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2017 legislation amendments

On 22 November 2016, the Parliament passed the 2017 tax bill ('the Bill'). After signature from the President, the Bill is expected to be published between 28 and 30 November.

Please find below a summary of the amendments passed.

25 November 2016

The Government recently announced that the corporate tax rate would be reduced to a single flat rate of 9% and that the social tax would be reduced from 27% to 22%. These tax cuts are not included in the current amendments but are expected to be proposed and passed by the Parliament within the coming weeks.

Personal income tax

- **In kind benefits:** As of 1 January 2017, the Bill will reduce the adjustment of the payer's tax base from the current 1.19 to 1.18. As a result, the overall tax burden due on non-wage and certain defined benefits will decrease from 34.51% to 34.22% and from 49.98% to 49.56%, respectively.

  Those benefits that qualify as non-wage benefits as per the rules applicable on 31 December 2016 (currently approximately 34.5% overall income tax and health tax are applicable) may be provided to the employees as certain defined benefits. These benefits will potentially be subject to 49.5% overall income tax and health tax liability. As of 2017 these will be applicable without any limitations to their amounts.

- **Long-term investment contract:** The Bill allows partial withdrawal and defines the day when the income is to be assessed.
- **Use of personally owned vehicle for business purposes:** Flat rate compensation of HUF 15 per kilometre will be reimbursed/allowed for the vehicle's business usage replacing the previous benefit of HUF 9 per kilometre.
- **Tax relief:** Allowances for young couples in first marriages will be available within the first 24 month period from the date of marriage even if they become eligible for family tax allowance. As per the Bill, the scope for being eligible for family tax allowance will be extended. Administration will be simplified regarding family and personal tax allowances.
- **Film production:** Film production staff may also opt for the simplified taxation (solely if the legal relationship with the employer commenced in 2017). Travel and accommodation cost reimbursements will not qualify as income while the 30% standard costs deduction will not apply.

Social tax

The Bill includes amendments that will affect the social tax relief applicable to permanent job seekers and to employees receiving maternity benefits.

Another important change is that the social tax (social security) liabilities of internationally mobile employees will reflect their

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coverage period in Hungary. For example, if a compensation element is paid when the individual is already subject to Hungarian social tax (social security) but during the reference period of this benefit he/she was not yet obliged to pay social tax (social security) in Hungary (e.g. a bonus for a period prior to the Hungarian social security coverage), then the respective amount will not be subject to social security consequences irrespective of the payment date. The rule is applicable retroactively as of 1 July 2015.

Health tax

As of 1 January 2017, the 6% health tax on interest income and time deposit interest from long-term investment contracts will be repealed.

Corporate income tax

- **Supporting start-ups**: The Bill supports the development of start-up enterprises by introducing tax base deductions for investment in start-up companies under certain conditions.
- **Damage Mitigation Fund support:** 50% of the donation granted to the Damage Mitigation Fund may also be deducted from the corporate tax base.
- **Monument maintenance and renovation:** Objects and activities which qualify taxpayers as eligible for deduction have been clarified. If the project is carried out for cultural heritage purposes the deduction will also be available for construction projects under the Accounting Act. The range of eligibility will be increased.
- **Tax incentives:** A new tax incentive has been introduced for the commissioning and operation of facilities serving energy efficiency purposes.
  The Bill supports projects by easing the requirements to increase staff and staff costs for development tax incentives.
- A number of changes and clarifications have been introduced regarding the corporate income tax obligation of taxpayers transitioning to IFRS financial statements.
- The rules on depreciation of goodwill have been clarified.
- The administrative requirements applicable to transfers without consideration has been specified.

Local taxes

Local business tax

Based on the Bill, as of 1 January 2017 the compulsory group level determination of the local business tax (LBT) base (including the group level determination of the tax base decreasing items applicable digressively to intermediated services and cost of goods) will be applicable only to those enterprises, which became related parties by means of demerger following 1 October 2016. Taxpayers with non-calendar tax years may apply this modification for the first time from the tax year commencing after 30 September 2016.

As of 1 January 2015 accounting standards applicable to credit institutions and financial enterprises allow for credit institutions to account for the sale of purchased receivables both on a gross and on a net basis. This resulted in various LBT bases for the taxpayers. The Bill allows the net sales revenue for LBT purposes to be calculated on a net bases (even in the case of gross accounting treatment). As such the tax base will not differ in the results obtained by applying the two above mentioned methods. This modification will be applicable retroactively to both 2015 and 2016.

In addition to the above, the Bill includes a number of changes and clarifications regarding the local business tax obligation of taxpayers transitioning from HAS to IFRS financial statements.

Building tax and land tax

The Bill contains clarifications to the exemption rules applicable to building tax and land tax. The Bill clarifies that exemption may also be applicable if the tax is determined on the basis of the adjusted market value (in the case of partial exemption, the calculation based on square meters should be applied). The Bill also clarifies that additional spaces, restrooms and outbuildings related to houses are not part of the tax base in the adjusted market value method.

As of 1 January 2017, special organizations (e.g. foundations, associations, nonprofit business associations) must submit a written statement of their exemption from the building and land taxes in connection with buildings or land serving the purposes of the main activities of the company. In order to apply such exemption, this statement must be submitted by the end of the tax year’s fifth month. This statement will qualify as a tax return.

Act on duties

As of 1 January 2017, RETT will be increased to 3% generally for real estate trading and leasing companies. The current 2% rate for RETT will be subject to further conditions. It will solely be applicable if the tax payer who acquires real estate properties undertakes not only to sell the asset to an independent party, but to carry out the resale contract (i.e. that the resale contract is effectuated). To ensure that the additional transfer tax and related penalties can be collected in case of non-compliance, the Bill introduces new statute of limitation rules for these types of acquisitions.

Value added tax

Based on the Bill, the threshold of VAT exemption for small and medium enterprises will increase from HUF 6,000,000 (approx. EUR 19,500) to HUF 8,000,000 (approx. EUR 26,000) per year.

Advertising tax

The Bill clarifies that in the case of online advertising the taxpayer should be the person or the company having the right of disposal over the given, online advertising space.

The Hungarian Tax and Customs Authority ('the HTCA') maintains an official registry of advertising publishers. Based on the current legislation, publishers are removed from the official registry (among others) if the taxpayer's tax liability exceeds HUF 100,000 on the first day of a calendar month. Based on the Bill, this threshold may be calculated on a net basis (instead of the previous gross basis).

The Bill terminates the special tax calculation rule regarding related parties. Currently, in certain cases the advertising tax base of related parties should be aggregated and the tax payable should be allocated between the related parties in proportion to their tax bases.

Company car tax

The Bill specifies the exemption requirements for vehicles used for social purposes. In addition, environmentally friendly vehicles will be exempt from company car tax, vehicle tax and registration tax.

Financial transaction duty

The Bill includes a number of clarifications regarding financial transaction duty (e.g. the term 'sale by means of payment instrument' has been modified). The Bill also introduces a new tax relief for payment service providers reporting at least a 20% increase in their customer receivables pertaining to payment services between the two balance sheet dates (the current one and two years ago). The tax relief is 0.6% of the reported increase. However, it may not exceed either 80% of the annual financial transaction duty or HUF 300,000,000.

Excise Duty

The Bill includes several provisions in line with the regulations regarding tobacco products applicable as of 1 January 2017.

In addition, the Bill includes detailed transitional provisions pertaining to the deferred entry into force (1 April 2017) of the new excise duty legislation.

Customs Duty

The Bill introduces new regulations for determining the deadline of the official procedures related to custom duties. Further procedural rules regarding the review and revaluation of licenses granted under the previous regulation will be introduced.

If the information is related to the customs activity of a taxpayer, the information registered in the e-system of the HTCA may be provided to the taxpayer (for a fee).

Act on the rules of taxation

- **Reliable and non-reliable taxpayers:** Additional conditions to qualify for the reliable taxpayer status have been introduced. Reliable taxpayers are required to have a positive tax performance in the given tax year. Payment relief options for reliable taxpayers will include not only payments in instalments but deferred payment as well. The upper threshold for payment relief will increase from HUF 500,000 to HUF 1,500,000 (approx. EUR 4,800).
  The term 'seat providers' has been introduced. Companies receiving services from seat providers are obliged to notify the HTCA.
  Additionally, taxpayers qualify as non-reliable taxpayers, if
    - they have their registered seat at seat providers and
    - they had to pay default penalty due to obstruction of tax proceedings (in the current or the past three tax years).
- **Automatic control equipment (ACE) for vending machines:** As of 30 June 2017, a new ACE obligation will be applicable to automated vending machines (selling food and beverages). Taxpayers may be exempt from this obligation until 1 January 2018 under certain conditions. Non-compliance with the ACE obligation may result in default penalty up to HUF 10,000,000.
- **Electronic Public Road Trade Control System (EKÁER):** Stricter rules will be applicable to risk guarantees. As of 15 February 2017, the term 'new reporting obligor' will be introduced. The new reporting obligor will have to pay a risk guarantee on its first few intra-Community acquisitions and the first domestic supply of goods subject to VAT upon reporting these transactions.
  Based on the amendment, in the case of on-the-spot controls or other type of audits if the products do not have appropriate certificates of origin and destination, the HTCA may place the products under regulatory supervision.
- **Personal income tax return draft:** The HTCA will prepare the draft personal income tax return of taxpayers by 15 March (if

the taxpayer does not opt out), which may be amended until 20 May. As a result of the above the application of tax declarations and simplified personal income tax returns will cease to exist.

- **VAT returns:** During the reporting periods following 31 December 2016, taxpayers are obliged to report the vehicle identification numbers of vehicles that were subject to VAT as a result of import or intra-Community acquisition.
  As of 1 July 2017, the maximum amount of the default penalty for non-compliance with the electronic data provision obligations will be the applicable maximum of the default penalty (HUF 500,000, in the case of non-individual taxpayers) multiplied by the number of the given invoices and other relevant documents.
- **Support process:** New regulations will be applicable to the risk analysis procedure of the HTCA. A procedure which serves to support taxpayers have been introduced.
- **Arm's length price:** Taxpayers will not be able to submit appeals to resolutions regarding advance pricing agreements (APA), APA modification and APA prolongation requests. These cases may only be reviewed by the court.

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