Tax&Legal Highlights

Hungary

The government would appoint NAIH as the supervisory authority according to the GDPR

The government would appoint the National Authority for Data Protection and Freedom of Information (NAIH) as the supervisory authority according to the GDPR and would set a warning for violating data protection regulations for the first time

On 29 May 2018, the government introduced the bill on appointing a supervisory authority defined in Act CXII of 2011 on Information Self-determination and Freedom of Information (hereinafter: "Information Act").

According to the Bill, the Information Act appoint the National Authority for Data Protection and Freedom of Information ("NAIH") as expected, to carry out the supervisory tasks defined in the GDPR. The bill would stipulate that, when issuing an administrative fine defined in the GDPR, the NAIH "should exercise its powers in view of the principle of proportionality, especially by primarily taking the step of warning the data controller or data processor when remedying the breach in the case of violating the regulations defined in the data protection law or the binding legislation of the European Union for the first time, in line with Article 58 of the General Data Protection Regulation."

Therefore, in line with preliminary communication, the NAIH would primarily warn data controllers and data processors not conforming to the data protection regulations. Even though it does not follow from the text of the bill that the aim of the above provision is the foundation of the application of the solidarity procedure exclusively for SMEs; this is clear from the reasoning of the proposal, and recent comments from the NAIH and the government also support this. In practice, this would mean that in the case of SMEs violating the GDPR for the first time, the NAIH would only issue a warning and would apply other sanctions lighter than a fine (e.g. abolition of data control activities not in line with certain regulations, instruction to comply with data protection law, etc.). The proposal and the related communications suggest that in the case of large companies, the NAIH will not necessarily follow this practice, and will probably exercise its right to impose a fine. Please note that the proposal should not be interpreted as exempting SMEs from compliance with the GDPR: in cases of a severe violation, imposing a fine against them cannot be precluded. With this in mind, it is advisable for SMEs to take the necessary steps to comply with the GDPR.

Real-time transfer of domestic invoice data

The amendment of the invoicing decree was announced in the 1 June 2018 issue of the Official Journal of Hungary, which makes real time transferring data of domestic invoices to the tax authority compulsory from 1 July 2018. There are less than four weeks left for the finalisation of the necessary developments, in which Deloitte supports its clients, too.

According to the announced decree amendment, the effective date of the online invoice data transfer obligation is not postponed, so from 1 July 2018, it is obligatory for taxpayers to transfer data to the tax authority. The technical notification procedure related to the decree, carried out by the European Commission has been successful. According to the decree announced, the subject of the data transfer continues to be invoices of at least HUF 100, including VAT, issued to domestic taxpayers.

Considering the above, it is necessary to finalise the related IT developments in the few weeks left until the effective date, in which Deloitte supports its clients, too. Deloitte has developed a solution which ensures compliance with the statutory obligations and provides support services for the implementation and updating of the software. You will find more information with respect to VATOnline, the software that helps you meet the obligation on our website.

How much must neighbours tolerate and how far can developers go?

The recent upturn in the construction industry makes the question relevant: where is the border between disturbing neighbours necessarily and unnecessarily, and can an architecturally justified solution be unnecessarily disturbing at the same time? In our experience, neighbours taking action against developers' disturbing behaviour first complain about noise and dust pollution, typically followed by a property protection case at a notary's office, claims at the construction administration, then lawsuits in court. In this newsletter, practical experience of property protection disputes related to construction investments are summarised, including the Curia's latest analysis of the topic.

Neighbours often complain about disturbing sounds, noises and other effects, or potential emission of pollutants during the construction projects. After the initial polite discussions, neighbours tend to take the issue to court quite soon, often with several neighbours uniting in a case against the developer. Typically, they file a property protection claim with the notary, and try to hinder the construction at the construction administration, but the case usually ends up in court.

According to the governing law, during the use of the property, developers must refrain from all behaviour that would unnecessarily disturb others, especially the neighbours, or that would threaten the exercising of their rights. Of course, this does not mean that noise and dust related to the construction are always considered mere disturbance. Disturbance is inherent to construction. When making the decision about what qualifies as unnecessary disturbance, courts take into consideration the balance of interest between the parties and their reasonable interests. The expression "unnecessary disturbance" refers to an objective concept, and even though it cannot be defined exactly, no behaviour can be considered illegal based on the subjective feeling of a neighbour. Consequently, courts must examine the extent of the conflicting interests, as well as the rights on the two sides, and in the end, they must make a decision that favours the balance of interests. This measuring of interests is currently done on a case-by-case basis, as it is difficult to establish a uniform benchmark measuring what is necessary and what isn't, considering all circumstances of the individual cases. We are of the opinion that in these property protection cases, the courts should establish uniform guidelines.

The Curia of Hungary has created a legal practice analysis team consisting of 14 judges and 5 theoretical and practical experts, for the purpose of reviewing the judicial practice. The summary report of the legal practice analysis team of the Curia (available HERE) suggests that most property protection cases are based on violation of neighbour's rights; still, the criteria to rule in the individual cases if unnecessary disturbance occurred as the basis for property protection is still not developed. We are of the opinion that these criteria would be especially useful for developers, as they could see in advance, which behaviour would be considered unnecessary disturbance. This is in line with the need that the criteria must be based on an objective benchmark.

The Curia's analysis also mentions that it is irrelevant for property protection and neighbour's right disputes whether the developer or the contractor complies with construction management regulations. First, the decision about unnecessary disturbance must not depend on construction management regulations; therefore the Curia considers incorrect the judiciary practice of defining the tasks of forensic experts assigned to property protection cases with reference to administrative norms, prescribing the inspection of compliance with administrative norms. Second, the legal practice analysis team of the Curia emphasises that potential noncompliance with construction management regulations is irrelevant in property protection disputes, as duly performed construction may cause trespass, therefore the necessary or unnecessary nature of the disturbance is not justified by the criteria of compliance with construction management regulations.

The analysis of the Curia mentions that while courts currently responsible for property protection cases are quite flexible about accepting claims from neighbours, the new civil law effective since the beginning of this year will not provide for such flexibility. According to the new regulations on civil procedures, the party filing the lawsuit must exactly specify in court the right they want to enforce, and the court will only judge in this regard. Therefore, the currently general practice will not be sustainable where, even though the claimant defines the right to be enforced incorrectly or incompletely, the courts define the legal matter in line with the intention of the claimant, even if it is under a different title from what the claimant said. According to the new civil procedure regulations, the court may only rule in the legal matter proposed, it may not exceed it, even if that would promote the enforcement of the claimant's right.

In conclusion, in the judiciary practice of legal disputes initiated by neighbours, uniformity is expected; courts will examine the necessary or unnecessary nature of disturbances more in detail, in line with the Curia's guidelines; and the civil procedure regulations effective since the beginning of this year will regulate right enforcement of neighbours in court more strictly. Our position is that these changes are expressly favourable for developers, as lawsuits filed by neighbours will become faster, providing neighbours with smaller powers. In addition, we expect that the uniform criteria will make the behaviour expected from developers more predictable and the consequences of unlawful conduct more foreseeable.

Summary of the new tax bill

On 19 June 2018, the government presented the bill on the modification of certain tax laws and related other laws.

Personal income tax

Cafeteria modules

The bill would change the taxation of ***fringe benefits*** ("cafeteria").

From 1 January 2019, employee benefit with reduced taxation could only be provided in the three "pockets" of the SZÉP card. (Regulations about trade union recreation services and in-kind benefits provided by the trade union would not be changed.)

The option of giving a maximum of 100 thousand HUF in **cash** with **reduced** tax would be terminated.

The tax base adjustment item of 1.18 would not have to be applied for tax base assessment in the case of **non-wage benefit**.

Products, services or insurance taken out by the payer for a private individual provided by the employer based on an internal regulation (available to all employees) or provided equally and in the same way to all employees could not be taxed **as certain defined benefits** from 2019. According to the bill, the reduced taxation of benefits provided so far as certain benefits (e.g. employer's payment into voluntary mutual insurance fund, local pass, schooling assistance, etc.) would be terminated.

A limited group of benefits provided to employees or as a payer would still be available as certain defined benefits, such as: payments for a specific service to a voluntary insurance fund, private use of company phones, meals or other

services on official or business trips, representation and company gifts or other benefits related to business/entertainment events and provided to several people, gifts of small value (once a year).

Based on this bill, **tax-exemption of many benefits would be cancelled** from 2019, such as:

- housing allowance provided by employers,
- housing allowance to promote mobility,
- employer's support given for employee student loan repayment,
- risk insurance premiums (until 30% of the minimum wage),
- tickets or season tickets for cultural and sports events.

Tax exemption of crèche and kindergarten services provided for free or at a reduced rate would not change. In order to reduce administration obligations for employers, this benefit is tax-exempt even if the employer compensates the price of the service/care against an invoice issued for the employee's name.

Letting of real estate

The bill allows for services received by the lessor and charged to the lessee (e.g. public utility fees) not to be considered as the lessor's income, thus reducing administrative burden for lessors. According to another favourable modification, the payer is not required to deduce a tax advance from their income if the lessor declares that they would like to have the rental fee of a property rented in another town or city for a period longer than 90 days considered when assessing their income.

Insurance

The bill amends or supplements several parts of the insurance regulations.

Draft returns of private entrepreneurs

The bill would extend the possibility to fulfil the tax filing liability by amending and correcting the draft tax return prepared by the tax authority.

Social security contribution, social security contribution tax and healthcare contribution

Social contribution and social contribution tax

The employment (in accordance with the Labour Code) of pensioners who are in retirement in their own right would become exempt from insurance liability, and therefore would not qualify as insured and would not be eligible for social security services based on this legal status and no contribution and social contribution tax liability would arise.

The amount of **health service contribution** would increase to HUF 7,500/month, HUF 250/day (in 2018 its monthly amount is HUF 7,320, HUF 244/day).

In the case of special agreements regarding retirement/service time, the **contribution to be paid** would be 24% of the income serving as the social security contribution base (34% in 2018).

The aim of a separate bill is to consolidate the current **social contribution tax and the health care contribution (eho)** in one tax type from 1 January 2019. In addition, this bill would also introduce new labour market incentives.

The **scope of individuals who are exempt** would be extended compared to previous regulations, as, according to the bill, the exemption also applies to individuals insured in countries participating in bilateral agreements.

The bill contains a flat rate **social contribution tax**, i.e. income types previously subject to a 14% tax (e.g. capital income, non-wage benefit) would become subject to 19.5%. (The rate of the social tax is expected to be decreased to 17.5% as of 1 January 2019.)

Currently, the ceiling of **health care contribution** payment liability on capital income is HUF 450 thousand annually, which includes, among others, the sum of the health insurance contribution paid by a private individual. According to the bill, the tax paid on capital income until its base together with the consolidated tax base reaches 24 times the amount of the monthly minimum wage.

The **scope of incentives** would also be modified (some of them would be consolidated, some abolished), and they would be available up until the amount of the minimum wage instead of the previous 100 thousand HUF income ceiling.

Simplified entrepreneurial tax
The option to choose the simplified entrepreneurial tax ("egyszerűsített vállalkozói adó", eva) is available until 20 December 2018 (as the first step of the phasing out of eva); after that, choosing to be an eva subject is not possible. (Those opting for taxability based on eva before 20 December 2018 may still continue it until their taxability is terminated by their own choice or by any other reason defined by law.)

Individuals' solidarity surtax
The regulation on the 75 percent surtax on certain revenues of private individuals is expected to be superseded from 1 January 2019.

Corporate income tax
Specifications relating to reported shares

From 1 January 2019, the limitation which stipulates that recently acquired further shares may not be reported to the existing ones if the taxpayer did not opt for reporting the original shares, would be removed from the concept of reported shares. However, the increase of the share value (without new acquisition) would only be considered reported shares if the original share was reported by the taxpayer.

Further shares newly acquired after 31 December 2017 would be reportable within 75 days after the law enters into force. The bill also proposes that in case of changes in the form of incorporation, merger, or demerger, previously reported shares would not have to be reported again because of such transactions. Reporting is also unnecessary when the previous owner

acquires a share in the company affected by the change of form, merger or demerger.

However, the option of handling investment notes issued by unlimited term investment funds as reported shares would be terminated.

The bill offers clarification in several places in order to ensure conformity with the directive on cross-border mergers, and the tax neutrality relating to reported shares. Therefore, it would clarify that in case of the preferential transformations and exchanges of shares, the tax deferral applied by the owner should not result in future tax liability if the previous share was considered reported shares.

Modifications affecting taxpayers preparing IFRS financial statements

The IFRS 9 that has been in force since 1 January 2018 provides the option for taxpayers preparing their financial statements according to the IFRS to indicate the change of the fair value of certain investments in the comprehensive income. However, in the case of such a choice, it may happen that the gain or loss acquired during the holding period does not appear in the income statement at the time of derecognition, and thus it does not appear in the tax base, either. The bill plans to correct this difference by appropriate tax base adjustment that would not apply to the reported shares. The tax payer may decide to apply the tax base modifications already for their tax liability of the tax year beginning in 2018.

During the transfer to IFRS, in the case of certain assets, the historical cost assessed based on the IFRS and the book value are different from the values under the Accounting Act. If the taxpayer chooses to apply the accounting depreciation in the tax base for the given asset, it may happen that the book value of the asset is already zero, while it still has a net tax value, which cannot be applied in the tax base due to the lack of accounting depreciation. Therefore, the bill would provide an option for taxpayers to apply the net tax value of such assets as depreciation in the tax base in the three years following the book value dropping to zero.

The bill is planning a new provision regarding the depreciation of assets registered as components according to the IFRS. From 2019, depreciation by the tax legislation must be defined by components if the historical cost, the depreciation method and the useful life of the components are defined separately according to the IFRS, and the individual components can be assigned to the depreciation rates defined by the tax legislation.

The bill would supersede the obligation of taxpayers adopting the IFRS for the first time to provide information about the expected sum of the transition difference at the same time as submitting the top-up liability for the tax year before the transition.

Other modifications

Based on the bill, the concept of **energy efficiency construction project** would include renovation as well. As opposed to the uniform 30% so far, the rate of tax relief regarding the costs of construction or renovation would vary by region according to the aid intensities specified in the general block exemption Regulation.

The limit of the tax base decrease related to the **development reserve** would increase from the current HUF 500 million to 10 billion.

The maximum HUF 20 million tax base decrease for **start-up enterprises** would be considered in the future by tax year and by start-up.

The tax base decrease for **R&D activities** would be dividable between the service provider and the client, based on an agreement. However, such an eligibility for tax base decrease could not be transferred to associated parties.

According to the bill, costs and expenditures related to the operation of not only **crèches** but also **kindergartens provided by the employer** would be listed among the itemised costs and expenditures incurred in the interest of business operations. A kindergarten provided by the employer is an institution which, considering the average annual number of children, provides care services for the employees' children in at least 80%.

Innovation contribution
The bill would restore the original provisions of the 2014 law, thus extending the group of subjects of innovation contribution. Only micro- and small businesses complying with the complex criteria of the SME Act are eligible for individual tax exemption instead of entities only complying with the requirements (indicators) defined by certain sections of the SME Act.

Localbusiness tax
Tax exemptions and tax benefits

The bill would supersede tax base exemption related to the increase of the headcount. However, it would provide the possibility for municipalities to issue decrees to give tax exemptions or tax benefits on the costs or part of the costs recognised for the entrepreneur's investments according to the Accounting Act. The tax exemption or tax benefit recognised for the given tax year but not applied in the tax year could be carried over to the following tax years. The bill also provides that the regulations of such tax base exemption or tax benefit cannot be modified to the detriment of taxpayers by the municipalities for three years.

Municipalities may not provide such benefits on the building tax on the entrepreneur's property or part of property used for business purposes other than the tax exemptions and tax benefits defined in the law. As the material scope of building tax has been extended with the advertising display from 1 January 2018, the bill would also extend the prohibition for the sake of unity.

Modifications relating to IFRS

The bill would modify several parts of the tax base assessment regulations affecting taxpayers reporting under IFRS. Some of the modifications would not mean a change in content, but only refer to the modifications due to the IFRS 16 standard replacing the IAS 17. Several other of them, however, would aim at solving interpretation issues and inconsistencies of the current legislation.

The bill would consolidate the double tax base decrease (an item decreasing the turnover and increasing the cost of goods sold) with the book value of the asset held under a finance lease at companies providing financial lease to credit institutions and financial entrepreneurs, which contradicts the

legislator's intention in the current regulation. From 1 January 2019, the taxpayer may not increase the cost of goods sold with the book value of the assets held under a finance lease, if the latter had been used to decrease the revenue during the assessment of the tax base.

The currently effective provisions of the local tax legislation stipulate that credit institutions and financial enterprises are obliged to increase their revenue with the invoiced amount not recognised in the given tax year or the following tax years in accordance with the IFRS as revenue or revenue-increasing item. However, their might be some amounts which, even though the taxpayer only invoices them later, are already considered as revenue-increasing items in previous tax years (i.e. not as revenue, e.g. in the case of lease purchases, the value of the receivable at the start of the lease period in the tax year of the lease purchase, which is only invoiced later, during the term). In such cases, double taxation occurs, so, from 1 January 2019, the bill would amend the regulation and abolish the limitation that stipulates that only revenue-increasing items applied in the given tax year or later can be considered. This way, it would be unnecessary to increase the revenue with the invoiced amount in the case of previously considered tax base increase.

Other modifications

The bill would include assets managed under a **fiduciary trusteeship** agreement in the legal concept "entrepreneur". This modification is only a simplification of the codification, as the assets managed is already subject to local business tax under the current legislation.

The bill would clarify the top-up payment liability and its deadline for **companies with a business year other than the calendar year**.

The material and personal scope of the legal institution of **data supply to the tax authority** (effective as of 1 January 2018) would be further extended. In the future, the Hungarian tax authority would not only forward data received from the Registry Court about companies listed in the registry, but about private entrepreneurs and organisations registered by courts. Furthermore, it would not only provide data received at the registration, foundation or beginning of activities, but also data changed during the taxpayer's operations and sent to the Hungarian tax authority.

Accounting Act
Accounting for grants

In the case of grants provided by the EU and Hungary, post-financing is typical in both cases. This means that companies often make loss in one year and become profitable in the next one. In order to enforce the principle of matching, the bill provides the opportunity for companies to recognise the expected, not yet recognised amount of subsidies received for the compensation of costs as accrued income against other income.

Recognition of assignment of receivables

The bill clarifies the recognition of the assignment of original (own) receivables, which is determined by the qualification in the balance sheet. The profit from the assignment of receivables among investments should be reported as income from investments, exchange gain, or expenditure, exchange loss (depending on the whether negative or positive). In contrast,

business transactions related to the disposal of original receivables recorded within assets. The management of business transactions related to purchased receivables recorded within current assets remains the same, and has to be shown within other income and expenditures of financial transactions.

Goodwill in case of a merger

In case of merger (fusion, consolidation), major loss of capital might occur at the derecognition of shares and participations to each other, especially if the acquirer has considered significant goodwill in the purchase price – and thus in its historical cost – of its share in the merging company. In such cases, the bill would make it possible for the acquirer to report goodwill in the amount above the market value proportional to the retired profit share of the assets and liabilities taken over during the merger, which would have several conditions.

The new rules would be applied to acquisitions and mergers started after the amendment enters into force.

Other modifications

The bill would clarify that the currency of the financial statements and the **currency** of bookkeeping must be the same as the currency defined in the deed of foundation.

The bill clarifies that companies preparing **IFRS financial statements** have to define the capital disposable for dividend payment in line with the accounting regulations. It refines the concept of profit reserve and valuation reserve in the case of companies preparing IFRS financial statements, so that it clearly includes the part accumulated before the transition, as well as the values carried over from other capital elements based on the IFRS. It modifies the definition of after-tax profit, so that it includes items recognised against the profit by the accounting act, but also against the own capital by the IFRS, especially in the case of subsidies and funds given or received without the obligation of repayment. The bill introduces compulsory elements for IFRS financial statements (e.g. auditor, persons authorised to represent the company, members with majority control), and in the future companies with IFRS financial statements would also be required to prepare a business report.

In case of **contribution in kind**, the difference between the the carrying value of the asset and the value as defined in the deed of foundation shall be recognised as other income or other expenses at the owner not only for contributed tangible assets but also valuable rights.

In case of **conversion of currencies**, the application is not compulsory for five years as before but only for three.

The bill would clarify that the proposal for the **use of the after-tax profit** is identical in content with the approval for proposal for dividend payments.

Value added tax
Specifications relating to invoice data supply

Pursuant to rules previously adopted, the value limit of invoice level data supply will be lowered from HUF 1 million to HUF 100,000 as of 1 July 2018.

The bill would clarify in which tax return the recipient must first meet the data supply obligation in relation to invoices with output VAT of at least HUF 100,000, and simplifies the obligations of annual filers. Also, with a view to decreasing the administrative burden of taxpayers, with regard to the decrease of the value limit to HUF 100,000, the bill would cancel the consolidated data supply obligation of the recipient party deducting the tax.

Extension of the scope of reverse taxation

The bill would extend the rules on the reverse taxation of certain grain and steel products to 30 June 2022. Also – with regard to the provisions of the implementing decision of the Council no. 2018/486 – the bill would phase of the application of reverse taxation on the loan staffing services subject to derogation. Accordingly, loan staffing, assignment and workforce hiring would not be subject to reverse taxation as of 1 January 2021, except if such service is related to the transfer of real property under Section 10 d) of the VAT Act, or building-assembly and other repair work under Section 142 (1) b) of the VAT Act.

Treatment of vouchers in the VAT scheme

With the aim of legal harmonisation, the bill would adopt the EU regulations effective as of 1 January 2019 pertaining to the VAT treatment of vouchers. The bill defines the concept of a voucher, a single purpose and a multiple purpose voucher in the VAT system. Please note that the concept of the voucher fails to include instruments offering only discounts in product and service purchases but do not grant by themselves purchase of the product or service.

Adopting the directive on the VAT rules of e-commerce

The bill – in harmony with the EU requirements – would adopt the provisions of Council Directive (EU) 2017/2455 on the VAT rules of e-commerce entering into force as of 1 January 2019. Accordingly, taxpayers not settled in the Community territory may also register for the one-stop shop system if the taxpayer – for any other reason – already has a tax number in any of the Community member states. The bill would also regulate cases where the taxpayer is seated in only one EU member state and provides distance services from that location to non-taxable persons seated in other member states. Furthermore, the bill provides that in case of transactions where the taxpayer settles the tax liability through the one-stop shop system, the related source documents of the transactions are subject to the rules of the member state where the taxpayer was registered for the one-stop shop system (registering member state). Also, the bill would define the exchange rate to be applied for converting the value limit of EUR 10,000 in the case when the taxpayer provides distance services to non-taxable persons in other member states.

Tax rate for milk

The tax rate for milk would be unified at 5% as of 1 January 2019 for ESL and UHT milk too in addition to fresh milk.

Serial sale of real property

The bill would clarify the deadline for reporting to the tax authority in case of entities that become taxable due to a series of real property sale transactions (reporting is required by 31 January 2019 for sales in the calendar year 2018 and within 30 days following sales after 31 December 2018).

VAT deduction right of new taxable persons

Private entrepreneurs newly engaged in business activities and non-resident taxpayers registered for VAT are entitled to tax deduction with respect to purchases linked to their taxable activities in a verifiable way based on the invoice issued to their names even if the purchase took place before registering at the tax authority. The bill would clearly state that in such cases the deduction right would be applicable in the tax assessment period of the date of registration.

Services directly linked to exported products subject to certain customs procedures

The bill would stipulate that once criterion for the tax exemption of services directly linked to exported products subject to certain customs procedures (e.g. forwarding, auxiliary service linked to the forwarding of goods) is that the service should be directly provided to the person who effects the product export or the taxable activity subject to the specific customs procedure.

Recording status in case of classification codes

The bill would modify the status report from 31 July and 30 September 2002 to 1 January 2018 of products and services defined under the Commercial Customs Tariff and classification system for products and activities (new classification: TESZOR). This rule would enter into force as of 1 July 2019. The bill also proposes modifications needed for the change of the status recording of the SZJ numbers and their conversion to TESZOR numbers.

Reciprocity with Serbia and Turkey

The bill would add Serbia and Turkey to the list of so called third countries (outside the European Union) where Hungary provides the option of tax refund – with regard to reciprocity. In case of Turkey the rule would enter into force from the day following the publication of the resolution of the minster responsible for taxation in the Official Journal of Hungary. In case of Serbia, reciprocity would become effective from 1 January 2019 according to the bill.

Exercising the right of choice

The bill would allow taxpayers to request the modification of their previous choices or the lack thereof through a rectification request submitted to the national tax and customs authority before the start of the subsequent tax audits of the tax returns and within the term of limitation (e.g. choice to sell real estate), provided that the modification does not affect the amount of the tax base assessed and filed, the amount of tax payable and the input VAT. Also, the bill would allow taxpayers to convert to the cash accounting scheme during the year if the individual tax exemption is no longer an option with the eligibility limit exceeded.

Special taxes concerning the financial sector

According to the bill, as of 1 January 2019 the special tax on credit institutions would be abolished. It is important that taxpayers subject to the special tax on financial institutions applying IFRS may assess this tax liability on an IFRS basis. Also, the specific tax base assessment rules for lease activities would be abolished.

Financial transaction tax
As of 1 January 2019 all retail transfer transactions up to HUF 20,000 would be exempt from the financial transaction tax. Also, the upper limit of HUF 6,000 by transaction would be introduced for payment transactions effected to accounts held at the treasury.

Accident tax – insurance tax
With a view to simplifying the tax scheme and cut the number of tax types, the accident tax charged on the mandatory motor vehicle third-party liability insurance would be cancelled by merging it in the insurance tax (insurance tax is currently charged on Casco contracts and property and accident insurance policies).

The bill stipulates that the tax rate is 15% of the written premium for motor third party liability insurance, while in the case of passenger cars and motorcycles it is 20% of the tax base. It is an important rule that the written premium from motor third party liability insurance should not be considered for assessing the bracketed tax base.

Act on the competitiveness of district heating
According to the bill, in addition to energy efficiency construction projects, tax benefits would also be available for renovation projects aimed at energy efficiency.

Excise tax
The bill seeks to clarify minor ambiguities that have surfaced in practice (e.g. treatment of revised invoice in case of continuous supply, authorisation of commercial purchases, termination of compulsory authority presence at inventory count for certain licenced activities).

Customs regulations
With regard to the Customs Act, the bill proposes minor changes. The concept of administrative penalty would be cancelled and replaced by provisions pertaining to default customs administrative penalties. Also, the transfer of customs representation is refined.

Vehicle registration tax
The bill proposes the decrease of the registration tax for small and medium category motorcycles, in line with the decrease effected for passenger cars in 2012. Also, the registration tax for electric and hybrid motorcycles would be decreased to zero, in line with the 0 tax for electric passenger cars.

Public health product tax
Modified tax rates

The bill proposes the uniform 20% increase of tax rates, and the increase from 7 HUF/l to 15 HUF/l in case of beverages.

Abolishing the tax benefit of health protection programmes

According to the effective regulation if the taxpayer launches a health protection programme (a programme facilitating healthy living, meals, sports), then they may deduct the related costs from the public health product tax (up to 10% of the tax). The bill intends to cancel this tax benefit. The benefit would, however remain available in a way that taxpayers could offer maximum 10% of their tax as contribution to the health preservation programmes organised by the administrative body responsible for healthcare.

Tax on alcoholic beverages

Also considering the infringement procedure of the European Commission, the bill would modify the provisions of the Public Health Product Tax on "alcoholic beverages", pursuant to which alcoholic products under the excise tax act would qualify as alcoholic beverages for legal purposes.

Amendments relating to the rules of taxation
EKAER reporting

For the purpose of meeting the reporting obligation related to the road transportation of goods, in the application of tax laws, the classification system effective on 1 January 2018 shall be observed in the case of the Commercial Customs Tariff (Vtsz.) effective on 1 January 2018 and the classification system for products and activities (TESZOR) of the Central Statistical Office. Subsequent (interim) changes of the classification system will not modify the tax liability.

Return of the default interest

Back to the regulations effective before 1 January 2018, the bill reintroduces a default interest payable by the tax authority in cases where the tax authority's ruling went against the law and the taxpayer becomes entitled to reimbursement. In this case the tax authority is liable to pay an interest equivalent to the amount of the late payment penalty on the amount to be reimbursed, except if the faulty tax assessment was for a reason attributable to the taxpayer or the provide of the data.

Increased late payment penalty

As of 1 January 2019, the late payment penalty would increase from the current double central bank interest (0.90% – 1.80%) to a rate increased by five percentage points (5.90%), further increasing potential sanctions in case of adverse findings of a tax audit. The late payment penalty imposed on the tax difference to the debit of the entity that qualifies as a high risk taxpayer at the time of assessing such penalty is the 1/365 part of the 150% of the late penalty calculated under the general rules for each calendar day. The self-revision surcharge is unchanged, equal to the central bank rate. In case of repeated self-revision, the self-revision surcharge is one and a half times the amount thus calculated.

Clarification for taxpayers with different business years

The CIT filing deadline is duly applicable to taxpayers with different business years provided that – as stipulated by the bill – the taxpayer pays the corporate income tax (the difference between the tax advance paid and the CIT difference assessed for the tax year) by the last day of the fifth month following the tax year, or reclaims it from this date.

Increased number of "one-stop shop" system users

Taxpayers not settled in the Community territory may also register for the one-stop shop system if the taxpayer – for any other reason – already has a tax number in any of the Community member states. Upon registration the taxpayer is only required to declare that it has not settled in the territory of the EU.

Reporting a foreign bank account

It has been specified that companies subject to a company court registration have to report to NAV all the valid bank accounts at foreign financial institutions, i.e. payment accounts, the name of the foreign financial institution managing the account, as well as the days of opening and closing the bank accounts.

Changes pertaining to the tax authority's execution proceedings
The bill supplements the system of terms of limitation by adding that in the future any execution event will interrupt the term of limitation (4 years) for certain actions. The rule – that the vehicle of a debtor who uses the car for his business activities may not be retired from traffic for a period specified by law, only its registration may be seized – will not only be applicable in tax collection procedures.

Introducing a special tax on aid groups which support migration
The bill would introduce a new special tax to facilitate the contribution of aid groups which support migration to the central budget. The tax liability covers the financial support of any activity aiding migration in Hungary (irrespective of the nationality of the aid group) and the financial support of an organisation aiding migration, registered in Hungary (irrespective of where this organisation is engaged in activities).

With respect to the tax liability, the bill defines the concept of activities that support migration. Such activities include media campaigns and seminars facilitating migration, participation in such campaigns, network construction and operation, activities promoting migration if these are performed to facilitate migration (the permanent move of people from the country of residence to a different country). The concept of migration does not include the movement of individuals with the right of free movement and residence.

The tax base is the amount of the financial support (e.g. amount transferred, movables provided), and the tax rate is 25%. The taxable person is primarily the organisation providing the support, which is obliged to make a statement to the recipient of the aid by the 15th day of the month following the month of support (by the statutory tax filing deadline) on the fact that the tax liability has been paid. If the organisation providing the support fails to make this statement, then the recipient of the support (the aid group which supports migration, seated in Hungary) becomes the taxable person. Political parties and party foundations are not subject to the tax, nor organisations whose exemption is granted by an international treaty or reciprocity.

The provider of the support and the recipient of the support are required to assess, file and also pay the special tax by the 15th day of the month following the support and the 15th day of the second month following the support, respectively. NAV is the responsible authority with respect to the special tax.

Contacts Details

Marcell Nagy
Tax&Legal Marketing Business Partner
Tel: +36 1 428 6737
Mobile: +36 30 555 0501
Email: mnagy@deloittece.com