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Breaking Tax News

Amendments to the Advertising Tax

In contrast to our monthly Tax News+, in our Breaking Tax news you will be informed immediately of regulatory changes affecting your business but without commentary by our experts.

We would like to draw your attention to the fact that the Hungarian Government recently published a draft amendment on Advertising Tax ("Draft Amendment") (http://www.kormany.hu/download/c/95/50000/reklamado_normaszoveg.pdf#!DocumentBrowse). The Draft Amendment is the result of the European Commission inspection. Suggestions related to modifications may be made until 9 May 2015.

The European Commission has instigated an in-depth investigation on whether certain provisions related to advertising tax comply with EU state aid regulations. The Commission has concerns about whether the progressive tax rates and the rules on the deductibility of previous losses selectively favor certain companies, thus, providing them with an unfair competitive advantage. The Draft Amendment contains some new rules and options which may modify the taxpayers' tax liabilities. These potential modifications may be effective currently and retroactively (i.e. for 2014). We suggest carrying out a review of the previous years' financial structuring, tax calculations and budget.

The Draft Amendment aims to:

- decrease the taxable limit of revenues deriving from advertising activities from 500 million HUF to 100 million HUF (i.e. under 100 million HUF the tax rate is 0 percent)
- introduce a uniform tax rate of 5.3 percent on amounts exceeding the 100 million HUF threshold
- decrease the tax rate from 20 percent to 5 percent in the case of ordering advertisements, if the recipient does not meet the requirements set forth for exemption ("reverse tax liability")
- to limit the application of tax base consolidations with respect to related parties, if the related party status is the result of a demerger (subsequent to 15 August 2014)
- revoke the limitation regarding the utilization of tax losses carried forward (up to 50 percent of the tax base). In the past according to the limitation the tax losses carried forward were only deductible in 2014 if the taxpayers' pretax profit in 2013 was negative or nil.

The Draft Amendment makes it possible for the taxpayer to apply the modified taxable limit and tax rate retroactively at its own discretion. This option does not apply to the reverse tax liability. The application of the new tax base consolidation rule may also be apply retroactively at the discretion of the taxpayer.

Furthermore, as of 1 January 2015 if the requirements set forth for exemption have not been met then the advertisement expenses which exceed 30 million HUF will be non-deductible for corporate income tax ("CIT purposes"). Pursuant to the Draft Amendment the new rules may be retroactively applicable.

Those taxpayers choosing not to apply the new rules retroactively must apply both the current and the new rules (as of the acceptance of the Draft Amendment) proportionally. Self-revision should be carried out by the taxpayer if the advertising tax liability becomes subject to modification due to the revocation of the limitation on the utilization of losses carried forward.

Based on the Draft Amendment (with special regard to the options detailed above) we suggest carrying out a review of the previously calculated advertising tax liabilities or the lack of such liabilities.

Should you have any remarks or questions regarding the above, please contact our professionals:

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