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Recent tax amendments

Breaking Tax News

The Hungarian Parliament passed the bill ("the Bill") regarding the amendments of the various tax acts and other relating regulation as well as Act CXXII of 2010 on the Hungarian Tax and Customs Authority ("the HTCA").

Corporate Income Tax

Royalty transactions

The Bill amends the tax base incentives related to royalties and reported intangible assets in order to harmonize the legislation. The new, stricter criteria for the utilisation of the related tax base incentives will be in line with the OECD methodology approved by the ECOFIN Council.

The Bill amends the definition of royalty, harmonizing it with the current copyright legislation. According to the modifications, the following items may qualify as royalty:

- Profit from the utilization and sale of exclusive rights,
- Profit from the use of exclusive rights,
- Profit from the de-recognition of in-kind contributions,
- Profit from the supply of goods and services (in proportion to the value of the exclusive rights).

The abovementioned exclusive rights are the following:

- Invention,
- Utility model protection,
- Plant variety protection,
- Supplementary Protection Certificate,
- Topography of micro-electrical semi-conducting products protection,
- Copyright protected software,
- Qualification of medicines for rare diseases.

Intangible assets may solely be reported (according to the new definition) if they are assets which were acquired or produced and embody rights to royalties.

The Bill introduces the "nexus-method" in connection with relevant tax base incentives. Accordingly, the tax base incentives applicable to intercompany R&D services and goods acquired (with the purpose of acquisition or production of intangible assets) will be limited. Thus, the incentives may only be taken into account in the proportion of the direct costs relating to basic research, applied research and experimental development carried out by the taxpayer or a third party within the total direct costs arisen in relation to the basic research, applied research and experimental development. According to the above, the favourable rules will not be applicable to the direct costs of R&D services acquired from related parties or the acquisition costs of the intangible assets acquired from related parties or third parties.

In order to define the ratio of tax deductibility, the direct costs should be taken into account at arm's length price in the period they were incurred (regardless of the applied accruals). The taxpayer is obliged to justify the applied ratio with underlying documentation.

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Based on the OECD methodology, added value may be applicable in the case of R&D services performed by related parties. Therefore, during the determination of the ratio of tax deductibility the numerator can be increased by 30%, but at most up to the amount of the denominator.

In addition to the above, based on the Bill the tied-up reserves arising from profit from the sale or in-kind contribution of reported intangible will be available for 5 years for the purposes of acquisition of assets embodying rights to royalties.

Where the taxpayer realizes losses on the assets in the years following the utilization of the tax incentive, 50% of the determined loss may not be recognized during the calculation of the CIT base. Additionally, the non-deductible part of the loss realized on the de-recognition of the reported intangible assets will be the loss calculated with the proper ratio.

According to the Bill, the above mentioned rules will be applicable in the case of intangible assets embodying rights to royalties that are acquired, developed after 30 June 2016 and in the case of intangible assets reported after 30 June 2016. If the taxpayer utilizes the related incentives before this date, or if the taxpayer would have been entitled to a decrease in the first half of 2016, then transitional provisions (grandfathering rules) should be applicable. Accordingly, in such cases tax base incentives set forth in the CIT Act effective on 30 June 2016 are applicable. However, the incentives based on the previous rules may be taken into consideration for the last time during the assessment of the tax base of the tax year ending by 30 June 2021. The transitional provisions include further restrictions in relation to the intangible assets acquired after 1 January 2016 from related parties.

Prices applied between related parties

The rules of the application of tax base deductions in connection with the prices applied between related parties are becoming stricter. A taxpayer wishing to apply such deduction needs to be in the possession of a statement from its related party, declaring that during the determination of the CIT base (or equivalent tax) it takes or took into consideration the amount corresponding to the arm’s length price. The abovementioned rules are first applicable during the assessment of the tax liability of tax year 2018.

Free of charge transactions

Stricter criteria are introduced for the tax deductibility of non-donation type, free of charge transactions provided to domestic beneficiaries. The costs and expenses incurred by the provider of such a transaction would only account as costs incurred in the interest of business operations if

- the corresponding income is shown in the books of the beneficiary,
- the pre-tax profit and tax base of the beneficiary would not be negative even without this income, and

- the corporate income tax corresponding to this income was paid by the beneficiary (this should be verified with the beneficiary's statement).

Workplace nurseries

Based on the Bill the costs and expenses related to the operation of a workplace nursery will be defined in the CIT Act as costs incurred in the interest of business operations.

New tax base incentives

Taxpayers may deduct the following items from their pre-tax profits in accordance with the amendments:

- the value of housing support provided for mobility (given in accordance with the Act on Personal Income Tax), and
- the costs incurred in relation to the development, maintenance and operation of accommodation for workers (based on the same Act).

The upper limit of both of these new tax-deductible items will be the amount of the pre-tax profit recorded by the taxpayer.

Renovation or maintenance costs of historical monuments

The maintenance costs of buildings and other properties protected under the national scheme of historical monuments or placed under local protection (protected buildings) may be deducted from the tax base of the taxpayer maintaining the asset in its books. The upper limit of the deduction will be fifty percent of the pre-tax profit. Furthermore, the applied amount calculated with the tax rate set forth by the CIT Act should not exceed EUR 50,000,000 (or its HUF equivalent).

In addition, the tax-deductibility of the costs incurred during the value added renovation of protected buildings will also increase. The taxpayer may deduct twice the value of the costs incurred during such renovation. The amount calculated with the tax rate set forth by the CIT Act should not exceed EUR 100,000,000 (or its HUF equivalent).

The tax-deductible item connected to the renovation costs may also be applied by the related party, if the related party provided funds directly to facilitate the renovation. The related party can deduct these costs solely if the taxpayer did not apply the tax-deductible item (by choice).

Depreciation of leased assets

The Bill expands the range of leased assets on which a depreciation rate of 30% may be accounted. A higher depreciation rate will be applicable to the following items:

- patent,

- intellectual property under design protection,
- know-how,
- brand name,
- trademark,
- trade secret,
- work or subject-matter under copyright protection

Bad debts

Regulations become stricter pertaining to the criteria of tax deduction in relation to bad debts. If bad debts are recognized between related parties, the taxpayer may only apply the tax deductions under certain conditions.

Measures to tackle tax evasion

The Bill amends the basic principle regarding transactions aimed at obtaining tax advantages, in order to cover transactions whose main but not sole purpose is to obtain a tax advantage. The rule is applicable from 2017.

Furthermore, the Bill introduces criteria for preferential transactions. A transformation or a transfer of assets may solely qualify as a preferential transaction if the taxpayer can demonstrate the concrete economic and/or commercial reasons which support the transaction.

Conditions regarding tax deferral in relation to preferential transfer of assets will also become stricter. Shares acquired during a preferential transaction may not be de-recognised by the taxpayer or its related party, until the deferred tax liabilities are settled by the transferee. If the shares were previously de-recognised, in the year of the de-recognition the transferor should take into consideration in its tax base the portion not taxed by the recipient.

Administrative facilitation – Transfer pricing documentation

As a result of an advantageous amendment, transactions between foreign entrepreneurs and their domestic (Hungarian) branches will be exempted from transfer pricing documentation obligation, provided that the branch has no tax liability based on any international agreements.

Accounting Act

IFRS amendments

The Bill includes several changes regarding the application of IFRS in individual reporting.

The deadline applicable to credit institutions and financial companies to adopt the IFRS has been postponed by one year (to the beginning of

financial year 2018). However, the Bill allows these institutions to adopt the IFRS as of financial year 2017.

The Bill also clarifies the IFRS definition of retained earnings and the rules relevant to the timing of switching back from the IFRS to the Hungarian Accounting Standards (HAS).

Retroactive amendment of contracts and accounting documents

The Bill clarifies that the accounting treatment of modification to contracts and accounting documents related to closed financial years remains the same as that of errors.

Negative goodwill

The definition of negative goodwill will be modified to harmonize it with previous amendments. As such goodwill may not arise in connection with the purchase of shares, it can solely be accounted for in the case of the transfer of going concerns, branches or business networks.

Other income – the accounting treatment of grants and subsidies

Grants and subsidies are generally granted with post-financing. Consequently, in the base financial year, taxpayers may account for solely their costs and expenses arising from their participation in such calls for proposals, leading to negative result (in this respect) in the base year. According to the Bill, if the grant or subsidy is financially settled before the closing date of the balance sheet, the taxpayer may book the amount of the grant or subsidy as other income in the base year.

Other expenditures – the accounting treatment of receivables

The book value of receivables (incurred during economic activity and recorded as current assets) should be accounted for as other expenditure at the time of de-recognition, while the book value of receivables recorded as financial assets or purchased receivables should be accounted for as financial expenditure at the time of de-recognition.

Non-financial report

Additional information will be added to the annual reports of taxpayers recognized as public-interest entities in order to ensure the implementation of the respective EU Directives. Taxpayers exceeding a specific number of employees, value of balance sheet total and volume of net turnover will be required to prepare a "non-financial" report. According to the amendment, non-financial statements should include information regarding environmental protection, social and employment issues, the pursuit of respect for human rights, and the fight against corruption and bribery.

Personal income tax (PIT), Social security and Social tax

Non-wage benefits and Cafeteria

There will be significant changes in benefits that qualify as non-wage benefits. The vast majority of the diverse benefits that used to be available, including Erzsébet vouchers, workplace catering, schooling assistance, local travel passes, the assumption of the costs of formal education by the employer and contributions to voluntary mutual pension funds, health funds and self-help funds will no longer qualify as non-wage benefits.

Employers will still be able to provide the above benefits to their employees, but only in the form of certain defined benefits provided to all employees under the same conditions or based on an internal policy that is available to all employees, such benefits being taxable at a higher rate.

Benefits that can be provided as non-wage benefits will be limited to the following items:

- Cash benefits of up to HUF 100,000 annually which is reduced in proportion to the number of days on which the legal relationship exists if the legal relationship does not cover the entire year.
- Széchenyi Recreation Card (SZÉP Card) for which the annual limit of HUF 450,000 will remain unchanged, i.e. an amount of HUF 225,000 per year may be transferred to the accommodation subaccount, HUF 150,000 to the catering subaccount and HUF 75,000 to the leisure subaccount (adding up to an annual amount of HUF 450,000).
- Holiday services provided by trade unions to members and retired members of trade unions, as well as their close relatives (up to the amount of the minimum wage for each person).
- Non-cash benefits provided from the community fund of a cooperative to a member who is an individual (up to 50% of the monthly minimum wage).
- The part of the amount paid by an employer as a member or an employer as a sponsor for a specific service under the provisions of the act on voluntary insurance funds which is less than the product of the number of fund members and the minimum wage on an annual basis.

In the case of holiday services provided by trade unions, non-cash benefits provided to members of a cooperative and amounts paid for a specific service of a voluntary insurance fund, only the above specific limits need to be considered. If the specific limit is exceeded, then the part of the benefit exceeding the limit will be taxable as a certain defined benefit.

The regulations for cash benefits and the SZÉP Card are much more complex:

- Cash benefits provided in excess of the annual limit will be taxable as income from dependent personal services.
- Benefits provided in excess of the specific limits of the subaccounts of the SZÉP Card will be taxable as certain defined benefits.
- If, however, the value of the benefits does not exceed the specific limit for either cash benefits or the subaccounts of the SZÉP Card, then the total amount will still need to be considered as follows:
    - where the employer is a government body, the annual limit will be HUF 200,000,
    - for all other types of employees, the annual limit will be HUF 450,000.

Benefits provided through the SZÉP Card in excess of the total annual limit ("recreational limit") will also qualify as certain defined benefits. The above annual limits are reduced in proportion to the number of days on which the legal relationship exists if the legal relationship does not cover the entire year.

Tax-exempt benefits

Tax-exempt benefits will include additional items. As a result, in addition to day-nursery services, employees will also be able to provide kindergarten services and day-nursery and kindergarten care in a tax-exempt manner. Furthermore, tax-exempt benefits will also include healthcare services specified by the health minister which are provided to all employees under the same conditions or based on an internal policy that is available to all employees (if such benefits are not provided in the form of a voucher).

Tax-exempt housing benefits provided by employers

The amended PIT Act specifically defines what can be considered modernisation or accessibility improvements when evaluating housing benefits provided by employers. In addition, the Act also provides that close relatives in the meaning of the Civil Code (with the exception of siblings) and domestic partners and their close relatives (again with the exception of siblings) may be considered as family members moving in together when evaluating equitable housing requests. There are detailed rules determining the number of living-rooms per persons moving in together that can be deemed equitable and the features that such living-rooms must have.

Supporting workforce mobility

The new regulation contains several significant changes to facilitate the mobility of workforce:

- In case of commuting to work using one's own car, the amount of tax exempt kilometre based reimbursement is increased from HUF 9 to HUF 15.
- The range of tax exempt benefits is extended by the modification of the concept of workers' hostel and the introduction of housing benefit to facilitate mobility (for CIT purposes the costs of these

benefits are to be recognised as an item decreasing the pre-tax profit). However, in case of the housing benefit to facilitate mobility (up to 15%-40% of the minimum wages on a monthly basis, depending on the term of mobility) several criteria need to be fulfilled for tax exemption.

Family credit

Regarding family credit, the amended PIT Act harmonizes eligibility for child care benefit and eligibility for family credit. Any person qualifies as a dependant who may be taken into account for the child care benefit (e.g. child studying in higher education), irrespective of the fact whether a child care benefit is actually granted with respect to this dependant, no child care benefit is granted at all, or the amount of the child care benefit is not influenced by the number of children.

Securities and investments

The legal provisions pertaining to securities transactions are to be amended at several points, especially as follows:

- The investment service provider will be subject to a data supply obligation related to controlled capital market transactions.
- Dividend income will be extended to include the yield of investment units issued by alternative investment funds.

Upon the termination of permanent investment, the interest earned by the date of termination becomes part of the deposit yield. (However, if this interest is credited only at a later date, then the (part of) interest already considered may be ignored when assessing later interest income.)

Insurance obligation of employees on assignment

Regarding social security contribution and social tax, the key amendment relates to the insurance obligation of individuals employed by a foreign employer in Hungary as an assignee, secondee or temporary workforce.

Individuals assigned to Hungary from non-EEA countries may also be exempted from the Hungarian insurance obligation if they are:

- Nationals of a country with which Hungary has a social security agreement in place but are assigned from another country that has no such agreement in place, and
- EEA nationals who are not subject to the EC regulation on the coordination of social security systems and its implementing regulation.

An additional requirement for the above exemption is that the individual must provide proof of its existing insurance in the home country and the assignment (secondment or temporary work) in Hungary must not exceed two years.

In addition to the above, the new regulation clarifies that if the duration of work in Hungary originally planned for a period of less than 2 years exceeds 2 years for reasons unforeseen and the employee notifies the tax authority accordingly, then the insurance obligation is incurred from the end of the second year from the commencement of work in Hungary. At the same time, the rules pertaining to the social tax liability of these individuals will change similarly.

Value added tax

The Bill introduces an 18% VAT rate on internet access services applicable as of 1 January 2017. The VAT Act refers to the definition of internet access services set forth in an EU regulation.

In addition to the above, as of 1 January 2017 a 5% VAT rate will be applicable to certain essential food items (milk, egg, poultry), and an 18% VAT rate to restaurant services. Subsequently, as of 1 January 2018 the VAT rate on restaurant services will be reduced to 5%.

Further to the above, as of 1 January 2017 a new regulation applies to Domestic Sales and Purchase Listings ('DSPL'). Based on the new regulation the tax number of the purchaser must be indicated on invoices issued with an amount of VAT exceeding HUF 100,000.

The definition of 'new real estate' will change. Currently, the 2-year-period starts on

- the effective date of the occupancy permit of the relevant authority,
- the date of acknowledgement of occupancy.
- One additional condition will be applicable as of 1 January 2017 as follows:
- in the case of simple construction the 2 year period should be counted from the date of issue of the official certificate on construction.

Additional amendments:

- Explicit definition of the term 'total useful surface'.
- Qualification of Norway as recognized 3rd state from VAT refund perspective.

Local Tax Act

The Bill will revoke the itemized lists of tax items and tax types that are subject to the Local Tax Act. The scope of the decree-making principles will be extended. Therefore, municipal governments should take into account both the financial requirements of the municipal governments and the burden-bearing ability of the taxpayers.

The Bill will bring the definition of direct R&D costs in line with the definition set forth in the CIT Act. Currently, a higher amount may be deducted from the local business tax base than from the CIT base under this title.

A separate definition for the royalty income decreasing the sales revenue during the calculation of the local business tax base will be introduced. As of June 30 2016, royalty income related benefits, which were in force previously can only be obtained if the given intangible asset or the taxpayer was entitled to the rules in force previously at the time of determining the base of the CIT. The prior reductions will be available for the last time in the tax year ending 30 June 2021.

The Bill proposes stricter requirements regarding the personal tax exemption of non-profit organizations. In the future, the land and building tax exemption will be applicable to real estates used by these non-profit organizations only if

- the non-profit organization is registered as the owner in the Land Registry, and
- the organization utilizes the real estate only for purposes defined as main activity in the deed of incorporation.

The Bill will introduce a new real estate tax exemption regarding the real estate properties and construction sites storing various types of nuclear materials (as defined in the Act on Nuclear Energy). The Bill will clarify the definition of incorporated land parcels under agricultural cultivation and the conditions of tax exemption with respect to such parcels.

Amendments to the Acts on Duties

The ownership aggregation rules pertaining to the acquisition of shares in Hungarian real estate holding entities have been amended. The Bill extended the aggregation rules to include every person, rather than being limited to economic organizations.

Duty exemptions have been extended to include various procedures. Furthermore, amendments and clarifications in relation to exemption on exchange of residential property or the purchase of residential property replacing the exchange, and regarding the exemptions on the acquisition of field land have been implemented.

Furthermore, in accordance with the Civil Code, taxpayers will be able to reclaim the procedural duties paid in respect of capital increases which took place between 15 March 2014 and 9 March 2016 for the purpose of the continued operation.

Financial sector special taxes

The Bill sets forth several adjustments pertaining to the financial sector. Contribution of credit institutions will no longer be required.

The special tax on financial institutions will also be subject to change. The most important change is that in order to determine the tax base of the special tax of financial institutions, the financial statement of the second tax year preceding the current tax year should be taken into account. Certain special regulations will be applied for the taxation of credit institutions' investment and financial leasing activities.

Financial institutions (not considered as payment service providers) providing credits and loans will be obliged to pay financial transaction duty even on loan repayments received in cash. Financial transactions between bank accounts are not subject to financial transaction duty in certain situations.

Company car tax

Special regulations regarding company car operative leasing will no longer be applicable. Therefore, in the case of operative leasing of company cars the taxpayer will be the owner of the car. Consequently the taxpayer of company car tax and vehicle tax will differ.

Tourism development contribution

As of 1 January 2018, a tourism development contribution will be introduced on restaurant services. The base of the 4% tourism development contribution will be the consideration paid on restaurant services. The deadline to submit tourism contribution returns will be the same as the deadline for VAT returns. If a taxpayer is not obliged to submit VAT returns then the deadline for the submission of the return and the payment of the contribution would be 25 February on an annual basis. The amount of tourism development contribution would be part of the central budget.

Advertisement tax

The Bill sets forth strict provisions to facilitate the fulfilment of tax obligations arising from the publishing of internet based advertisements by publishers not established in Hungary. The amendment will be introduced on 1 January 2017.

The HTCA may levy a penalty of HUF 10,000,000 on the first occasion, should the company not be registered as a taxpayer for advertisement tax purposes in Hungary (if it is not registered for any other tax purposes either in Hungary). For repeated non-compliance, the HTCA may triple the previously levied penalty. Registration non-compliance is determined by the HTCA on a daily basis. This resolution is final, enforceable and may only be challenged before the court. If the taxpayer fulfils its registration obligations following the first notification letter, then the penalty may be decreased.

Additionally, if the taxpayer fails to fulfil its statement obligation towards its customers, the taxpayer may be imposed a penalty of HUF 500,000 unless

- the taxpayer is in the official registry of advertisement publishers, and
- the taxpayer fulfils its statement obligation within 8 days of receiving the statement request.

Should the taxpayer fail to fulfil its statement obligation with respect to the same customer for the second time, the penalty will be increased to HUF 10,000,000. For subsequent non-compliance, the HTCA may triple the previously levied penalty.

In practice this means that if a customer reports the same publisher four times to the HTCA, and the taxpayer (i.e. the publisher of advertisements) does not fulfil its statement obligation even after receiving notice from the HTCA, the taxpayer may face penalties amounting to HUF 500,000 + 10,000,000 + 30,000,000 + 90,000,000, in all HUF 130,500,000. This may only be challenged before the court.

The maximum penalty for a single tax payer for the above to items is HUF 1,000,000,000.

The Bill introduces the "deemed tax assessments". The HTCA would set the deemed tax as HUF 3,000,000,000, if a publisher failing to submit an advertisement tax return for the previous calendar year. This assessment may be challenged within 30 days.

Rules of taxation

Qualification of reliable and unreliable taxpayers

In line with the Bill, the net tax difference should be taken into account during the review of the criterion for reliable taxpayers pertaining to tax difference (the amount of tax difference assessed by the HTCA for the current tax year and the five previous tax years does not exceed 3 per cent of the taxpayer's tax liability).

In the case of publicly traded limited liability companies, in order to qualify as a reliable taxpayer 3 years of operation are not required. The time limit for the refund of VAT would be 30 days from 1 January 2017 and 20 days from 1 January 2018 in the case of reliable taxpayers.

According to the Bill, the category of unreliable taxpayers will be expanded to taxpayers

- subject to involuntary de-registration procedure,
- whose total net tax difference assessed by the HTCA for the current tax year and the five previous tax years exceeds 70% of the taxpayer's tax liability established for the current tax year,
- whose default penalty imposed by the HTCA (payable during the two years prior to the current year) exceeds 70% of the taxpayer's tax liability established for the current tax year.

The HTCA will take into account the aforementioned criteria for the first time after Q3 of 2016.

Amendment to the legal consequences of KOCKERD questionnaire and the submission of financial statements

The KOCKERD questionnaire is required if there is a change in the executive members of the board, for risk analysis processes. According to the Bill, if the taxpayer submits (or the HTCA learns about the submission of) the KOCKERD questionnaire after the issuance of the resolution on the cancellation of the taxpayer's tax number, but before the resolution enters into force, the HTCA will revoke the resolution.

If the taxpayer's tax number was cancelled before the Bill took effect the taxpayer is entitled to request the revocation of the HTCA's final resolution until 31 December 2016 if no resolution has been issued in the corporate registry. The HTCA will not assess default penalty for the period between the effective date of the cancellation resolution and the revoking resolution, if the taxpayer submits or supplements its tax returns within 15 days from the effective date of the revoking resolution.

Additionally, if the taxpayer fulfils its submission and publication obligation in connection with the financial statements (or the HTCA learns about the fulfilment of this obligation) after the issuance of the resolution on the cancellation of the taxpayer's tax number, but before the resolution enters into force, the HTCA will revoke the resolution.

Real time electronic data provision related to VAT

Currently taxpayers are obliged to subsequently provide data regarding incoming and outgoing invoices in which the VAT amounts to or exceeds HUF 1,000,000. As of 1 July 2017 taxpayers will be obliged to provide real time data (including the modification or cancellation) regarding the invoices issued by an invoicing software to the HTCA where the VAT amounts to or exceeds HUF 100,000.

As of 1 July 2017 the reporting threshold for the Domestic Sale and Purchase Listing is also reduced from HUF 1,000,000 to HUF 100,000.

Member indemnification for irrecoverable tax liabilities

In the case of share transfers after 1 September 2016, members of limited liability companies and privately held corporations, with limited financial liability, may be held responsible for the payment of irrecoverable tax liabilities of their legal entities in proportion to their previously held and transferred shares, if

- the shareholder held at least 25% voting rights on the date of the transfer;
- the amount of the tax liabilities (calculated on a net basis, excluding late payment penalties and tax penalties) exceeds the 50% of the

entity's registered capital on the date of the transfer, and the former shareholder was or should have been aware of the amount of tax liabilities.

The abovementioned liability is not enforceable against the former shareholder, if it can be verified that

- the entity's business partners did not settle the purchase price of products/services provided, and the owed amount reaches or exceeds the tax liability and a reasonable effort was made to recover the amount,
- prior to the transfer the following occurred:
- convening of the decision-making body for the required decision,
- deciding on the necessary legal transformation or other required action due to the capital loss,
- making a reasonable effort to settle the outstanding tax liability (by the former shareholder).

Issuance of the resolution on legal enforcement of tax liabilities is available within a 90 day limitation period calculated from the date of the assessment of the failed recovery. If the HTCA becomes aware of the transfer after the expiration of the abovementioned deadline then the limitation period will be 30 days (calculated from the day the HTCA became aware).

New type of tax audit

The purpose of the new audit type is to determine whether the factual background, on which a binding ruling of any closed reviewing period is based, has been successfully implemented within the frameworks of the ruling. Factual background of binding rulings related to pro-rata method of input VAT remains subject to subsequent audit of tax returns or repeated tax audits.

The HTCA is entitled to investigate the documentation, certification or registry as proof of fulfilment of the related factual background solely if issuing, retaining and keeping the documentation was determined in the binding ruling as proof of fulfilment.

Final resolution of the tax audit is binding for the HTCA, different decision cannot be made in the future.

Taxpayers without tax numbers may request the new type of tax audit solely until 31 July 2016 in the case of binding rulings entered into force on or before 31 December 2015. The HTCA shall start the requested tax audit within 2 months from the submission of the request. If the HTCA concludes that the facts upon which the binding ruling is based have not been successfully implemented, then the HTCA is not bound by that binding ruling. As such the HTCA may assess a tax liability as of 31 December 2015.

Binding ruling

Taxpayers will be obliged to attach the professional opinion of the Chamber of Hungarian Auditors regarding the qualification of their accounting system to their binding ruling requests, if such requests pertain to the qualification of accounting based on IFRS (specified in the Act on Accounting).

EKAER

Transport, where the vehicle is not be subject to a public road fee, however, its weight aggregated with the weight of goods loaded exceeds 3.5 tons, should be recorded in the EKAER system.

The transporter is required to ensure that the official lock remains untouched until the HTCA removes it. Should the transporter fail to meet this obligation, the HTCA may levy a default penalty of HUF 200,000-500,000 to controlled private individuals and HUF 500,000-1,000,000 to controlled persons not qualifying as private individuals. The HTCA may retain the transport vehicle without issuing a resolution until the payment of the penalty or claim insurance has been made. The same sanctions apply to the foreign transporter who prevents the HTCA from removing the official lock.

The vehicle cannot be retained if

- It carries perishable goods or livestock
- The seat / address / place of residence of the person obliged to pay the penalty is in Hungary and the person has a Hungarian tax number / tax identification number
- The payment of the penalty is guaranteed by a financial institution
- The payment obligation is taken over by a registered domestic taxpayer

The transporter should notify the HTCA if the official lock or the goods have been damaged or destroyed due to an accident or any unavoidable event which is outside the scope of the transporter's activity.

If the reported amount of the goods is higher than the actually transported amount, then the HTCA may levy a default penalty up to 40% of the amount which was reported but not actually transported.

HTCA data disclosure regarding tax allowances constituting State aid

Should tax allowance (constituting State aid) claimed by the taxpayer exceed the HUF equivalent of EUR 500,000 per legal title, the HTCA will disclose data regarding the amount of the grant and other data of the taxpayer to the State Aid Monitoring Office. Data disclosure is also required if the tax allowance claimed by a taxpayer performing primarily agricultural production exceeds the HUF equivalent of EUR 60,000 per legal title. The HTCA will disclose data by 15 March of the year following the tax year in the

case of monthly tax returns and by 15 September following the submission deadline in the case of annual tax returns.

Amendments related to judicial enforcement

The HTCA may block the previously supervised tax reclaims and refunds within the scope of provisional precautionary measures. The Bill allows the HTCA to exclude real estate from the enforcement procedure if it is unlikely that the HTCA's claim will be fulfilled by the sale of the real estate (due to mortgage established on the asset).

The HTCA may be entitled to establish a mortgage on the taxpayer's real estate up to the amount of the tax shortage if

- judicial enforcement is not available as the aggregate tax shortage does not exceed the HUF 500,000 threshold, or
- in case of a tax liability does not exceed the abovementioned threshold and the liability is out of proportion compared to the value of the real estate, or
- registration of judicial enforcement is ignored due to another mortgage previously established.

According to the Bill, the right to judicial enforcement will cease after 4 years from the last day of the calendar year on which the tax liability was due.

Amendments related to the statute of limitation

According to the Bill, if the court makes its final decision relating to the taxpayer's tax liabilities beyond the statute of limitation, then the taxpayer will be entitled to file self-revisions in relation to the expired periods. In addition, the taxpayer will be entitled to submit a request to repeated tax audits related to closed periods.

The HTCA is entitled to audit the tax liabilities related to self-revisions within 1 year from the submission of the respective self-revision.

Excise duty

As of 1 September 2016, if the market price of the oil exceeds USD 50/barrel, then the applicable excise duty of fuels will be modified as follows:

- Unleaded petrol – HUF 120,000/thousand litre,
- Leaded petrol and petroleum – HUF 124,200/thousand litre,
- Heating and fuel gas oil – HUF 110,350/thousand litre.

If the market price of the oil does not exceed USD 50/barrel, then the applicable excise duty of fuels will be modified as follows:

- Unleaded petrol – HUF 125,000/thousand litre,

- Leaded petrol and petroleum – HUF 129,200/thousand litre,
- Heating and fuel gas oil – HUF 120,350/thousand litre.

The amendment is aimed at stabilizing the budget revenue and increasing the significance of consumption taxes.

The excise duty refund applied to gas oil used for commercial or agricultural purposes will be increased by the same amount as the applicable excise duty rate of gas oil.

In line with the EU legislation the excise duty rate of tobacco products will be increased by 25% by the end of 2017. The increase will be implemented in three stages. In the first stage, in September 2016, the excise duty rate of tobacco products will be modified as follows:

- 15,700 HUF/thousand pcs increased with the 25% of the sales price, but at least 28,400 HUF/thousand pcs in case of cigarettes,
- 15,100 HUF/kg in case of fine-cut tobacco,
- 15,100 HUF/kg in case of other tobacco.

Act LXXXVIII of 2013 on Energy Taxes was incorporated into the Excise Act and was accordingly repealed.

Following the merger of the two acts, the new excise regulation contains significant structural and content-wise modifications:

- Product definitions will be modified and their range will be expanded,
- Small wine producer will be introduced as a new legal institution,
- The procedures of the authorities will be amended,
- The conditions of licensing procedures and reporting obligations will be amended,
- The amount of license types will be reduced,
- The excise labelling system will be amended,
- The guarantee system will be amended,
- The sanction regime will be amended.

Public Health Tax

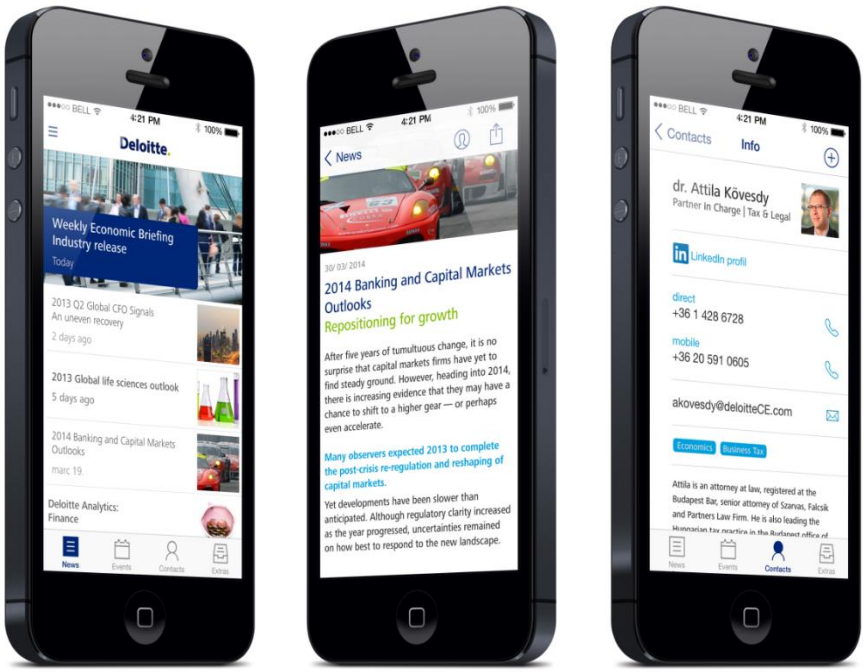
The Act CIII of 2011 on the Public Health Tax will be amended as follows. The aim is to limit loopholes and tax avoidance:

- The Bill includes the group of taxable alcoholic beverages with the category "other fermented beverages, ciders" under the tariff number 2206,
- The Bill clarifies that any beverage that contains any additives or inert materials (and Point g) of Article 2 of the Act is fulfilled) qualifies as alcoholic beverage, regardless its soft drink content,
- The Bill amends the definition of the alcoholic beverage, with respect to the requirements of the alcohol content,

- With respect to the alcoholic beverages containing herbs, the amendment will include the mandatory minimum-quantity of herbs.

The Bill amends various explanatory provisions as follows:

- The Bill clarifies the definition of the "additives/inert materials", "herbs" and "milk commodities";
- The Bill amends the definition of the "health promotion program". Thus, not only the expenses related to health promotion programs free of charge may decrease the taxpayers' public health tax liability, but also the expenses related to programs related to which participants should pay a participation fee up to HUF 500. The above expenses may be deducted up to the 10% of the amount of tax payable.



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