Transition rules issued for new 10% corporate income tax rate

Tax Alert

The aim of this Newsletter is to inform our clients of the effect of recent transition rules relating to the application of the favourable 10% corporate income tax rate in 2010.

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Tax advisory

Transition rules issued for new 10% corporate income tax rate

On 30 August 2010, the Hungarian state tax authority (APEH) published a guideline on the transition rules relating to the new 10% corporate income tax rate. The reduction of the corporate rate from 19% to 10% was adopted by Parliament on 22 July 2010, but it applies retroactively as from 1 July 2010. The 10% rate applies to a tax base up to HUF 500 million, with the 19% rate continuing to apply to a base exceeding this ceiling, without having to meet any additional criteria. Our newsletter focuses on two key points of the above referred APEH guideline.

Transition rules

Accord to the transition rules, the new 10% rate applies for purposes of calculating the 2010 tax base retroactively as from 1 July 2010. In practice, this means that the tax base must be made on a divided tax year basis. The tax liability for the period before 1 July 2010 should be calculated in accordance with the previous -- and more stringent – rules (i.e. HUF 50 million threshold and meeting other criteria), while the tax liability for the second half of the year should be calculated under the new and more favourable rules, i.e. the 10% rate can be applied to a tax base up to HUF 250 million, without having to meet any further requirements. The HUF 500 million base is applicable as from 1 January 2011.

To mitigate the administrative burden on taxpayers, the transition rules do not require the preparation of an interim balance sheet for the divided year, but instead stipulate that the calculation be divided pro rata according to the number of calendar-year days before and after the rate change. However, this also means that the divided year tax base will not take into account the distribution of costs and income during the year.

Who can apply the transition rules?

For purposes of applying the 10% corporate income tax rate for the calculation of the 2010 tax liability, calendar-year taxpayers must divide the tax base as explained above, in proportion to the number of calendar year days before and after the rate change. Thus, if a company operates for the full year, the proportion 181:184.

Taxpayers that use a different fiscal year, or those that are subject to voluntary dissolution, must calculate their 2010 tax liability in accordance with the rules in effect on the first day of their tax year, irrespective of the transition provisions. According to the APEH guideline, taxpayers with a fiscal year different from the calendar year and whose fiscal year commenced before the effective date of the transitional rules (i.e. on 15 August 2010 or before) may not use the rules under the 10% tax rate for this tax year but instead are subject to the previous rules. Consequently, taxpayers with a different fiscal year cannot apply the favourable rules for 2010 if the first day of their fiscal year fell between the date the 10% rate became effective (1 July 2010) and the day before the transition rules became effective (15 August 2010).

Taxpayers whose fiscal year corresponds to the calendar year but for some reason 2010 is a fragmented year (transformation, pre-company, etc.) must divide the tax base in proportion to the number of calendar-year days in applying the 10% rate.

Should you have any questions relating to the application of the 10% corporate income tax rate or the division of the tax base, please do not hesitate to contact us.

Contact

Contact If you have any questions or comments concerning the above, please contact one of our tax experts below:

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