

# Tax Law Changes 2012

## Tax Alert



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**This Newsletter looks at amended accounting and tax laws and related regulations adopted by Parliament on 21 November 2011.**

The final modifying act was promulgated on 29 November 2011 and most of the amendments enter into force as from 1 January 2012.

## Personal income tax

### Tax base supplement

Unlike in the original bill, the tax base supplement will no longer apply to gross annual wages up to HUF 2,424,000 (above which a 27% supplement is used). Consequently, the tax rate on the first HUF 2,424,000 will be 16% (currently 20.32%) and the rate on wages above this limit will remain 20.32%.

### Family tax credit

Families eligible for the child benefit (even if unclaimed) also will be eligible for the family tax credit (the rate of which remains unchanged).

### Tax advance deduction

The amended act reduces the available exceptions to the requirement to withhold tax on payments made to a private entrepreneur or a primary agricultural producer. Declarations related to such withholding are regulated by the amended tax laws.

As opposed to current rules, private individuals will only be entitled to deduct costs up to 50% of the revenue.

### Defined benefits

Similar to rules in effect before 1 January 2011, benefits provided by an employer will qualify as "defined benefits" if the same benefits are granted to all employees under the same terms and conditions or if based on a policy available to all employees.

Business gifts and entertainment costs will be taxable, subject to a few exceptions.

As a supplement to the regulation that applies as from 1 January 2011, up to 25% of the minimum wage (individual value) costs borne by the payer in relation to gifts provided to participants in events staged by the payer for several private individuals free of charge or at a discount will qualify as defined benefits.

Promotional benefits that do not qualify as tax-free benefits or business gifts and are not subject to Act XXXIV of 1991 on the Organization of Gambling also will qualify as defined benefits.

That portion of the annual total value of non-wage benefits exceeding HUF 500,000 (or lower amount if the employment is terminated before year-end) will qualify as defined benefits.

### Non-wage benefits - Cafeteria elements

As from 1 January 2012, amounts transferred to the catering account of the Széchenyi Recreation Card (maximum of HUF 150,000 annually), the accommodation account (maximum HUF 225,000 annually) and the leisure time services account (maximum HUF 75,000 annually) will qualify as non-wage benefits.

Cafeteria elements also include a monthly HUF 12,500 provided to the employee for eating in an employer-provided canteen at the work place.

The Erzsébet voucher is introduced for the purchase of "ready to eat meals," and amounts received up to HUF 5,000 per month will be classified as non-wage benefits. Under the amended act, this voucher may be used for the purchase of hot meal services in restaurants.

The provision of Internet services will no longer be considered a non-wage benefit. The rules governing other benefits (e.g. school enrolment support, local travel passes, vocational training costs, etc.) remain unchanged.

### Company car tax

The company car tax payment obligations are amended. The monthly tax rate will change as follows based on engine power (kW) and environmental classification:

Engine power of the car (kW)	Environmental classification		
	Classes 0-4	Classes 6-10	Classes 5 and 14-15
0–50	HUF 16,500	HUF 8,800	HUF 7,700
51–90	HUF 22,000	HUF 11,000	HUF 8,800
91–120	HUF 33,000	HUF 22,000	HUF 11,000
above 120	HUF 44,000	HUF 33,000	HUF 22,000

### Definitions

The amended act introduces new definitions (e.g. business activity, Erzsébet voucher) and modifies some existing definitions (e.g. business gift, transportation of a group of passengers).

## **Exchange rate calculations**

The rules for converting to HUF income generated or expenses paid in foreign currency will be harmonized.

## **Income from property**

An individual subletting an apartment while renting a second apartment in a different town will be able to deduct the rent paid on the second apartment from income earned from subletting the first apartment.

## **Sale of movable or immovable property**

For sales of movable or immovable property as part of a business activity, legal provisions pertaining to independent activity must be applied. The income need not be assessed if total income from the sale does not reach an annual amount of HUF 600,000.

The tax treatment of income derived from the sale of real property recharacterized from arable land is different from the general rules. The tax rate applicable to income exceeding an arm's length profit is three times higher than the general rate, i.e. 48%.

## **Interest-free loan/non-refundable grant provided by employer**

No taxable income arises from an interest-free loan provided by an employer to an employee to enable the employee to make a lump sum repayment of a third-party loan.

Under the amended regulation, the first HUF 7,500,000 of a nonrepayable grant provided by an employer to an employee to enable the employee to make a lump sum repayment of a third-party loan is exempt from tax. This rule applies to grants provided between 29 September 2011 and 28 February 2012.

## **Income from accident and health insurance**

The amendment supplements the provisions of schedule 1 to the law governing tax-free accident and health insurance.

## **Per diem fees**

Similar to laws in effect before 1 January 2010, a per diem fee up to EUR 15 is an eligible cost in relation to an assignment abroad.

## **Reporting of nonresident individuals for tax purposes**

The act clarifies that a Hungarian employer has a reporting obligation with respect to nonresident individuals assigned to its office or site if a personal income tax liability is expected to be incurred.

## Deadline for annual tax returns

If an individual taxpayer reports to the tax authority with an explanation as required by law that he will submit his return with a delay, no default penalty may be imposed before 20 November of the year following the tax year.

## Health care contribution

As from 1 January 2012, a 10% health care contribution will be payable on the amount of non-wage benefits that constitute the tax base (below an annual HUF 500,000).

## Social Security

The range of insured persons will be expanded (e.g. to include business partnerships).

The health care and labour market contributions payable by employees will increase from 7.5% to 8.5%, and the monthly amount of the health care service contribution will increase from HUF 5,100 to HUF 6,390.

To broaden the contribution base, the exemption of certain income (severance pay, loyalty bonus, leave pay, etc.) from the health care contribution will be abolished. In the event of multiple insurance liabilities, the exemption from the health insurance contribution (2%) is eliminated for insured persons working at least 36 hours per week.

The minimum health insurance and labour market contribution will be increased for sole traders and company members (to 1.5 times the minimum wage).

Based on the amended act, a third-country citizen will be exempt from Hungarian social taxes on secondments beginning from 1 January 2012 that do not exceed two years.

## Social contribution tax

As from 1 January 2012, a 27% social contribution tax will replace the employer's social security contribution. The definition of payer is different from that stipulated in general rules of taxation, and includes, for example, foreign employer.

The tax must be assessed and paid by the 12th of the month following the month to which the liability applies.

Tax benefits may be deducted from the social contribution tax. If the wages are raised as required by the government decree the monthly tax benefit rate is 21.5% per employee in 2012 on the first HUF 75,000 of the base and 16% above that amount.

Where a Hungarian individual is seconded abroad, and the activities performed under the legal relationship between the individual and the employer to which the individual is seconded does not give rise to income taxable in Hungary, the social contribution tax base is the personal base wage paid under the employment contract in the month preceding the

assignment. If there is no wage base for the preceding month, the current month personal base wage will apply.

Based on the amended regulation, an employee is not subject to a social contribution tax liability if he/she pays contributions in another EEA member state or any country with which Hungary has signed a bilateral SPA or is exempt from liability under the SPA as a citizen (not a resident or refugee) of the other country.

## **Corporate income tax**

### **Notified intangible assets**

The concept of “notified intangible assets” will be introduced (similar to the concept of notified shares), under which income from the sale or contribution of royalty generating intangibles will be exempt from corporate income tax in certain instances, provided the taxpayer notifies the tax authorities within 60 days following the date the assets are acquired and records the assets on its books for at least one year. (The deadline for notification will be extended to 60 days for notified shares as well.)

Gains from the sale/contribution of “un-notified” intangible assets may be deducted from the tax base if the taxpayer sets aside an allocated reserve from the profit reserve up to the amount of the gain (similar to a development reserve) and uses that reserve for the purchase of intangible assets in the following three tax years.

### **Flat 10% tax rate**

The act abolishes the previously passed provision that would have uniformly lowered the corporate income tax rate to 10% irrespective of the tax base (which would have applied as from 2013). Accordingly, the current corporate income tax rates will remain in effect, with the generally applicable 19% rate and the preferential 10% rate applying to up to HUF 500 million of the tax base.

### **Donations**

The amended act provides a tax base reduction for gratuitous transfers and services provided to the National Cultural Fund (as well as to the Hungarian Relief Fund).

### **Thin capitalization**

Under amendments to the thin capitalization rules, (a) items that increase the tax base will include deemed interest expense that may be deducted when there is a transfer pricing adjustment; and (b) taxpayers will be able to deduct from the liability considered for thin capitalization purposes amounts on-lent and all other cash receivables recognized within investments, receivables or securities (i.e. the daily average balance in the tax year) in the balance sheet.

## Loss carryforwards

Under the amended act, the use of losses carried forward will be limited to 50% of the current year's taxable income. Further limits will be imposed on the carryforward of losses in the case of a transformation or changes in the direct or indirect control of the taxpayer under the Civil Code.

In a departure from the bill, the carryforward of losses where majority control in the taxpayer has been acquired (except for a transformation) will be permitted only if: (i) the majority shareholder (or its legal predecessor) and the taxpayer were associated parties in the past two tax years on a continuous basis; or (ii) shares of the taxpayer or the majority shareholder are at least partly listed on the stock exchange; or (iii) the taxpayer continues its activities, which are not significantly different in nature from the activities carried out before the majority control was acquired, for the next two years and generates income from such activities in both years.

In a legal transformation, the legal successor will be able to utilize losses only if (i) the direct/indirect majority shareholder of the legal predecessor as per the Civil Code (even if the direct/indirect majority control is exercised by its related party) remains the majority shareholder(s) of the legal successor; and (ii) in the two tax years following the transformation, the legal successor generates income from at least one of the activities carried out by the legal predecessor (except for asset management).

## Depreciation

Newly added to the bill, the taxpayer will have the option to apply depreciation rates lower than those prescribed by the Corporate Income Tax Act provided the depreciation used is not lower than depreciation for accounting purposes.

## Deductible costs

Business entertainment costs and business gifts will again qualify as costs incurred in the course of business operations and, therefore, will be deductible expenses. As from 2012, charitable donations and expenses recognized on transfers without consideration based on a legal regulation also will qualify as deductible expenses.

## Accounting Act

### Financial year other than calendar year

All businesses, other than financial enterprises, credit institutions and insurance companies, will be allowed to adopt a financial year different from the calendar year, subject to certain criteria (e.g. being able to justify the use of the different tax year and provided the company has closed three business years).

## Foreign exchange rate

Businesses will be able to choose (for as early as the preparation of the 2011 financial statements) to apply the corresponding regulations under the VAT Act for the purpose of converting receivables and liabilities denominated in foreign currency into HUF, provided the taxpayer's internal accounting policy allows this application.

## Accounting for foreign taxes

Similar to the calculation of corporate income tax, businesses will be able to recognize foreign taxes that correspond to Hungary's corporate income tax (and tax payable on income that is exempt from corporate income tax in Hungary) on an after-tax basis rather than including them in other expenses.

## Filing of financial statements

As from FY2011, the deadline for submitting financial statements (other than consolidated financial statements) is the last day of the fifth month following the balance sheet date of the fiscal year, thus harmonizing the deadline for submitting the statements with the tax return filing date for calendar year companies.

## Document retention

As from FY2011, the document retention obligation for accounting source documents, financial statements, general ledgers and other analytical records will be eight years.

## Interim dividends

The Companies Act will be amended to ease the administrative burden of interim dividend payments by allowing companies to rely on data from a financial statement or interim balance sheet prepared within the six months preceding the payment

## Value added tax

### Rate increase

The general VAT rate will increase to 27% (from 25%) as from 1 January 2012. The transition rules on the rate increase did not change, such as the specific treatment of contracts for continuous supply and fixed-term contracts, as well as the settings of taxi meters and cash machines. However, the applicable rate may not be obvious for continuous supply and fixed-term contracts if the settlement date, i.e. the due date for payment, is after 1 January 2012.

### Deductible VAT on lease of passenger cars

The prohibitions in the VAT Act on the deductibility of pre-charged VAT on the lease of passenger cars (and other vehicles) will be eliminated. Thus, as from 1 January 2012, VAT charged on the lease of passenger cars will be deductible under the general VAT deduction rules (provided the taxpayer can show that the car is being used for taxable purposes).



## Invoicing liability

As from 1 January 2012, a taxpayer must issue an invoice even if the transaction falls outside the scope of the VAT Act and the taxpayer has a permanent establishment in another EU member state (but in a state different from the place of performance, or a third country) but the domestic head office or permanent establishment is the party most directly involved in the transaction.

## Rules governing tangible assets

With respect to the subsequent monitoring of tangible assets and the adjustment of the previously deducted input VAT, the amended act clarifies that an adjustment must be made uniformly in the last tax assessment period of the calendar year based on the deduction ratio calculated for the given calendar year. Rules governing the calculation of the deduction ratio will slightly change as from 1 January 2012. The VAT Act is supplemented by rules governing self-manufactured assets, where the adjustment obligation is linked to the date of commissioning. Transitional rules apply to the applicability of adjustments.

## Tax warehousing

In line with EU regulations, the tax warehousing procedures are modified so that the tax liability will be borne by the party dispatching the goods. Moreover, the definition of “dispatcher” is amended to include the last purchaser of the product to whom the last certified seller sold the product.

## Procedural rules

The tax authorities are required to publish on their website whether a taxpayer opted to charge VAT on the sale of real property rather than benefit from an exemption. This provision will simplify administrative procedures for taxpayers.

The VAT and European Sales Listing (ESL) filing obligations are harmonized by making VAT filing compulsory for taxpayers with an ESL filing obligation.

As from 1 January 2013, taxpayers will be required to make an additional statement in connection with the data of invoices concerning which they exercised their right of input VAT deduction in the period concerned and which were issued on product and service deliveries incurring VAT obligation in the reporting period concerned. The act furthermore authorizes the minister responsible for tax policy to set forth in a decree the rules of this obligation in details..

## Chain transactions

As opposed to former regulations, as from 1 January 2012 only the intermediary entity in the chain will have the option to reverse the existing legal presumption qualifying it as a purchaser in a chain transaction.

## **Sequential sale of real properties**

The definition of 'sequential sale' is amended, so that residential building land (plots) formed as a result of dividing a plot will qualify (irrespective of the number of plots) as one single building land (plot) when determining the 'sequence' nature of sale.

## **Environmental tax**

The amendment modifies the Act LXXXV of 2011 on Environmental Tax passed on 4 July 2011. The primary purpose of the modifications is to provide clarification and to eliminate questions in respect of the interpretation of the new rules of environmental tax.

## **Products and related activities subject to environmental tax**

The amendment clarifies that, from 1 January 2012, the environmental tax payment liability arises at the first domestic distribution or usage for own purposes of the packaging material instead of packaging in general. The range of packaging materials subject to the tax will be listed in the "catalogue of packaging materials" defined in the decree on the execution of the act, which provides practical details on compliance issues. The definition of distribution is extended to the first domestic transfer of the ownership of products – subject to environmental tax – free of charge.

The above change demonstrates a shift in the range of taxable entities, as well, since the main purpose of the amendment is to impose the environmental tax payment liability (in the case of packaging material produced in Hungary) on the company producing the packaging material instead of on the entity carrying out the actual packaging activity.

## **Assumption of obligation based on declaration**

In specific cases, the supply of packaging material may be exempt from environmental tax based on the declaration issued by the first customer. Please note that in respect of the above declaration, the customer will be subject to the provisions applicable to the tax audit of taxable entities if it acts contrary to the declaration.

## **Assumption of obligation based on contract**

As it was set out in the regulations passed in summer the exemption from the obligation to pay environmental tax through the assumption of the obligation based on contract concluded with exempted recycling coordinators will be abolished. At the same time, the law introduced various options of assuming the obligation under other types of contracts in respect of packaging material.

## **Indication of environmental tax on invoices**

The amendment extends the range of cases defined in the law passed in summer where it will be mandatory to indicate the amount of the environmental tax in the invoice. It means that it will be compulsory to

highlight the amount of the environmental tax in the invoice in case of the supply of packaging materials.

### **Environmental tax advance**

As from 1 January 2012, the range of environmental tax related obligations is extended to include assessing, declaring and paying environmental tax advance. The tax advance will be assessed for the fourth quarter of the calendar year in an amount equalling to 80% of one-third of the amount of environmental tax paid for the first three quarters of the calendar year.

### **Amount of environmental tax**

The amount of tax has been raised practically in respect of every product subject to environmental tax compared to the amounts defined in the law enacted on 4 July 2012.

### **Excise tax**

Only slight modifications were made to the bill, so that the new law is designed to promote compliance with EU regulations, reduce the administrative burden on businesses, simplify the rules that apply to small breweries and home distilleries and close loopholes.

A key provision provides that the group of reliable licence holders will be extended to include parties holding an authorised economic operator (AEO) certificate, thereby allowing such parties to provide the required excise tax guarantee at 50% of the normal rate.

Unlike the bill, the tax authorities (instead of the customs office) will be responsible as from 1 January 2012 for issuing and registering customs IDs.

### **Vehicle registration tax**

In the interest of faster and simplified administration, the new act introduced electronic procedures for vehicle registration tax and defined the rules for initiating an electronic procedure, as well as the cases to which electronic procedure does not apply (restrictions). The law also allows taxpayers to be represented by their customs representatives on vehicle registration tax issues.

From 1 January 2012, EEA-based fleet operators engaged in leasing out vehicles also will be required to pay vehicle registration tax if they rent or lease out passenger cars owned or operated by them to Hungarian individuals for a period exceeding 1 day. Fleet operators must apply for tax assessment by the customs authorities within 15 days of renting out a passenger car. The customs authorities will assess the tax using the table and formulas included in the schedule to the act.

### **Public health product tax**

With effect from 1 January 2012, amendments to the public health product tax clarify the definitions of "pre-packaged products", "date of delivery", "taurine", "beer", "sugar sweetened cocoa powder" and "methylxanthine" (caffeine) and changed the definitions of "soft drink", "energy drink" and

"sugar sweetened product". In addition "flavoured beers", "alcoholic beverages" and "fruit flavour" were added to the range of taxable products.

As of 1 January 2012, soft drinks, sugar sweetened cocoa powder, pre-packed sugar sweetened products and snacks and condiments will be subject to the tax, with the rates increasing to HUF 7/liter, HUF 70/kg, HUF 130/kg, and HUF 250/kg, respectively (the tax rate on energy drinks will remain at HUF 250/litre). Flavoured beer and alcoholic beverages will be subject to tax at the rate of HUF 20/litre and fruit flavour at HUF 500/kg.

### **Solidarity surtax**

As from 1 January 2012, the Solidarity Surtax to Improve the Balance of General Government tax base for "other financial institutions" will be assessed on the basis of the positive or negative (net) amount of interest, fee and commission income.

The amendment defines new rules for taxable entities terminated with legal succession. The legal successor entity will be required to assess, declare and pay the solidarity surtax established for companies terminated with legal succession since 1 January 2011 in accordance with the rules effective in the fiscal year of termination. In addition, the act defines the solidarity tax payment obligation applicable to financial institutions founded without a legal predecessor and taxpayers using a fiscal year other than the calendar year.

### **Property transfer tax and procedural fees**

#### **Exemption upon real estate sale between affiliates**

Similarly to a related party transfer of shares in a business holding land and real property in Hungary, the sale of land and real property between affiliates no longer will be subject to property transfer tax. This exemption will only apply upon the sale of real estate if the buyer's core activity is buying and selling real property or letting out real property it owns.

#### **Leasing companies**

The preferential 2% rate on the acquisition of real property by real estate distributors will be extended to companies engaged in the business of financial leasing if at least 50% of the taxpayer's net revenue derives from the finance leasing of real estate (eligible activity). An exemption from the property transfer tax for vehicle and trailer purchases also will be allowed if 50% of the purchaser's net revenue derives from the sale or finance leasing of vehicles and trailers.

Any related party (i.e. transfer tax exempt) sale will not satisfy the revenue requirement, i.e. it will not exempt a company from tax liability.

## Vehicle transfer tax

The transfer tax on vehicles will no longer be assessed on the basis of the cubic capacity of the power engine, but on the engine's power output and the car's age according to a bracketed system (with a tax rate between HUF 300 and HUF 1200 per kilowatt). For utility vehicles with an engine power of over 120 kilowatt, the act caps the tax in the amount applying to all other vehicles with an engine power of over 120 kilowatt.

## Procedural fees

Several notable changes were made to the amount of various procedural fees. The most important changes are as follows.

The procedural fee was increased to HUF 50,000 (from HUF 5,000) in cases where the value of the subject of a supervisory procedure cannot be expressed in monetary terms and the procedure is conducted by the minister in charge of tax policy. Application for payment facilities and tax reductions will become subject to a procedural fee. The fee cap for first instance court procedures was increased to HUF 1,500,000 (from HUF 900,000) and the appeals fee was raised to 8% (with the cap increased to HUF 2,500,000 from HUF 900,000).

## Local taxes

### Communal tax

Parliament did not pass the bill proposing the introduction of a communal tax.

### Maximum building and land tax

Contrary to the bill proposed, the act does not amend provisions defining the cap on building and land tax, but it modified the definition of "land" to make the tax imposable on land outside the residential area and land with structures not qualifying as buildings. In future, only 50% of land that cannot be built on will be exempt.

### Local business tax base

The value of a subcontractor's performance is outside the definition of commissioned services, which will qualify as an individual deductible item for the purpose of assessing the local business tax base.

### Exemption of a foreign PE from local business tax

The act clarifies the tax base that is exempt from local business tax due to income from a foreign permanent establishment (PE). Similar to a domestic PEs, the exempt portion of the tax base may be determined according to any of the allocation methods designated in the schedule to the act.

## Accident tax

Parliament enacted an "accident tax" payable on compulsory third-party motor vehicle liability insurance by the insured (person or organisation

subject to the insurance obligation), with the tax to be collected by the insurance company providing the liability insurance. The tax is 30% of the annual compulsory insurance premium (including the non-coverage charge). The insurance company will collect the tax together with the insurance premium due and will be obliged to pay the tax even if it failed to collect the tax from the customer.

## **Research and development (R&D)**

### **Innovation contribution**

Companies will not be able to deduct their direct R&D costs from the innovation contribution as from 2012. Consolidated data must be considered in defining the category of micro- and small-sized enterprises that are not subject to the innovation contribution.

### **Consolidated definitions**

Different R&D definitions in various acts were consolidated in a single piece of legislation (Act CXXXIV of 2004 on Research and Development and Technological Innovation). Simultaneous to consolidating the definitions, some modifications were made to their scope. For example the creation of non-marketable prototypes may qualify as R&D (more precisely experimental development), while regular, periodical or ordinary changes to a product no longer belong to the R&D category.

### **Own R&D**

In line with the bill, the law defines the concept of “R&D carried out as part of a company's operations” that may be deducted from the corporate income tax base. Accordingly, R&D activity performed with the company's own tools and employees, either for its own profit at its own risk or upon the assignment of another taxpayer, also qualifies as R&D performed as part of the company's operation. Furthermore, “own R&D” includes cooperative R&D activities performed based on an R&D agreement.

### **Frascati Manual**

References to the Frascati Manual (an internationally recognized R&D resource) have been abolished, making its recommendations pertaining to R&D inapplicable. Only the newly defined rules can be used for identifying R&D activities.

### **Other changes affecting corporate income tax**

The provision whereby R&D wage costs and a given percentage of the wage costs of a software developer may be taken into account as a tax allowance for corporate income tax purposes has been abolished.

Direct R&D costs will not be eligible costs under Schedule 3 to the Corporate Income Tax Act if they are not related to the taxpayer's gainful business activity.

## Qualification procedure for R&D activities

With little detail, the law introduces the practice of having institutions conduct qualification procedures for R&D activities. It is certain, however, that, in the event of a tax audit, the Hungarian tax and customs authorities may involve the competent R&D authority in the procedure of qualifying R&D activities. (Binding ruling requests involving R&D qualification must include an attached copy of the preliminary certification issued by the competent R&D authority.)

## Tax administration

### Measures to tackle the underground economy

The law introduces a tax registration procedure, intensified reviews by the tax authorities and the ability to withdraw tax ID numbers directly without a preliminary period of suspension.

The tax registration procedure is designed to prevent persons with accumulated tax arrears, those that have committed serious offenses or those who became inaccessible to the tax authorities from establishing or operating a new taxable entity for a specified period of time. The tax authorities will be able to deny requests for a tax number for such persons wishing to establish a new company or to become officers or representatives in a company. Further, more information also will be required to register with the tax authorities.

Intensified reviews by the tax authorities will be conducted to closely monitor taxpayers during their first period of operation if a risk analysis justifies the review. The tax authority may even impose more stringent tax liabilities or withdraw tax numbers if specific circumstances prevail.

### Reporting uncertainty

A new option allows taxpayers to declare in the tax return their doubts about the accuracy of any indicated tax payable or refund amount due to difficulties in interpreting law. The option is subject to a procedural fee and countersignature. When finding a tax difference in connection with the transaction declared in this manner, the tax authorities may only adjust the amount of the fee instead of also imposing a tax penalty. (Such a declaration will not exempt the taxpayer from paying the amount of the tax deficiency.) However, the taxpayer is not allowed to report uncertainty when establishing the amount of VAT, innovation contribution, arm's length prices or tax relief. If the uncertainty is reported on unjustified grounds (e.g. clearly as a result of unauthorised interpretation of law), the tax authority may charge both the taxpayer and the countersignatory with a fine.

### Reporting termination of affiliated companies

The law makes reporting the termination of affiliates to the tax authorities compulsory.

## Extraordinary filing of tax return on termination

For legal entities not subject to a company registration obligation that are terminated without a voluntary dissolution, the extraordinary filing obligation will have to be fulfilled simultaneous to the decision to terminate without legal succession. The change will enable the tax authority to make any necessary refunds or conduct tax audits before the company is dissolved.

## Tax audit

The tax audit rules were significantly restructured and changed. For example, a deadline will apply if a repeated procedure is ordered. Any obstruction of the audit by the taxpayer or other delays attributable to the taxpayer will not be taken into account in determining the deadline. Where legal aid is requested by the Hungarian tax authority and the foreign tax authority fails to respond within one year following the request, the audit may be concluded in the absence of the foreign tax authority's response. If the relevant response arrives after that deadline, the Hungarian tax authorities may order a revision.

To avoid obstruction by a taxpayer, the advance notification of a tax audit has been abolished and the audit procedure will commence with the presentation of the engagement letter.

In line with the government objective to reduce the administrative burden of taxpayers, it will not be required to provide translation into Hungarian of invoices, contracts or other documents available in English, German or French.

Finally, for contractual relationships, the authenticity of business transactions will be subject to targeted review and the law introduced the practice of undercover test purchases.

## Binding ruling requests

The binding ruling requests rules were changed to include new elements, the practice of giving binding rulings effect for up to three years despite amendment to corporate income tax laws alone and with specific conditions applying, as well as the option for an expedited procedure. (Contrary to the bill, the permanent binding ruling would not apply to procedural fees / transfer taxes.) The fees also will change as a result of the introduction of the above practices.

## Supervisory procedure

As a significant change affecting legal remedies, requests for a supervisory procedure must now be countersigned by an attorney, tax advisor, tax consultant or a certified tax expert first and then filed with the minister responsible for tax policy or supervising the state tax authority.

## Penalties

The tax penalty has been increased to 200% of the tax shortage if related to concealed income or the falsification or destruction of invoices, books or



records. “Preferential” penalty rates for qualified taxpayers also were eliminated.

The law provides specific sanctioning rules if an employer (payer) fails to meet the income tax and social security contribution assessment, deduction and filing obligations or if it is otherwise noncompliant. In the future, employers will exclusively bear the responsibility of a tax shortage and legal implications in the case of a tax difference for social security contributions.

Failure to file the statutory financial statements with the tax authority will result in a doubling of the default penalty under the law.

Transfer pricing penalties for failure to comply with Hungary’s documentation requirements are increased. The default penalty for repeated breaches could reach HUF 4 million per failure and, for repeated breaches related to the same documentation within two years, the penalty could reach up to four times the default penalty first imposed.

The importance of retaining documents is further emphasized with the introduction of a new category of penalties of up to HUF 500,000 per missing invoice or receipt.

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