



# Tax News+

## Tax law changes adopted for 2015



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## **Amendments concerning private individuals, including personal income tax, employee social security contribution, social contribution and health care contribution**

### **Qualification of income**

The amendment sets forth, that no benefits may fall within the scope of preferential taxation if it can be determined that the individual received such benefit in exchange for its activity (work performed independently or dependently).

### **Cafeteria system**

Based on the passed bill the tax burden of the cafeteria benefit system will not increase as much as previously planned.

16 per cent personal income tax and 14 per cent health tax will still be paid by the provider on non-wage benefits provided within the limit defined by the law. The tax base will be the sum of the provided non-wage benefits multiplied by 1.19, by taking the following into consideration:

- The value of the benefits may not exceed the limits defined by the law, and
  - may not exceed the total annual amount of thHUF 200 (annual limit) excluding the total amount of the benefits provided on the SZÉP Card,
  - may not exceed the total annual amount of thHUF 450 (annual recreational limit) including the total amount of the benefits provided on the SZÉP Card.

Benefits exceeding the limits set forth above will qualify as specifically defined benefits, which will be subject to a 27 per cent health tax (in addition to a 16 per cent personal income tax). The tax base remains the sum of the provided benefits multiplied by 1.19.

Based on the passed bill, the originally planned multiplication of the tax base by 1.53 will not be introduced. Similarly, the tax burden of specifically defined benefits provided to the employees (including benefits provided based on internal statutes) remain unchanged.

### **Pension insurance and other contributions**

Within the scope of the passed bill the definition of pension insurance is refined: in the future solely insurance which includes all risk components (death, health, retirement, reaching the retirement age limit) will qualify as pension insurance, if the insurance does not cover other risks in addition to those listed above. Moreover, the insured party should be entitled to the insurance benefit during the entire period of the contract (excluding the

benefit provided as a result of death). The passed bill also clarifies that solely those retirement benefits which are provided in their own right may be considered as retirement benefits for pension insurance purposes, as such orphanage or widowhood pension may be not considered as retirement benefits.

On the basis of the passed bill the tax credit rules applicable to pension insurance become subject to significant modification.

- The government aims to support savings for pension purposes. Therefore, if the risk portion of an insurance fee exceeds 10 per cent of the amount of the total insurance fee, then the tax credit should be utilized solely for a specified portion of the pension insurance fee. The definition of auxiliary insurance will be introduced. The auxiliary insurance will have specific conditions and its fee should be recorded separately from the pension insurance.
- The possibility of utilizing the applicable tax credits and cross-financing various insurance policies with the tax credit will no longer be available. The tax credit for pension insurance may only be credited for the benefit of pension insurance policies in which the payments (resulting in entitlement to the tax credit) were made in the tax year. If an individual is entitled to the tax credit based on more than one pension insurance policies, then the tax benefits will be credited proportionally according to the payments made with respect to each policy.
- The bill sets forth that the tax credit applicable to pension insurances fees should not be utilized following entitlement to retirement pension.
- The conditions regarding the repayment of the previously utilized allowance (increased by 20%) by an individual is also regulated in detail.

Legislation dealing with the specific whole life insurance policies (with redemption value) will also become subject to modification. Following a three year interim period such insurance policies will be treated in the same manner as other life insurance policies with a saving-nature (e.g. composite life insurance). As a result, according to the bill the tax free treatment of the regular fee for this type of insurance paid by a disburser (e.g. company) will cease to exist as of January 2018. Following this date the income from such insurance will also be subject to taxation as interest income.

Supporting a previous interpretation of the authorities, the legislation will include the fact that the modification of a contracting party in an

insurance policy will not qualify as taxation point. The exception to this will be if the fee was paid by a disburser and following the modification, the new contracting party will be an individual. In such a case, the fee paid by the date of the modification will be taxable in a lump sum. The individual will bear the burden of taxation.

The passed bill also sets forth (with respect to the provisions of the new Civil Act) the liability insurance and that the fees of such insurance should not be considered as income of the individual. Therefore, the fees paid by a company for the liability insurance of executive officers will not be taxable. This liability insurance may also cover liabilities due regarding restitution. A transitional rule sets forth that the new (and more favorable) rule may be applied to any of the tax years preceding the date upon which this rule came into effect.

#### **Tax allowances, validating the family tax allowance as contribution allowance and related tax pre-payment statements**

From 2015, newlyweds will receive a monthly tax credit of HUF 5,000 for two years (or alternatively until they become entitled to family tax credit) following the date upon which they were married if certain conditions are fulfilled. The newlyweds are required to jointly verify the validation of the allowance.

In 2015, the total amount of the family tax credit available for utilization will not become subject to modification in the case of two dependents. However, between 2016 and 2019 it will be gradually increased to double the previous amount (i.e. HUF 20,000 per child).

The tax identification number of the dependents should be indicated both in the pre-payment statements submitted in connection with the monthly (mid-year) tax returns and in the year-end tax returns. As a consequence with reference to family tax allowance all children should have a tax identification number.

As per the passed bill tax pre-payment statements, which are required in order to verify allowances, may be given to a disburser (i.e. not only to employer) providing regular taxable income. Such disbursers should include the family tax allowance in the payroll processes.

The changes introduced by the passed bill should be applied to statements made after 31 December 2014.

#### **Other changes**

Based on the passed bill, in the future, digital business travel reports will also be accepted for tax purposes. Digital business travel records should include specific data as set forth by law and should be generated and stored in a closed system that is deemed as acceptable by Hungarian law.

Based on the passed bill, the receivables forgiven by financial institutions, if the financial institutions regular business includes factoring, – should not be taken into account when calculating the income. Therefore, no health care contribution liability arises with respect to such forgiven receivables either.

The passed bill also extends situations in which the employer may provide tax-free housing loans to its employees. In addition the bill includes clarifications when the income arising from the application of a preferential interest on a housing loan should not be considered as subject to tax.

According to the passed bill data supply obligations will arise regarding the specific employee share programs to be commenced after January 2015. The prospectus issued or the copy of any similar document should be supplied to the tax authority within 20 days following the date upon which the compulsory vesting period begins.

Based on the passed bill, the monthly amount of minimum health care contribution would increase from the current HUF 6,810 to HUF 6,930. The daily amount of the contribution would be increased to HUF 231.

#### **Income constituting the social security contribution base**

Based on the passed bill, the social security contribution base will be amended. In the case of any employment contracts concluded under foreign law, the fee defined in the labor contract (but still not defined in the passed bill) will be considered as the social security contribution base (lacking Hungarian personal income tax (advance) base). Previously the base salary was considered as social security contribution base.

#### **The insurance status of third country personnel**

According to the passed bill the employment income of third country personnel in Hungary will remain exempt from employee contributions and social tax provided that the length of the assignment does not exceed 2 years. However according to the passed bill, in the case of assignments which started prior to 1 July 2013 the two year period should be calculated from this date. In this case insurance liability arises on 1 July 2015 at the earliest.

### **Amendments related to corporate income tax**

The passed bill amends various essential points of the provisions of the corporate income tax.

#### **Utilization of tax losses carried forward**

An essential amendment is that tax losses generated in 2015 or subsequently may only be utilized in the following 5 years. Tax losses generated by the last day of the tax year started in 2014 may be utilized by no later than the tax year including 31 December 2025 (with the conditions applicable on 31 December 2014).

The passed bill adds new conditions to the currently applicable ones in relation to the utilization of tax losses inherited by means of legal succession or available subsequent to the changes of the majority control of the company. The limitation will affect the annually utilizable amount of such tax loss. The annual amount of the utilizable tax loss will be calculated with the ratio of the revenue derived from the activity inherited / continued and the total amount of the net revenue derived from such activity prior to any of these events.

#### **Change in the calculation of the income minimum**

The method for calculating the income minimum will be amended. As of 2015 the total income of the taxpayer will not be decreased by the amount of the cost of goods sold or by the amount of the intermediated services when determining the income minimum.

#### **Corporate income tax allocation and extension of the tax base incentives**

The taxpayers will be able to allocate the amount of their corporate income tax advances, top-up payment liability and payable tax for beneficial purposes. The allocated amount is capped at 80 percent of the annual tax payment liability. The following items will be considered as beneficial purposes: the support provided to cinematographic works, to associations for the protection of performer' rights and to popular team sports previously defined by the CIT Act. A part of the allocated amount will generate credit for the company, which will be indicated as a decreasing item on the tax account balance of the company. The amount of the tax credit will be 7.5% of the amount allocated from the tax advances or the top-up payment, or 2.5% if the amount is allocated from the tax payable. The income accounted for as a result of this credit will not be taxable for corporate income tax purposes. When dealing with the provision of financial support to team sports, the amount of tax credit should be ascertained based

on the allocated amount less the amount granted for complementary sports development.

Taxpayers may allocate such tax advances for the first time with respect to the 2015 tax liability. According to the passed bill the provisions of the above legislation and the tax allowances previously in force (on support provided for the same beneficial purposes) will not be available in the same tax year.

As of 2014 corporate income tax base incentives will become available to companies supporting higher education institutions based on supporting agreements. Agreements may be concluded for the establishment and operation of the institutions for at least a 5 year period. The amount of the tax base incentive will be 50 percent of the provided support.

#### **Transfer pricing legislations**

The passed bill will extend the scope of the term related party entities. As of 2015 the taxpayer and any other person will be considered as related parties, if the same management may influence the financial and business decisions of the parties. In addition to the extension of the related party entity term, the bill will introduce a new provision regarding the arm's length terms applicable for the determination of the prices between related parties. Accordingly, if considering the method applied by the taxpayer it is deemed as being reasonable, the arm's length price should be determined by limiting the result of the database research to an interquartile range. This will result in the reduction of the possible distorting effects of the database research. The passed bill provides a non-exhaustive list of the conditions to be analyzed when applying the limitation of the database research.

#### **Amendments relating to R&D incentives**

The original bill proposed that the corporate income tax, local business tax, innovation contribution and pharmacy tax incentives related to R&D activities carried out within the taxpayer's operation will only be available to taxpayers if they are in the possession of a certificate issued by the Hungarian Intellectual Property Office. The passed bill does not include the above provision.

#### **Amortization of goodwill**

A favorable amendment is introduced by the passed bill, namely that 10% amortization will be allowed regarding goodwill for corporate income tax purposes.

### **Tax exemption of foreign real estate funds**

By supplementing the term permanent establishment the passed bill clarifies the fact that no permanent establishment will be generated in Hungary in case of the utilization or sale of the real estates for those real estate funds which are established in an EEA state and are not subject to an income tax equivalent to corporate income tax at the state of domicile.

### **Special tax for financial organizations**

As of 2015 the passed bill will repeal the special tax of financial organizations payable by investment funds in relation to the managed funds. However, from this date onward taxation liability will arise for investment funds and distributors (as set forth in Act XVI of 2014) with a seat or branch in Hungary. In the first case the tax base will be determined based on the net asset value of the investment units of the managed investment funds registered in Hungary. For distributors the tax base will be determined based on the net asset value of the foreign collective investment instruments recorded on the securities accounts held for their clients. The tax rate will be 0.05%.

### **Changes concerning the Act on accounting**

Rather than the Civil Code, the definition of financial leasing in the Act on accounting will be in accordance with the Act on credit institutions and financial enterprises.

On the basis of the passed bill the last financial statement (or the interim balance sheet) maybe used to support the equity of the company for six months following the balance sheet day. The bill further specifies the accounting legislation regarding supplementary payments if the supplementary payment, or its repayment, is not performed by means of a cash provision. In such cases accounting rules pertaining to sales should be applicable. The claims arising from such transactions should decrease the retained earnings or the tied-up reserve of the company.

The passed bill contains technical specifications regarding the accounting treatment of the yields paid within the scope of trust funds.

According to the passed bill in the case of transfer of business units, defined by the VAT act, the portion of the received amount (in exchange for the transferred assets) that exceeds the book value of the transferred assets decreased by the book value of liabilities transferred should be accounted for as net sales revenue.

Furthermore, the passed bill defines the accounting treatment of the paid (payable) and received (receivable) rebates in case of intermediated cash repayments as prescribed by the VAT Act. Such rebates should be accounted for as other income or other expense.

The passed bill extends the definition of 'mistake' to the accounting entries which are necessary due to the modification of contracts or accounting documents in respect of economic events relating to closed fiscal years.

The new provisions concerning the Act on accounting can be applied (with the exception of certain cases) to financial statements pertaining to a financial year started in 2014. The company will be obliged to apply these provisions in respect of financial statements pertaining to a financial year started in 2015.

### **Changes relating to value added tax**

#### **Changes regarding reporting liabilities**

According to the passed bill, the current threshold (2 million HUF) for the preparation of the domestic sales and purchase listing will be decreased to 1 million HUF. In accordance with the above, generally those domestic transactions should be reported that are charged with VAT (domestic reverse charge transactions are excluded from the reporting) and reach or exceed the 1 million HUF threshold. Nevertheless, as a simplification possibility of the administrative burden the taxable persons may fulfil their reporting obligation by including all invoices in the domestic sales and purchase listing regardless of whether the above mentioned threshold is reached or exceeded.

According to the passed bill, another change with respect to VAT reporting is that all newly established / registered taxable persons without a predecessor will be liable to submit monthly VAT returns until the last day of their first two tax year (rather than the current quarterly reporting frequency). Furthermore, in certain cases when taxable persons are obliged to submit annual returns, filing frequency will change from annual to quarterly. The passed bill also includes a clarifying provision on the European sales and purchase listing liability that relates to the filing frequency of the listing.

### The date of supply in the case of transactions subject to periodic settlements

The passed bill amends the determination of the date of supply in the case of transactions subject to periodic settlements. As a main rule the date of supply will be the last day of the settlement period. However, the new regulation introduces some exemptions.

Therefore, if the due date of the payment and the issuance of the invoice were prior to the last day of the settlement period, then the date of supply will be the issuing date of the invoice. Furthermore, if the due date of the payment was after the last day of the settlement period, then the date of supply will be the due date of the payment but no later than 30 days following the last day of the settlement period.

The new regulation comes into force subject to the following timing:

- With respect to accounting, audit and tax advisory services the new rules should be applicable as of 30 June 2015 for periods where both the period covered by the settlement and the due date of the payment comes after this date.
- For all other transactions with periodic settlement the new rules would be applicable if both the beginning of the settlement period and the due date of the payment would come after 31 December 2015.

### Tax rate reduction and elimination of tax exemption

In accordance with the passed bill as of 1 January 2015 the applicable VAT rates will decrease with respect to certain goods. Therefore, the VAT rate in case of the sale of animals falling into the heavy category (cattle, sheep and goats) and carcasses (similar to certain pigs and their by- products) will decrease from 27% to 5%.

According to the passed bill, as a general rule, portfolio management services will not be subject to VAT exemption as of 1 January 2015. According to the justification of the passed bill the timing of its entry into force was tied to ensuring legal certainty. In line with the above, if the taxable person provides portfolio management services in the framework of periodic settlement the taxable treatment of the transaction should be applied to consideration relating to periods following 31 December 2014.

However, the passed bill introduces new titles for tax exemption (e.g. portfolio management on insurance technical security reserves).

### Other amendments

The input VAT charged on the purchase of petrol will be deductible provided that the petrol is accounted as material type expenditure for another supply of goods (i.e. the VAT is included in the VAT base of another supply of goods).

In order to reduce tax frauds within the steel industry (applying the opportunity provided by the "quick reaction mechanism") as of 1 January 2015 Hungary will introduce the reverse charge mechanism to the sale of certain products. The passed bill clarifies the range of the products falling within the scope of the domestic reverse charge mechanism.

The passed bill clarifies the VAT treatment of advance payments and the definition of public service provider. Furthermore, the bill includes new provisions for the tax warehousing activity that clarifies the obligations and responsibilities of the tax warehousing provider in such cases when the tax warehousing provider acts on behalf of a non-Hungarian established taxable person (which sells its products from a tax warehouse) that is not liable to register for VAT purposes in Hungary. Contrary to the original bill, the passed bill does not set forth the reciprocity of VAT refunds with the Kingdom of Norway.

### Advertisement tax

A significant change is that a preferential rule with respect to the aggregation of the taxable amount of related parties will be introduced. In line with this new rule, during the course of the calculation of the tax base for related parties only that proportion (practically the daily proportion) of the tax base should be considered in which the related party status was in existence (i.e. not the total amount of the related party tax base should be aggregated in cases in which the related party status did not exist for the whole tax year).

Additionally, based on the passed bill, the publishing of advertisements will not be subject to advertisement tax irrespective of any applicable threshold. This regulation applies if the taxpayer requesting the publishing of an advertisement fulfils certain requirements. These requirements include obtaining a declaration from the publisher or ensuring that the publisher of the advertisement is recorded in the registry available on the tax authority's website. The fact that a publisher is recorded in the registry proves that this publisher has fulfilled its advertisement tax payment liability and that it does not have any outstanding advertisement tax payment liability. If the publisher is recorded in this registry, then no declaration needs to be obtained by the taxpayer. The



respective regulations of the CIT act will be modified accordingly. As a result, the CIT base should be increased only if the above conditions have not been met. If this is the case, then the taxpayer will be liable to increase its tax base, if the cost of advertisements accounted for in the tax year exceeds a threshold of HUF 30 million.

Furthermore, certain sports related advertising services will be tax exempt.

The passed bill modifies the highest advertising tax rate. As a consequence, a 50% tax rate will be applicable to the portion of the tax base that exceeds HUF 20 billion.

Essentially the passed bill includes smaller, primarily technical, clarifications (e.g. the residence of a taxpayer will not influence the definition of taxpayer).

### Public health product tax

As a consequence of the passed bill a new product group (alcoholic beverages) will fall within the scope of the current legislation. For these beverages progressive tax rates will be introduced. The tax will be from HUF 20 to HUF 900 per litre based on the alcohol content. However, sugar products that contain at least 20% honey but maximum 40% sugar will be excluded from the scope of the legislation.

### Local taxes

The passed bill broads the taxation right of the local municipalities and it allows them to introduce "municipal taxes". Practically the local municipalities will be allowed to introduce any tax type (by means of issuing a decree) for tax subjects that are not being taxed by the state or local tax authority. However, the scope of the municipal taxes will not cover state, local governments, organizations and entrepreneurs falling within the scope of local taxes (in their entrepreneurial capacity). Since no other limitation is set forth by the passed bill the municipal taxes will allow the taxation of properties on a local municipal level (within the scope described above). The passed bill additionally sets forth that the act on local taxes may be applicable to municipal tax only if the act explicitly establishes such obligatory application.

The passed bill introduces more equitable rules for the aggregation of the local business tax base of related parties. According to the current rules the tax base should be aggregated without any limitation even if the related party status did not exist during the whole year. Based on the passed bill (as of 1 January 2015) the amount of sales revenue, expense and costs of the related parties

should only be considered proportionately for the period when the related party status existed (calculated based on daily proportioning).

New terminology and tax exemption will be included in the local business tax regulation. Based on the current rules (as a result of the limited deductibility of the cost of goods sold) local business tax liability occurs at cooperatives operating as seller and buyer in the agricultural sector although (due to their specific operation) these cooperatives do not realize margin on their sale. Therefore, the passed bill will introduce tax exemption for cooperatives operating as seller and buyer. A cooperative will qualify as "buyer or seller cooperative" if at least 95% of its net sales revenue derives from the sale or purchase of products to and from its members.

The current rules limit the right of the Municipality of Budapest to withdraw resources from the district municipalities. The passed bill will repeal the relevant section of the act on local taxes relating to the above limitation and the right of the Municipality of Budapest to withdraw resources will be governed solely by a separate legislation.

### Duties

According to the current rules officers of national organizations, member of embassies and consulates and their family members are provided with exemption from duties and transfer taxes based on reciprocity. The passed bill will amend the wording of the current legislation. Based solely on reciprocity the acquisition of properties for diplomatic purposes will be duty and transfer tax exempt. The new ruling intends to ensure the clear interpretation of the wording of the rules since the current practice already takes into consideration the above limitation.

The passed bill will broaden the definition of real estate holding entity. From the total asset value in the books of the taxpayer currently, solely cash receivables and cash equivalents should be excluded when determining the basis of the calculation of the real estate property ratio. However, in the future both accruals and loan receivables will decrease the total asset value.

As a consequence of the above, the number of companies that qualify as real estate holding entities (i.e. the book value of real estates would exceed 75% of the above described basis) will increase. These amendments are intended to reduce tax avoidance practices. The current regulations allow the manipulation of the ratio by generating accruals and loan agreements.

The passed bill clarifies the fact that the due date of the duty payment liability for the beneficiary under

the trust asset management contract will arise upon the date of the actual acquisition of the asset (and not upon conclusion of the contract).

According to the current regulations the base of the duty is the difference between the market value of the acquired property and market value of the property sold before or after the acquisition of the first property. However, if the sale of the property occurs subsequent to the acquisition of the new property then the private individual is liable to pay duty on the acquired property. Therefore, the preferential tax treatment may only be claimed subsequent to the sale. The passed bill introduces a one year grace period based on the statement of the private individual. The tax authority will levy the duty (calculated based on the difference between the market value of the acquired property and market value of the property sold) on the sale of property within the one year period.

The passed bill removes the obligation of the leasing companies to issue a statement on the sales revenue ratio in relation to the acquisition of vehicles and trailers. Considering that such leasing companies are exempted from the duty without any further limitation, the requirement which stipulates the necessity of a declaration related to the sales revenue ratio is no longer necessary.

The passed bill amends numerous rules relating to procedural duties. The amendments generally relate to the method of the settlement of the duty. Their aim is to reduce physical stamp duties. The passed bill aims for settlement through wire transfer and cash equivalent (i.e. bank or credit card). The rules applicable to settlement of court procedural fees would also become subject to amendment as of 1 January 2015.

### **Changes to financial transaction tax**

The passed bill amends rules relating to transactions carried out with bank cards. Differing from the general rules, in the case of these payment types the total value of the transactions concluded by using debit and credit cards (as 'cash equivalents') in the prior calendar year will be considered as one transaction. The tax applicable to the transaction will be HUF 800 on yearly basis while this amount will be HUF 500 in the case of bank or credit cards with a pay pass function. The transaction tax should be determined, reported and settled by the financial service provider once a year by 20 January of each year, for the first time by 20 January 2015.

### **Telecommunication tax**

Contrary to the original bill, the passed bill does not amend the regulations of the Act on telecommunication tax. Accordingly, the scope of the telecommunication tax will not include the supply of Internet services. Furthermore, the 1/12<sup>th</sup> portion of the corporate income tax reported and paid by means of the previous year's tax return will not decrease the payable amount of telecommunication tax.

### **Supervisory fee of food multiples**

The passed bill significantly increases (as of 1 January 2015) the rate of supervisory fees (which is currently 0.1%) of those retail stores which sell daily consumer goods as per the Commercial Act and of which the sales revenue exceeds HUF 50 billion. The sales revenue realized through this activity during the prior tax year (excluding the amount of excise tax and public health product tax) will be subject to a supervisory fee by means of progressive tax rates reflected in tax base ranges. Sales revenue of up to HUF 500 million will be exempt, whilst a sales revenue of above HUF 500 million and up to HUF 50 billion will be taxed at a rate of 0.1%. Thus the current rate remains applicable up to this threshold. Within the range of HUF 50 billion to HUF 300 billion the tax rate will increase by 1% per HUF 50 billion. For the portion of sales revenue which exceeds HUF 300 billion, retail stores selling daily consumer goods will be liable to pay supervisory fees calculated at a tax rate of 6%.

### **Amendments related to the customs administration**

The passed bill significantly effects the regulations applicable to customs control. The aim of customs control will be subject to amendment in addition determination methods and the name of control procedures will be modified and new items will be added to the legislation. As a new item, "custom audits" will be initiated, which will give a new perspective to the custom controls. As a result of the amendments, several rules applicable to the modified area of customs control will resemble the rules pertaining to tax investigations as set forth in the Act on the Rules of Taxation.

### **Environmental tax modifications**

According to the passed bill, certain new product categories will be subject to environmental tax. These categories are as follows: other plastic products, other chemical products and stationary. If only a small amount of environmental tax related products are produced, then the taxpayer will be entitled to pay a flat-rate amount of tax.

### **Amendments to the Excise Act**

The most significant amendment of the excise legislation is the increase of excise guarantee imposed on traders with excise permission. Based on the passed bill, the amount of excise guarantee would be HUF 600 million in the case of trading pertaining to mineral oil and HUF 150 million in the case of trading pertaining to other excise products. The amendment will not affect the taxation of tobacco products.

### **Energy tax related amendments**

According to the passed bill, the tax rates applicable to energy will increase. Furthermore, the passed bill clarifies the base and due date of energy tax liability imposed on the quantity of energy purchased in a tax exempt manner and used for own purposes.

According to the passed bill, the right to deduct will be ensured for energy purchased in a taxable manner and used for mineral products.

### **Amendments related to the rules of taxation**

#### **Reinforcement of the prohibition of differing tax treatment of the same transaction**

The prohibition of differing tax treatment of the same transaction has been reinforced by the passed bill. Thus, the same transaction may not be treated differently by the tax authority. As a result, the assessments applicable to one party involved in a transaction must be strictly taken into account when carrying out a tax audit at the other party of the given transaction. The reasoning of the passed bill emphasizes that the taxpayer may rely on the prohibition of differing tax treatment only in case of previously investigated transactions and if the tax authority made an explicit comment.

#### **Rules against aggressive tax planning ('hybrid structures')**

The passed bill introduces an anti-hybrid provision clarifying - in the case of transactions or related income affected by the provisions of an international treaty - the following: if the relevant facts or treaty provisions are interpreted differently by the contracting states and because of this none of these states consider the transaction being taxable

domestically, then Hungary does not exempt such income from taxation. The wording of the passed bill differs from the wording of the previous proposal.

### **Correcting VAT status declarations**

The passed bill clarifies that taxpayers may initiate the correction of a VAT status declaration prior to the commencement of a VAT audit, provided that the statute of limitation period has not elapsed. Furthermore, the passed bill sets forth the scope of choices in relation to which the correction may be requested.

### **Reporting activities involving road transport**

The Act on the Rules of Taxation will be amended by a new reporting regulation. Based on this, certain activities pertaining to road transport may solely be carried out by taxpayers who are in possession of a valid identification number from the Electronic Control System of Road Transport. The activities which are subject to this reporting liability are the following: intra-Community acquisition / sale and import / export for other purposes of goods; first domestic sale of a product to a non-end customer.

In order to receive an identification number from the electronic control system, a filing must be made toward the tax authority. However, the person responsible for fulfilling the reporting obligation will differ based on the type of the transaction.

Road transport activities which are subject to road fees as set forth by the Road Fee Act (i.e. transport carried out by means of a vehicle exceeding a total weight of 3.5 tons) should be subject to a reporting liability. However, in the case of "high risk products" transportation carried out by vehicles with a weight of less than 3.5 tons should also be reported. The regulation differentiates high risk foods and other products based on their weight and value (among else). A further liability in connection with the transportation of high risk products is the provision of a "risk guarantee".

As a further amendment, the tax authority may require the addressee, the sender and the transporter to make a statement concerning the circumstances under which the transportation takes place. If risk elements are present, then the tax authority may apply quarantine seizure. Risk elements are especially the inconsistency of the nature of cargo, consignment, destination, product quantity, vehicle type; moreover any ongoing enforcement procedure, intra-Community trading activity being performed in the lack of a Community tax identification number, or the lack of a reported site at the location indicated as the place of unloading.

If the taxpayer fails to report the road transport activities, then the unreported product will qualify as a product of uncertified origin. As a consequence, the tax authority may assess a default penalty up to 40% of the value of the unreported product and seize the products in the value of the assessed default penalty.

### **Increasing control competencies**

The passed bill entitles the tax authority to request information (traffic data) from the telecommunication companies.

### **Disclosure of tax secrets in order to combat tax avoidance**

If the tax authority identifies a contractual or other kind of relationship of more taxpayers in relation to which the intention of tax avoidance may be likely, then (based on the passed bill) the authority will be authorized to inform the other parties subject to the transaction concerned.

### **Binding tax ruling**

The passed bill sets forth a deadline for the binding force of a binding tax ruling imposed on the tax authority. The binding force will be effective until the last day of the 5<sup>th</sup> tax year following the issuance of the binding tax ruling. A deadline extension of two years will subsequently be available. The deadline will also be applicable to those binding tax rulings which were issued prior to the entry into force of the passed bill. However, in such a case the starting day from which the 5 years will be reckoned will be the entry into force of the Bill.

Furthermore, (beyond the legal amendments affecting the binding force of tax rulings and a substantial modification of the background) the binding tax ruling will not be applicable if certain liabilities set forth by international law were modified.

In addition to the application of the regulations set forth for the binding tax ruling, the passed bill entitles the taxpayer to request the confirmation of the Minister responsible for tax matters regarding the correctness of the method used for dividing the amount of deductible VAT.

However, the passed bill does not provide for the possibility of requesting confirmation of both the contemplated transaction and the method used for dividing the amount of deductible VAT in one request.

In the case of transactions with periodic settlements qualifying as future transactions, the Minister responsible for tax matters will only be entitled to assess the VAT liability or the lack thereof.

In addition to the above, the passed bill sets forth the extension of deadlines available for issuing binding tax rulings. Accordingly, the deadline will be 90 days rather than the previous 75 days applicable in standard procedures. Furthermore 60 days will be available rather than the previous 45 days applicable in accelerated procedures. In addition, the fee for advance consultation with the tax authority will be increased from thHUF 100 to thHUF 500.

### **Stricter sanctions for obstructing tax procedures**

If a taxpayer repeatedly obstructs the investigation, the store lock up, the administrative procedure or the enforcement procedure performed by the tax authorities, then the amount of default penalty to be assessed by the tax authority will be up to thHUF 500 in the case of private individuals and HUF 1 million in the case of other taxpayers.

### **Special regulations related to Ukrainian fixed assets**

Based on the passed bill, a tax refund may be requested due to the Ukrainian situation. The tax refund relates among else to CIT and its amount should be assessed based on the expenditures accounted for on certain fixed (invested) assets in 2014. The passed bill sets forth detailed conditions applicable to the potential tax refund. The deadline for submitting the claim for a tax refund is 31 December 2014.

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