



Tax&Legal Highlights

Hungary

Positive changes in training grant regulations

Amendment to NGM Decree no. 3/2015. (II. 13.) containing among others the detailed rules of training grants available through the Training Fund of the Hungarian Employment Fund entered into force on December 23, 2018.

According to the amendment:

- The training grant increased from the HUF amount equal to EUR 3 thousand to EUR 4 thousand per participant, with the proviso that the total grant amount may not exceed the HUF amount equal to EUR 2 million per beneficiary and training project.
- The maximum possible duration of the training period—i.e. the period between the start of the first and the end of the last funded training—also increased from 18 to 24 months, which is to be calculated separately for each training participant.
- Project closing day in terms of the training grant has been defined as the last day of the last funded training.
- Accounts of training held abroad are to be settled as follows: The beneficiary company is required to sign a training agreement with the

employee participating in the training and the supporting documentation is to be supplied by the beneficiary company similar to what happens in the case of internal training.

- The procedure has been simplified in the sense that a ministerial extension of the deadline for starting and closing the funded project and accounting for the grant received will only be required in the case of an extension exceeding six months; the sponsor's (National Office of Vocational Education and Training) approval will suffice for extensions of three to six months.
- The training programmes will become more flexible in the sense that the proportion of individual costs to total expenditure may differ, at the end of the training period, based on the aggregate data of the costs statements, to a maximum extent of 25% instead of 20% from the proportion specified in the grant application.

The training grant funded through the National Employment Fund is a non-refundable grant available for the financing of external and internal training programmes at companies where at least 50 new workplaces are created. The amount of the grant may be up to 50% of eligible costs (personnel related costs of instructors, new and other participant employees, administrative expenditure, travel costs), i.e. an HUF amount equal to EUR 4 thousand per participant. The beneficiary company will have an obligation to continue employing 70% of the training participants for at least 18 months after the end of the training.

Two important news from Deloitte's Manufacturing team

1. Deductibility of packaging material costs from local business tax base in question

Local business tax revisions have become frequent again according to Deloitte information. Apart from the inspection of subcontractors' performance (agency services) and permanent establishments, local authorities have increasingly been focusing on the revision of the accounting treatment of packaging material and other printing products. Competent local authorities found in several cases during inspection that particular companies treated and recognised in their books certain packaging material and printing products purchased erroneously under material cost or cost of goods sold instead of services purchased. As a result of such findings, local authorities did not allow the deduction of such costs from the local business tax base of these companies and, additionally, they penalised the erroneous tax treatment with a 50% fine and default penalty. There are already a few court judgements, as well, that confirmed the local authorities' position. At the same time, not all types of packaging material or printing products qualify as services purchased. It must be determined in each case to what extent the buyer can assert its demands during the manufacturing of the packaging material or printing products. Although inspections involve several sectors, it is mainly the manufacturing industry where fines are indeed considerable. This is why we recommend that manufacturers should by all means revise the extent of their control over the manufacturing of packaging material and printing products and, accordingly, their local business tax assessments. If the company's tax treatment of such items is found doubtful by court judgment, it is recommended to request the Finance Ministry's ruling in order to moderate risks affecting past activity. In the event of an unfavourable ruling, we recommend changing the tax treatment of these items. Neither in this case, however, is all lost. Our experts can offer you various options here.

The tax and procedural law experts of our manufacturing team are ready to help clients in the assessment of risks and opportunities or the preparation of a ruling request if necessary. Please do not hesitate to contact us either in cases where such an inspection or review procedure is already in progress.

2. EU–Japan trade agreement effective from January 2019

The EU–Japan Economic Partnership Agreement (“Agreement”) creates a free trade area with a population of 635 million accounting for nearly one third of the total global GDP. The Agreement is the first bilateral economic partnership agreement that has ever been signed between the EU and Japan.

It removes the vast majority of customs duties on exports of EU-based companies to Japan, as well as a number of long existing regulatory barriers, for instance those concerning passenger cars. In addition, the Agreement opens up the Japanese market with its 127 million consumers to major EU agricultural product exports and will further improve exports opportunities for a number of other sectors. Farmers who—with respect to their exports to Japan above a particular threshold in value—wish to certify place of origin of their exported products to their Japanese partners, will, following entry into force of the Agreement, need to apply to the competent customs authority for registration as a registered exporter (REX).

Main elements of the Agreement:

- As to EU agricultural exports, the agreement:
- abolishes Japanese customs duty on a number of cheese types (currently 29.8%) and export wines (currently 15% on average);
- makes it possible for the EU to significantly increase beef exports to Japan, to export processed pork duty-free and fresh pork nearly duty-free;
- provides protection for over 200 high-quality European agricultural products in Japan and for certain Japanese products in the EU through geographical indications.

The agreement opens up the services market, as well, particularly the financial services, e-commerce, telecommunications and transportations sectors, and:

- guarantees access of EU-based enterprises to public contracts of 48 major Japanese cities and to national-level public contracts in the economically significant railway sector;
- treats issues that are sensitive for the EU through the introduction of transitional periods preceding the abolition of customs duties, e.g. in the car manufacturing sector.

Tax savings opportunities in the pharma sector

In our experience, due to uncertainties in interpretation companies often miss opportunities that would have led to considerable savings, potentially in several tax types. Please note the opportunities below that are open to pharmaceutical companies and do not hesitate to contact us for further details.

Employers' social tax reduction

If part of a company's employees or hired workforce fulfils roles where no skills are required, significant social tax relief is available after selecting the appropriate FEOR (standard industrial qualification) code of the activity. The amount of the relief is equal to 50% of the social tax payable by the employer on the gross wage but maximum the minimum wage (HUF 100 thousand in previous years). In many cases, companies registered particular groups of their employees under the wrong FEOR activity code and, as a result, lost the opportunity to claim the tax relief. Even in such a case, however, there is opportunity to claim it subsequently.

If your company is employing workforce in roles that may qualify as ones requiring no skills concerning which the company is currently not receiving the above tax relief or you have been wondering whether an existing role and the related duties may be qualified as unskilled work, please do not hesitate to contact us, we are ready to help. Upon request, we determine whether the conditions for claiming the tax relief apply in the present and it is also reasonable to look into the possibility of claiming it retroactively.

R&D related tax benefits

In our experience, companies in the healthcare sector could register certain activities that in themselves are not considered R&D as ones that may, however, be qualified as such since these activities or activity phases may constitute integral and indispensable parts of particular complex R&D processes. Such activities include for instance the so called monitoring activity related to the clinical trial phase of pharmaceutical research conducted by pharma companies.

Direct costs related to R&D projects may be deducted from the taxable income of pharma companies with respect to the corporate and local business tax, the innovation contribution, and the medicine tax with further available opportunities (e.g. development tax incentive and social tax reduction, together the so-called "triple" benefit).

Before claiming such benefits, it is recommended to request the competent authority, the Hungarian Intellectual Property Office, to prepare a qualification. Our experts have significant experience in authority procedures dealing with the qualification of R&D activities. Building on that knowledge we are ready to share our relevant experience with our clients and provide assistance in connection with actual qualifying procedures.

Local business tax opportunities

Local authorities have been questioning, with respect to healthcare companies, too, the deductibility of agency services and subcontractors' performance from the local business tax and innovation contribution base. This wave of inspections can be traced back to several judgements of the Curia of Hungary that made the deductibility of subcontractors' performance subject to strict formal requirements concerning invoices and subledger accounts and strict content requirements concerning contracts. Deloitte's team specialised in tax law disputes and litigations focused particular attention to the monitoring of the practice of local authorities and the Curia in the matter. In addition, based on consultations with the Ministry of Finance, we offer our clients useful insights not only in the field of risk reduction, but also in cases where the value of services purchased but not deductible either from the local business tax or the innovation contribution base is significant.

In this case, we help consider opportunities in line with the position of the Curia and the Ministry of Finance (conversion of certain services purchased, e.g. transportation related to exports sales or contract manufacturing into subcontractors' performance or their recognition as material costs in particular cases) and set up the conditions for the deductibility of the services concerned.

If it is necessary due to the nature of the service in question, we are ready help you prepare a ruling request so that the position can be confirmed by the Finance Ministry.

VAT related opportunities

The Court of Justice of the European Union has, BY ANALOGY / BASED ON PRECEDENCE, provided for the opportunity of refunding VAT paid by companies, with respect among others to the medicine tax payment obligation arising in the sector. The refund request is to be filed with the tax authority under a special review procedure that does not incur the risk of finding tax shortage. Deloitte is ready to help you with the starting and comprehensive administration of the refund procedure.

In our experience, the labour authority generally targets businesses that employ workers in work schedules different from the general work schedule, i.e. shift work, continuous work schedule, bank of hours roster, or multiple employer plan where the employee has multiple employment contracts with several employers. Besides inspections started by the labour authority we have seen a number of cases where procedures were opened for the purpose of inspecting cases based pm reports filed by employees or employee organisations. Such reports are typically filed due to disputes between employees and employers concerning the payroll calculation and payment of paid absence allowances and/or wage compensations.

Where to expect labour inspection this year?

Similar to 2017 and 2018, the labour authority this year will continue focusing particular attention on the improvement of the labour inspection efficiency and, therefore, will concentrate in the first place on the inspection of businesses with large staff number, specifically the employment conditions of protected employees (underage or pregnant employees, employees who have recently given birth, mother's milk donors, breastfeeding mothers, ageing employees, employees living with reduced working ability, mobility impairment or other physical disability), as well as compliance with the rules applying to resting time and annual paid leave provided to employees.

While inspections in previous years focused on the employment conditions in agricultural, construction and commercial activities, as well as those of hired workforce, in 2019 the labour authority will target pastry and bakery businesses in the first place and at least 10% of the inspected employers will be security and bodyguard businesses. This, however, does not mean that previous focus areas will be ignored; about 80% of businesses that had unreported employees previously can expect follow-up inspections.

Apart from businesses listed above, labour inspections will also target employers whose activities involve dangerous working equipment, material or technology, noise, hand and arm vibration, hazardous material/chemicals, exposure to carcinogenic or mutagenic agents, or the presence of biological infectious agents, which typically operate in the construction, agriculture, manufacturing and healthcare sectors. During the inspection of such employers the labour authority will focus on compliance with occupational and health safety requirements.

Minimum wage increase: good for students, bigger company gifts, increasing tax-exempt benefits

In addition to the higher pay, the increased amount of the minimum wage has a number of other advantages. For instance, it allows for more expensive gifts at year-end parties and better seats on stadium stands for sport fans. Deloitte Hungary collected potential benefits for employees and employers.

Similar to previous years' practice, the agreement on the minimum wage for 2019 was signed at the end of December last year. According to the agreement, the minimum wage increases to HUF 149 thousand per month, which raises monthly income for the employees concerned and, accordingly, related employers' tax costs.

The amount of the minimum wage is significant from a number of aspects. The raise has numerous indirect or direct, and often favourable tax consequences that both employers and employees should be aware of.

Bigger company gifts

Similar to previous years, gifts received at company events will qualify as certain defined benefits and, therefore, provided that their value remains below 25% of the minimum wage, will be taxable at rates more favourable than the wage. At a Christmas party, for instance, companies can now reward employees for their work performance with gifts costing as much as HUF 37 thousand at a more favourable tax rate. Gifts of small value (up to 10% of the minimum wage) allowed once a year will also qualify as certain defined benefits from 2019. As a result, employees can now receive gifts at preferential rates in a total value of as much as fifty thousand forints.

Benefits for students

The part equal to the monthly minimum wage of the amount of the allowance paid to full-time students during the time of their internship or in the case of dual training during the time of the theoretical and practical training will continue to be exempt from the personal income tax. As a result, the allowance will be higher from 2019.

Better or more stadium stand or theatre seats

Tickets/season tickets to sports or cultural events will continue to be tax exempt in 2019. The minimum wage raise affects these benefits in the sense that both benefits are tax exempt up to the value of the minimum wage individually, so employees can buy more tickets or tickets for better seats.

Cap on social tax

Parallel to the fusion of the health and social contribution taxes, the legislator introduced a ceiling on the amount of the social tax. Consequently, certain

income (e.g. owners' withdrawals from business, dividend and capital gain) will be tax exempt if the individual's income from other sources (such as wage, sole proprietor's income) have reached twenty-four times the amount of the minimum wage in the tax year. The former cap on health tax payments was not linked to the minimum wage.

Changes to the rules of employers' social tax benefits

Starting this year, the tax benefit after employees fulfilling unskilled jobs will be equal to half of the tax on the gross wage but the minimum wage at the most. In previous years, the maximum of the benefit was determined based on the taxable income after HUF 100 thousand monthly instead of the minimum wage. Calculating with a tax rate of 19,5% and the amount of the minimum wage, the benefit will be nearly fifteen thousand forints monthly in 2019, which will be particularly helpful for employers that employ unskilled workforce in large numbers.

In the case of new entrants to the labour force, in 2019 employers will be able to claim social tax benefit in the amount equal to the full tax on gross wage (or minimum wage at the most) in the first two years of employment, and 50% thereof in the third year.

In the case of mothers of at least three (re)entering the labour market, employers from this year on will be able to claim social tax benefit in the amount equal to the full tax on gross wage (or minimum wage at the most) in the first three years of employment, and 50% thereof in the fourth and fifth years. In previous years, the maximum of the benefit was determined here too based on the taxable income after HUF 100 thousand monthly instead of the minimum wage.

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