless regulated otherwise by law (not including the decrees of municipalities) the private entrepreneurs may also engage in activities with qualification requirements it is not able to satisfy, if any person bound by personal involvement in the pursuit of the activity meets the requirement on qualifications.

## 2.6. What shall be considered a company?

The definition of companies is specified in Act V of 2006 on public company information, company registration and winding-up proceedings according to the following:  
*"Unless otherwise prescribed by law, 'company' means a legal entity that is brought into existence when entered into the register of official company records for the purpose of engaging in business operations."*

The unabridged text of the referenced act can be viewed at:  
[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0600005.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0600005.TV)

## 3. Regulations affecting local producers

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There are many types of legal regulations affecting local producers. First, since they carry out economic activities involving revenue, taxation laws apply to them. Also, since many of them produce products that qualify as foodstuffs, their conduct is carefully controlled by the National Public Health and Medical Officer Service (ÁNTSZ)

This chapter first presents how someone becomes a local producer, then it provides information on the legal requirements of operation. It details the key provisions on taxation and income and the control activity of the Hungarian Authority for Consumer Protection.

### 3.1. What should we do to become local producers?

#### 3.1.1. Commencing small-scale agricultural production activities

Before commencing the small-scale agricultural production activity, the so-called small-scale producer licence shall be acquired. The sale slip (certified for the subject tax year) forms a part of the small-scale producer licence, and it is also considered revenue records, if the taxpayer is required to keep revenue records. The issue of the licence is within the scope of authority of the county administrative organisation of the Hungarian Chamber of Agriculture (hereinafter: NAK). The locally affected county administrative organisation of NAK issues the licence with the sale slip for the tax year and the copy of the certified data registration sheet. The county administrative organisation of NAK shall issue new sale slips for the subject tax year. Based on the statement of the small-scale agricultural producer, the licence may be issued to a period of up to three tax years, stipulating that sale slips for up to three tax years may be issued simultaneously with the issue of the licence.

According to booklet no. 6 issued by the National Tax and Customs Administration (NAV), which presents the most important information on the taxation of small-scale agricultural producers, the private individual may also include a joint statement provided with its family members living in the same household in its statement provided for the acquisition of its small-scale producer licence, which certifies that they intend to carry out the small-scale agricultural production activity with acquiring a joint small-scale producer licence. A common household shall mean the community of natural persons living in the same residential property, having their registered addresses or places of abode there. The small-scale producer's spouse, direct

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relatives, adopted, step and foster children, as well as the adopting, step and foster parents shall be considered family members living in common household. It is a requirement for acquiring a joint licence that every family member shall choose the same taxation method for its small-scale agricultural production income (e.g. VAT, flat-rate taxation or itemized flat-rate taxation).

It is also a condition that during the term of the joint small-scale production family members shall not be in the employment of or any other work-related legal relationship with one another and may not apply the provisions pertaining to family workers in respect of each other. The joint small-scale producer licence shall be issued to the name of the family member the other family members unanimously appoint in their joint statement. If private individuals carry out small-scale agricultural production based on a joint small-scale producer licence and apply itemized flat-rate taxation for their expenses, their income and expenses from this activity shall be divided among them proportionately. In order to certify income and expenses, the invoice issued to the name of any participating private individual shall be recognised with the same force.

This study mainly focuses on the small-scale agricultural producers intending to distribute products at local farmers' markets, and the tasks and instructions on commencing such activity are listed as follows:

1. *Issue of the VAT number:*

Small-scale agricultural producers shall only sell products at markets if they have a VAT number assigned, since they are obliged to provide customers with a receipt/invoice. If they already have the small-scale producer licence, small-scale agricultural producers may apply for a VAT number at the affected tax authority. Application forms are typically available at every municipality office.

2. *Issue of the small-scale producer licence:*

The small-scale producer licence is issued by the affected agricultural extension agent . For the issue of the licence, the products to be produced, the location of production, the area size, the land usage type and the "gold crown" value shall be specified. Application forms are typically available at the local municipality office.

3. *Registration of agricultural smallholders: (if the small-scale agricultural producer qualifies as an agricultural smallholder)*

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The applicable form is also available at the municipalities. Municipalities typically undertake to forward smallholder registrations to the affected authority. After smallholder registration, the authority performs on-site inspection, examining the circumstances of production (e.g. hygiene - the adequacy of normal kitchen conditions). This is then followed by the issue of the certificate. A log shall be kept about the spraying of crops and the substances used. Spraying logs are available at the municipalities. Records shall be kept about processed products and their ingredients (e.g. spices).

4. *Issue of the sanitary booklet:*

- In case of selling unprocessed plant products (e.g. fruit, vegetables) a sanitary booklet is not required.
- In case of selling processed products (jams, paprika spices, homemade pickles) the affected persons are required to possess a sanitary booklet. Lung screening and occupational health testing are required for the issue of the booklet.

5. *Purchase of the receipt block/invoice block/sanitary booklet:*

Receipt blocks/invoice blocks/sanitary booklets can be purchased at print shops. In order to purchase these items, the small-scale producer licence and the tax identification card shall be presented.

6. In case the smallholder reports carrying out the trade activity pursuant to Decree 210/2009. (IX. 29.) Korm. at the locally affected municipality, it shall also be registered with the regional organisation of the Chamber of Agriculture. ([www.agrarkamara.hu](http://www.agrarkamara.hu))
7. Smallholders may only commence their activities after the valid licences and resolutions on registration have been issued. Licences and documents shall be kept at the production site at all times, in order to present them during on-site inspections.

3.1.2. *Commencing private entrepreneurial activities*

The commencement of private entrepreneurial activities shall be reported at all times, pursuant to act CXV of 2009.

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Act CXV of 2009 includes the following provisions on the reporting obligations related to the activity of private entrepreneurs:

(1) For administrative duties related to the registration of private entrepreneurial activities, the provisions of the act on the general rules of administrative proceedings on the use of languages and the interpreters, data management, jurisdiction, powers and authority, the general conditions of correspondence, as well as on electronic contacts and electronic information, representation, documents, contributing authorities, verification requests, remedies and the waiver of fees shall be applied, with the stipulation the instead of "client" in act on the general rules of administrative proceedings, the reporting persons shall be subject to the provisions.

(2) The commencement and termination of the private entrepreneurial activity shall be initiated in an electronic form via the client gate service or in person.

(3) Proceedings related to the suspension of the private entrepreneurial activity and the reporting of changes, shall only be initiated in an electronic form via the client gate service.

The report shall include:

*a)* the reporting person's family name and given name , his/her mother's family name and given name, the date and place of birth, the address or place of abode (hereinafter collectively: address), the contract address and the citizenship,

*b)* statement that the disqualifying factors listed in Section 3 are not applicable,

*c)* the principal activity and the other activities to be carried out, pursuant to the List of Activities of Individual Entrepreneurs (ÖVTJ) in effect, compiled from the "TEÁOR" (unified sectoral classification system of economic activities) numbers, pursuant to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2,

*d)* addresses of the registered office, the places of business and the branch sites ,

*e)* other data and statements specified in act XCII of 2003 on the rules of taxation, which are required for the reporting obligation to the national tax authority.

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(2) The reporting form shall include information on the reason and purpose certain data of the reporting person are kept in the record of private entrepreneurs and on the scope of data made publicly available.

The definitions of registered office, places of business and branches are specified in Act V of 2006 on public company information, company registration and winding-up proceedings according to the following.

### *3.1.3. The process of establishing a company*

The commencement of private entrepreneurial activities shall be reported at all times, pursuant to act V of 2006.

Where registration of a company is mandatory, the application shall be submitted within thirty days of the signature or approval of the instrument of constitution, unless exempted by law. Where prior official authorization is required for the foundation of a company, the application for registration shall be submitted within fifteen days from the date of receipt of the authorization.

The court of registry may impose a fine between 50,000 and 500,000 forints for any failure to comply with the obligation in due time.

The legal representative shall send the application for registration (amendment notification) and its appendices to the company information service in electronic format, through electronic channels. The application for registration (amendment notification) shall also be submitted via the government portal. The time limits for the submission of applications for registration (amendment notification) shall be calculated based on the date when received by the company information service or the government portal.

The fee for company registration and publication charges shall be remitted by way of electronic means before the submission of the application for registration (amendment notification), with the case number downloaded from the website of the company information service indicated. The fee and the publication charges shall be paid by transfer to the court of registry's revenue account and the account of the ministry directed by the minister in charge of the judicial system, respectively, at the treasury. If requested by the applicant's legal representative and executed by means of a qualified electronic signature, in which the case numbers must be indicated, the treasury shall confirm receipt of payment of the said fee and publication charges in an electronic

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certificate executed by means of an advanced electronic signature, within one working day. These certificates shall be enclosed with the application for registration (amendment notification). The detailed regulations on the payment of registration fees and publication charges through electronic channels are laid down in specific other legislation.

Upon receipt of the registration application, the court of registry shall file the company's name and address electronically and issue a corporate registration number for the company for identification purposes and to distinguish the company from all other companies; this number must henceforward be indicated on all company documents. The court of registry shall obtain - through the electronic channels installed for this particular purpose - from the relevant bodies the company's tax number (including the community tax number) and statistical code for admission into the companies register. These organizations affected shall be liable to furnish such data to the court of registry without delay.

The competent court of registry shall examine within eight working days following the date of receipt of the application as to whether the data which are prescribed mandatory by this Act for the type of company in question which are required to be enclosed in support of the instrument of constitution and the application for registration, or other documents which need to be enclosed where applicable, are in compliance with the relevant statutory provisions.

### **3.2. Main regulations and information related to taxation, income, revenue and costs**

The rules of taxation of private entrepreneurs and private companies are basically regulated in the VAT Act and the Personal Income Tax Act. The National Tax and Customs Administration periodically issues information booklets, including the booklet containing the most important rules on the taxation of small-scale agricultural producer private individuals. The unabridged text of booklet no. 6 can be viewed at:

[http://www.nav.gov.hu//data/cms357126/6.sz.fuzet\\_Mez\\_gazdasagi\\_stermel\\_k.pdf](http://www.nav.gov.hu//data/cms357126/6.sz.fuzet_Mez_gazdasagi_stermel_k.pdf)

The income and expenses of small-scale agricultural producers and private entrepreneurs are detailed below.

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### 3.2.1. Income from small-scale agricultural production activities

Booklet no. 6 includes the following specifications of small-scale agricultural producer activities related to income:

a) In the event of the collection of agricultural products, an individual's own farm shall mean at least the oral permission of the party exercising the rights to the area and the entitlement of the individual to use the results of the collection.

Revenues generated from the sale of flowers and ornamental plants - except for roses under tariff heading 0602 40, also if grafted - grown at an individual's own farm may be considered as originating from small-scale agricultural activities, if such revenues do not exceed 250,000 forints annually.

If such revenues exceed the aforementioned amount, the entire revenues are not considered originating from small-scale agricultural activities, however, if the private individual has obtained a small-scale agricultural producer's license in connection with this activity or other activities, the provisions pertaining to small-scale agricultural producers may be applied in respect of the payment of consideration as well.

c) The sale of grape-must, concentrated grape-must, or grape-wine produced from grapes grown at a private individual's own farm shall be considered a small-scale agricultural activity, if the private individual sells the products in containers of 2 litres or greater (to payers and/or end-users in a wine bar) in the given year and if the revenue from the sale of such products is not more than 4 million forints annually. If such revenue is in excess of 4 million forints or if these products have not been sold exclusively in accordance with the prior, none of the revenue shall be regarded as originating from small-scale agricultural activities.

If the private individual has obtained a small-scale agricultural production license in connection with such activities or other activities, the provisions pertaining to small-scale agricultural producers may also be applied to the payment of a consideration, if the revenue is in excess of 4 million forints.

If the private individual sells any other product that is not produced by himself and/or provides services in his own wine bar, then the proceeds from and expenses of small-scale agricultural activities shall be recorded separately from the other proceeds and expenses with the understanding that if any expense relates to various marketing

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activities, it shall be divided in proportion to the revenue, unless otherwise prescribed in this Act.

According to Schedule No. 2 of act CXVII of 1995 on personal income tax the following shall be regarded as **revenues**:

- amounts received as consideration for products, goods and services supplied, or those received as advance thereof, or settled by a bill of exchange, consideration received in kind (with markups, discounts, price subsidies and consumption taxes included in all cases);
- any extra charges for shipping or delivery or packaging of the goods;
- the fair market value of manufactured or purchased products and services rendered or purchased, if used by the private individual for his own purposes, or surrendered in part or in full to others without consideration, in case the private individual claimed the costs in connection thereto in any year. (However, the value of utilization for own purposes or of surrendering in part or in full to others without consideration shall not increase income, if the private individual did not claim the related costs among his expenses or if he deducted such costs from his total expenses or donated the product or service in connection with a natural disaster or other emergency.)
- refunds of the difference of tax, if the private individual claimed the payment of such as a cost in any year;
- indemnification received for damages, including the amount received on the basis of liability insurance; also the value of insurance payments, if the small-scale agricultural producer claimed the premium paid on such policy as a cost;
- interests received;
- amounts received as indemnity, default interest, fine and penalty, as well as amounts received as refunds of paid indemnity, interest, fine and penalty, unless claimed as costs earlier;
- the consideration or fair market value (if the latter is greater) received upon the sale of tangible assets used exclusively as operational assets, also including retired tangible assets, intangible assets, materials, semi-finished

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products, if the private individual applied the purchase or production costs of such assets among his expenses in any year, or wrote off the depreciation allowance thereof;

- sale price of the arable land used for small-scale agricultural production;
- in respect of the transfer of tangible assets valued over 100,000 forints exclusively used for operational purposes, without consideration, if the value of such assets was accounted in one amount by the small-scale agricultural producer, unless provided as an in-kind contribution, within the following period of time from the date of purchase
  - - 100 per cent of the acquisition value, within one year,
  - - 66 per cent of the acquisition value beyond one, but within two years,
  - - 33 per cent of the acquisition value beyond two, but within three years,
  - - zero per cent beyond three years.

Booklet no. 6. includes further practical advice as well:

- Members of the producer's family may choose itemized flat-rate taxation to deduct the loss deferred before the registration of the family farm from their income due to the small-scale agricultural producer activities. This may also cause family members to pay taxes after different total income.
- In case a member of the producer's family leaves the family farm, the income and expenses shall be distributed among family members according to their agreement, on the date of quitting. Thereafter certified expenses and income can only be divided among family members based on the reduced number of members at the end of the tax year. The sum received from accounts payable on the day of quitting shall be considered in the family estate or in case of the quitting member according to their agreement.

### *3.2.2. Deducting the costs of small-scale agricultural producers*

According to booklet No. 6 issued by the National Tax and Customs Administration, with a few exceptions, small-scale agricultural producer can account their costs pursuant to the same rules that apply to private entrepreneurs. Regulations on private

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entrepreneurs are included in Schedule No. 3 of the Personal Income Tax Act which (and the entire act - editor's note) can be viewed at the below address:

[http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=99500117.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99500117.TV)

According to the booklet, only expenses directly connected to gainful activities, actually paid during the calendar year exclusively for the purpose of generating revenues and for pursuing the activities, which are duly substantiated shall qualify as expenses.

If the agricultural producer wishes to show the price paid for a product or service under expenses, where the supplier of the product or service is required under the Act on Value Added Tax to issue a sales invoice, such expense may only be evidenced by the kind of sales invoice specified in the Act on Value Added Tax (excluding cash receipts). Furthermore, an expense item may be verified by an invoice only if it contains all information necessary to determine the amount of the expense item (such as the amount paid and the currency). The unabridged text of the VAT Act can be viewed at: [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0700127.TV/](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700127.TV/)

Otherwise an expense item may be verified by a receipt only if it contains all information necessary to determine the amount of the expense item. Such receipts include the contract of sale.

Expenses, which may not be claimed as costs when determining income (unless regulated otherwise by law): expenditures on acquiring, maintaining, operating, overhauling and servicing assets, which are not related to the gainful activity, or, unless exceptions are prescribed in the Act, expenditures connected in any way or form to the personal or family needs of the private individual.

As a deviation from the previous provision, expenses of conditions required for pursuing activities at the place of business of the small-scale producer other than its apartment, or at any other location other than its apartment, such as assets (tools, equipment, vehicles, workwear, etc.) or services (lighting, heating, etc.) can also be recognised expenses, if the asset or service is suitable for satisfying personal needs and private purpose usage cannot be excluded during the scope of activity, unless the Act specifies exploitation, use or the opportunity thereof as taxable circumstances. In connection with any non-repayable aid received by a private individual on the basis of

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legal regulation or international agreement, deduction of expenses from such income shall be permitted only inasmuch as permitted by the said legal regulation or international agreement in connection with the appropriation of the support.

Not deducted and certified expenses of the private individual commencing small-scale agricultural production activity, occurring not more than 3 years ago, if they are related to the commenced activity, can be accounted as expenses in the initial year, and the depreciation of tangible fixed assets, intangible assets can begin.

According to Schedule No. 3 of act CXVII of 1995 on personal income tax the following shall be regarded as **expenses**:

- wages paid to employees and the public dues on such wages;
- mandatory allowances and payments due to the employee and payable by the employer as prescribed by law or on the basis of employment contract;
- rental of farm building;
- costs of heating, lighting and technological energy, telephone charges, mobile telephone, fax, CB radio and telex fees, whereby if the dwelling and the business premises are not technically detached, the expenditures may be taken into account in proportion of the activity on the basis of the units of measurement applicable to the given costs (day, square meter, cubic meter, etc.); If the apartment and the place of business are not separated technically, than utility bills issued to the name of the spouse may also be considered.
- 30 per cent of internet charges, without itemization, if not used exclusively for business purposes, and 50 per cent for small-scale agricultural producers required to file their tax returns electronically;
- in respect of the sale of tangible and intangible assets used exclusively for business purposes (even if they have been retired, destroyed, or surrendered without compensation), small-scale agricultural producers may claim the depreciation allowance not written off, or in respect of tangible and intangible assets which cannot be depreciated, the investment expenses recorded at the time of sale, by the date of sale as a cost at the time of sale;
- the value of cultivating sowing seeds under contract and breeding, fattening, and tending livestock under contract, the full delivered (gross) price of the

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product or animal, based on the accounting attached to the purchase document;

- taxes paid to the state budget, central funds and local authorities exclusively in connection with the given independent activity (not including personal income tax), duties, official fees, customs duty, customs clearance charges, court charges, default interest, penalties and self-revision surcharge;
- the premiums of property, liability, life and accident insurance policies paid by a small-scale agricultural producer for security in connection with his gainful activity;
- the costs of work clothing, protective devices, the costs of occupational safety, accident prevention, and environmental protection equipment;
- membership fees or a similar corresponding amount paid to a public body and membership fees paid to a non-governmental organization if it provides interest representation services in connection with small-scale agricultural production activities;
- advertisement costs;
- the costs of travel and accommodations for business trips and the costs of travel, accommodations in respect of foreign assignments the daily expense of 15 euros;
- road tolls and charges as consistent with the distance travelled on toll roads for business purposes for the period of eligibility of road usage.

### *3.2.3. Income from small-scale agricultural production activities*

Revenues typically arising in the case of private entrepreneurs are listed in Schedule No. 10 of the Personal Income Tax Act. These are the following:

- amounts received as consideration for products, goods and services supplied, or those received as advance thereof,
- the consideration or fair market value (if the latter is greater) received upon the sale of tangible assets used exclusively as operational assets, also including retired tangible assets, intangible assets, materials, semi-finished products, if the private entrepreneur showed the purchase or production costs of such assets

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- among his expenses in any year, or wrote off the depreciation allowance thereof,
- interest received, amounts received as indemnity, default interest, fine and penalty, as well as amounts received as refunds thereof,
- subsidies received (including any uniform territorial assistance),
- the fair market value of manufactured or purchased products and services rendered or purchased, if used by the private entrepreneur for his own purposes or surrendered partially or fully to others without a consideration, in case the private individual claimed the related costs in any year; however, the value of using the products for own purposes or fully or partially surrendering them to others without consideration shall not be added to revenue, if the private entrepreneur did not claim the related costs among his expenses, if he deducted such costs from the total of his expenses, or if he provided the product or services as a benefit in kind,
- the statutory proportion in respect of the transfer of tangible assets valued over 100,000 forints (specified depending on the date of transfer) if they were previously accounted in one sum as expenses, unless the transfer is already taxable; the indemnification received for damages, including the amount received on the basis of liability insurance,
- the value of insurance payments, if the private entrepreneur claimed the premium paid on such policy as cost,
- positive difference accumulated due to the application of the rules of rounding off,
- all proceeds received by the private individual in connection with the sale of real property or rights in immovables within the framework of private entrepreneurial activities shall be considered as income, fair market value of an asset received in exchange

The Personal Income Tax Act also covers the correction of entrepreneurial revenue. Items decreasing and increasing revenue are also specified in the act. The act specified the restriction that the sum of items decreasing revenue cannot exceed the sum of revenues.

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Small-scale agricultural producers may deduct the following from their income from such activities:

- If employing workers with at least 50 per cent disability, the monthly wages paid to each such employee, not to exceed the prevailing monthly minimum wage in effect on the first day of the month.
- With respect to apprentice training of vocational school students on the basis of apprenticeship agreement, as described by law, 24 per cent of the prevailing minimum wage for each student and for the month and any fraction thereof, or 12 per cent of the prevailing minimum wage for the month and any fraction thereof if the apprentice training is provided under a cooperation agreement concluded with the vocational school,
- Providing further and continuous employment to the above vocational school graduate, who has successfully completed the professional examination or to a previously unemployed person, or a person released from imprisonment within 6 months from the date of release, or a person released on parole, if not using flat-rate taxation, may deduct the amount of social security contribution paid during such employment, not to exceed a period of 12 months, from the revenues produced by such activities.
- Costs accounted in the tax year for costs of basic research, applied research and experimental development within the scope of activity of the private entrepreneur, or (based on choice) if the expense was an investment, the sum accounted as depreciation. In both cases, it is a condition that the source of the expenses cannot be a grant, nor the value of R+D service purchased directly or indirectly from an entity that is considered a subject of corporate tax or a private entrepreneur.
- From 1 January 2015 another item reducing entrepreneurial revenue was introduced: 30 million forints per year, not to exceed the amount of the small business allowance, stipulating that the allowance is considered a grant pursuant to the provisions specified in the Act.
- The small business allowance can be accounted in case of private entrepreneurs with less than 250 employees. The small business allowance may not exceed 30

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million forints per year, or more than the part of entrepreneurial income that is in excess of entrepreneurial expenses. The allowance may not be more than the combined value of investment expenses on tangible assets that directly serve the entrepreneur's operations, not commissioned or validated before and used exclusively for business purposes and the renovation costs of land and buildings that directly serve the entrepreneur's operations (if any, during the tax year). A passenger car with company car tax paid on the vehicle in question for four tax years following the use of the small business allowance, or if it is used (exclusively) for car rental and passenger transportation activity, shall also qualify as a tangible asset directly serving the entrepreneur's operations exclusively for business purposes. The land and buildings that are not directly related to the entrepreneurial activity of the taxpayer shall be construed as non-operational (such as any residence within the business premises and the buildings and engineering structures used in principle for the purposes of betterment).

- Provision for developments, not to exceed fifty per cent of the part of the entrepreneurial income(s) generated during the tax year that is in excess of the operating expenses claimed, and not to exceed 500 million forints per tax year. The provision for developments may be excluded from the books within the three tax years after the deposit, if it is exclusively spent on the acquisition or production of assets that serve the entrepreneur's operations, unless income tax is paid after the deducted part. If the deposit is not withdrawing within the above-mentioned deadline, default interest shall also be paid after the taxes. Records shall be kept about the provision for developments and the changes thereof, which shows the deducted amount and the date and sum of the underlying expense, and also the sums of the payable tax and default interest. Reducing item related to the extension of the staff number, in case of entrepreneurs who on the first day of the tax year (or at the time of commencing activity) employed less than 5 employees, if the staff number is increased and there are no public overdue debts at the end of the year. The total of the allowance is calculated by multiplying the increase of staff number with the monthly minimum wage valid at the beginning of the year.

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The income of entrepreneurs is increased by the following items:

- In case the average statistical workforce decreased, 1.2 times the reduction multiplied with the annual minimum wage, but not more than 1.2 times the employment allowance accounted (during the three years before the number of employees decreased).
- In case of terminating the private entrepreneurial activity, with the sum not previously considered as income.
- Value of the inventory registered as income not affecting the tax base, if the private entrepreneur had chosen the flat-rate taxation, "EVA" or "KATA" flat-rate taxation methods and it returns to taxation after entrepreneurial income.
- In case of transferring to the method pursuant to the act on "EVA", the consideration payable to the private entrepreneur with the issued invoices or simplified invoices having a performance date before the first tax year of "EVA" taxpayer status.
- In case of transferring to the method pursuant to the act on "KATA" taxation, the consideration payable to the private entrepreneur with the issued receipts having a performance date before the first tax year of "KATA" taxpayer status.
- The typical market value of the inventory transferred to the fiduciary under the fiduciary asset management contract, established by the fiduciary private entrepreneur.

*3.2.4. Costs of private entrepreneurs*

The private entrepreneur may claim costs from its entrepreneurial income pursuant to Schedule No. 4 and 11. of the Personal Income Tax Act. Pursuant to the act, only the expenses incurred in order to acquire the revenue from the entrepreneurial activity or to carry out the gainful activity can be accounted as costs. A further condition to itemized flat-rate taxation specified in the Personal Income Tax Act: the expense paired with the income shall be certified with an invoice in compliance with the Act on Value-Added Tax, if such product or service is purchased whose seller is obliged to provide an invoice. However, if the seller is not obliged to provide an invoice, expenses shall be supported with a different kind of receipt, e.g. a contract.

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Actual cash tax rate is typically applied in case of private entrepreneurs, so the time of payment shall be considered. There are cases however where the act enables the enforcement of specific expenses in a different tax year.

Private entrepreneurs shall account the following as expenses:

- Entrepreneurial withdrawal (shall be considered income from self-employment activities, no expenses or other deductions can be accounted) and the related public dues.
- Expenses directly related to earning income (e.g. purchase of material or goods), advance payment provided.
- The depreciation of tangible assets and non-material goods.
- Expenses and other expenditures previously not accounted, spent on the purchase of material and goods used for the activity in the commencing year and purchased within 3 years before commencing the activity, and the depreciation of tangible assets and non-material goods purchased within 3 years before commencing the activity can also be begun. If the entrepreneur carries out multiple activities, it may be decided which the expenses shall be deducted from, but it cannot be divided among the activities.

Costs typically arising related to the private entrepreneurial activity are listed in Schedule No. 11 of the Personal Income Tax Act. The following expenditures may, in particular, be claimed as costs:

- expenditures on the purchase of materials and goods, as well as for packing materials, advance payment paid.
- expenditure of less than 100,000 forints on the purchase or manufacture of tangible and intangible assets used exclusively in operations and the costs of repair and maintenance for the continuous, uninterrupted and reliable operation, irrespective of the acquisition value, of tangible and intangible assets used exclusively in operations,
- wages paid and the public dues on such wages,
- the amount paid to a family worker over the age of sixteen and the public dues on such wages,

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- the premium payments on the insurance policies naming an employee as the beneficiary, and the employer's contributions, and the public dues on such contributions, paid to a voluntary mutual insurance fund by a private entrepreneur on behalf of an employee,
- the membership fee or a similar corresponding amount paid to a public body,
- the paid premiums related to insurances of the entrepreneurial activity,
- taxes and other public dues to be paid (unless they are part of the purchase price of tangible assets),
- interest paid on loans taken (unless they are part of the purchase price of tangible assets),
- rental of shop, workshop, farm building or office, costs of heating, lighting and technological energy
- (if the dwelling and the business premises are not technically detached, the expenditures may be claimed as a proportion of the activity),
- the price of telephone, mobile telephone, fax, CB radio and telex units and the applicable installation fees if installed in the business premises, whereby fifty per cent of the price of the telephone set and the installation fee may be claimed as cost if the dwelling and business premises are not technically detached - invoice issued to the name of the spouse is also acceptable,
- costs of the workwear provided to the employee by the employer tax-free,
- road tolls and charges as consistent with the distance travelled , the company car tax paid,
- the expenses, and the public dues thereon, of in-kind benefits provided to a private individual,
- the costs of travel and accommodations for official and business trips,
- the verified costs paid by the private entrepreneur for training (not including expenses related to school training),
- entrepreneurial withdrawal.

### 3.3. Controls of the Hungarian Authority for Consumer Protection

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According to the website of the Hungarian Authority for Consumer Protection the objective or market oversight is to ensure that distributed or distributable products comply with legal regulations, that they are not hazardous to the life, health and safety of people, the environment and other public interests.

Market surveillance is also intended to ensure that the products comply with the requirements of the relevant European Union acts and national laws; and the free movement of goods satisfying statutory requirements. The market surveillance authorities ensure that the requirements are complied with, as they are vested with the authorisation required for carrying out their activities.

The market surveillance authorities exercise their powers independently, impartially and without bias, in good faith and with integrity, taking into account the principle of fairness, in cooperation with business operators, ensuring that their measures are efficient, proportional and sufficiently deterrent.

The market surveillance authorities are authorised to control the safety, compliance or documentation of every product, also to take samples for laboratory examination, to enter the registered office or place of business of the affected economic operator, to request the necessary information and documentation from the business operators, and to call them to provide statements. The market surveillance authorities may confiscate and destroy products presenting a serious threat, or they may be ordered to be withdrawn from the market (or recalled). In Hungary, the National Consumer Protection Authority is primarily responsible for carrying out market surveillance activities, and the Authority shall, jointly with the regional consumer protection inspectorates control the safety and compliance of consumer goods.

### **Market surveillance activities of the Authority shall include:**

- controlling the safety of products and services;
- controlling the quality of chemical products;
- conducting laboratory tests in two accredited laboratories of the Authority (NFH);
- undertaking the task related to the RAPEX system as the national contact point;
- operation of the Central Market Surveillance Information System.

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**If the authority finds that the relevant statutory provisions are violated, then:**

- it may require the economic operator to cease the infringement;
- prohibit the continuation of the infringement;
- require the operator to rectify the deficiencies;
- prohibit or impose conditions on the marketing of the product;
- order the withdrawal from the market, or - where appropriate - destruction of products threatening the lives, health or safety of consumers, and
- it may impose fines.

Based on its control and inspection programme approved by the minister of national development, the Hungarian Authority for Consumer Protection conducts controls and inspections in 2015 in the following fields:

***Key controls and inspections***

- A comprehensive analysis of the general trading conditions, the calculation and display of prices, in particular the special offers of supermarket chains
- Control of consumer complaints on warranty and commercial guarantee, and the detection of deceptive commercial practice on the enforcement of consumer requests
- Control of product sales activities carried out at the product presentations
- Verification of compliance with legislation for the protection of persons under 18, with particular regard to serving alcoholic drinks and tobacco products
- Control of trade and service activities in the tourist high season, especially service provided at events and the control of taxi services

***Areas of controlling services***

- Overall control of advertising activities, with special regard to deceptive commercial practice and the accuracy of claims that influence health-consciousness
- Controlling the lawfulness of electronic commercial activity

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- Control of compliance with provisions on the prohibition of organising consumer groups
- Uncovering deceptive commercial practices related to hospitality services, with regard to the national certification trademark system

### ***Laboratory examinations***

- Examination of probiotic and other dietary supplement products and effervescent tablets
- Examination of chocolate products with regard to deceptive markings
- Examination food products recommended for diets and "free from" products with regard to deceptive markings
- Examination of seasonal - summer and winter - products