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Tax News+

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Below you will find the tasks and potential issues arising from key tax law changes of the past month and recent weeks. We would be ready and glad to discuss with you any of your company specific issues.

New tax types

Financial transaction tax

The parliament passed the bill which will introduce, from 1 January 2013, the financial transaction tax to be levied on payment services transacted by payment service providers.

All payment service providers with a registered office or a branch office in Hungary will be subject to the new law, under which the financial transaction tax would be payable in respect of basically all payment transactions treated as payment services, i.e. in particular any money transfer, collection, payment made to and from a payment account, and any other payment transaction as a result of which the financial service provider debits the account of the payer according to a payment order. Compared to the bill, the scope of financial transactions not subject to the financial transaction tax has been extended. These include among others book transfers carried out by the same payment service provider between different accounts held by the same entity (i.e. if the payer and the beneficiary are identical), transactions concerning securities accounts, as well as payments made from social security and child care funds.

As a general rule, the payer's payment service provider will be subject to the financial transaction tax where the taxable amount will be the amount debited by the payment service provider from the payer's bank account. The rate of the financial transaction tax changed from what the bill proposed and will now be 0.1% of the taxable amount but HUF 6.000 per payment service at the most. With no further restrictions, the rate of the financial transaction tax will be 0.1% of the taxable amount if the taxable entity is the National Bank of Hungary, Posta Elszámoló Központ, or the Hungarian State Treasury, and 0.01% for one-day deposits with the National Bank of Hungary.

As from 1 January 2013, payment services providers will be required to assess, declare and pay their financial transaction tax obligations monthly, until the 20th of the month following the date of the transaction using the forms prepared by the tax authority for this purpose.

Insurance tax

As from 1 January 2013, insurance tax will be charged on certain types of insurance policies. As you have been reminded earlier when the bill was introduced, casco, property, as well as accident insurance policies will be taxable insurance types beginning from early next year. Please note that life and sickness insurance will not be subject to tax while supplemental accident insurance related to life insurance will.

Under the law, the tax will be payable by insurance companies. Naturally, not only those registered in Hungary will be taxable, but also the Hungarian branches of insurance companies registered in any EEA state or any other third country, as well as insurance companies providing cross-border services will also be subject to the tax, provided that such foreign registered insurance companies provide services which are taxable in Hungary.

The law enacted sets out that the taxable amount will be the gross insurance premium under the accounting regulations. The tax rate payable by insurance companies on this amount will be 15% for casco insurance and 10% for property and accident insurance services. The amount of the tax will be assessed, declared and paid to the state tax authority monthly by the insurance company before the 20th day of the month following the month in which the insurance premium was charged.

New filing obligation of VAT subjects

The new provisions concerning VAT filing obligations which significantly expand the scope of mandatory data supply to the tax authority will enter into force on 1 January 2013.

Pursuant to the new provisions of Act XCII of 2003 taking effect on 1 January 2013, taxpayers will have ESL filing obligations, i.e. they will be required to declare 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 obligations in the reporting period.

This new data supply obligation considerably exceeds the scope and level of detail of the previous filing obligation since the information on VAT payable and deductible is to be submitted to the tax authority in a breakdown per invoice, including the tax number of the parties involved in the transaction, the serial number of the invoice, as well as other data indicated in the invoice (e.g. taxable amount, tax amount, date of delivery). As for the deductible amount, this filing obligation applies to invoices (except for products subject to reverse taxation of agricultural products) where the recovered VAT amount reaches or exceeds HUF 2.000.000. (Nevertheless, in cases where taxpayers exercise their right of input VAT deduction for invoices received from one and the same seller/provider and the recovered VAT amount—although not for the individual invoices, but in total—exceeds the above threshold, the data of these invoices are also to be declared.)

Please note that even more details than above are to be declared in the case of products subject to reverse taxation of agricultural products given that the law here requires the customs tariff code and volume of the products sold to be also declared as part of the data supply.

Please note the changes concerning the correction and cancellation of invoices because the relevant accounting records will also be subject to the new data supply obligation. The filing here must include, besides the corrective invoice or cancellation, the data of the original invoice, as well.

Simultaneously, and in line with the above, the provisions concerning the mandatory content of invoices will also change as from 1 January 2003.

Pursuant to the amendment of Act CXXVII of 2007 on the Value Added Tax, mandatory content requirements for invoices issued on or after 1 January 2013 must include buyers' tax numbers for domestic purchases, provided that the VAT amount recovered in the invoice reaches or exceeds HUF 2.000.000.

With respect to this expected change in the filing and data supply obligation, we recommend a review of taxpayers' accounting systems and the transition of their management systems if necessary in order to facilitate the automated preparation of filings according to the new requirements. Deloitte is ready to help you in this process.

New bills

Micro-enterprises' flat tax and small enterprises' reduced tax rate

In the interest of simplifying micro- and small enterprises' tax compliance, the bill proposed to Parliament sets out the rules of introducing two fundamentally new tax types, micro-enterprises' flat tax and small enterprises' reduced tax rate, which would be available for entities concerned.

Please note that the proposal will be relevant not only for enterprises which will have the option to choose between both new alternatives but also for those companies which will not satisfy the parameters defined in the bill because pursuant to the provisions of the amendment the costs of products and services delivered by taxpayers subject to micro-enterprises' flat tax will not qualify as expenditure incurred for the purposes of business operation of taxpayers subject to the CIT Act and, therefore, will add to the CIT base.

Amendments for channelling more funds to healthcare

To improve the funding of the healthcare system, the bill raises excise and public health product tax rates with respect to certain products. The raise concerns products (e.g. energy drinks and alcoholic beverages) whose consumption represents increased health risks.

Besides, the bill reduces the VAT rate of medical

appliances receiving 98% and 90% social security funding to 5% and orders the restriction of cash payments for tax compliance (with a cap of HUF 1.5 million for each contract) with a default penalty of 20%.

Amendment to certain laws to implement measures of the job retention action plan

In the interest of preserving existing jobs and creating new ones, the government decided to restructure the tax and contribution system.

Value added tax

The bill proposed in order to archive the goals defined would introduce, from 1 January 2013, in terms of VAT deduction, the option for micro- and small enterprises (which further satisfy other criteria as well) to pay VAT after amounts actually received (settlement based VAT deduction). The proposal sets out to specify the revenue threshold for entities entitled to choose settlement based VAT deduction identically to the requirements of individual VAT exemption. The right to deduct input VAT of taxpayers opting for settlement based VAT deduction would arise at the time of receiving the income, i.e. when the consideration for their services is paid at the earliest and this is the time when they would need to assess VAT payable.

As a result, when opting for settlement based VAT deduction, the amendment would make a clear reference to the transaction being subject to settlement based VAT deduction a mandatory element of the invoice.

In addition, the bill would raise the threshold of individual VAT exemption from HUF 5 million to 6 million.

Proposed amendments to improve employment levels

Tax benefits to improve employment levels in the job security action plan:

<u>Vocational training fund contribution</u>

- According to the bill, the taxable amount for the purposes of the vocational training fund contribution would reduce for employees where the employer receives social contribution tax benefit in the first two years of employment.
- The vocational training fund contribution would be available for long-term unemployed jobseekers, as well as individuals receiving GYED, GYES or GYET childcare benefits.
- The taxable amount for the training fund contribution would go down to the gross salary of the employee concerned but **by a maximum of HUF 100.000 per month**. For part-time employees, the proportionate part of this HUF 100.000 would be used for the calculation of the benefit amount.

<u>Social contribution tax</u>

- The employer may reduce the amount of the social contribution tax payable after certain employees.
- The taxable amount would be the gross salary of the employee in every case but the reduction would be the actual proportion of HUF 100.000 depending on the position of the employee:
    - 14,5% for individuals employed as unqualified workers (Hungarian classification of occupations - FEOR group08 9.),
    - 14,5% for individuals aged younger than 25 or older than 55 years,
    - 27% in the first two years of employment and 14,5% in the third year of employment for individuals in employment after receiving GYED, GYES or GYET (childcare) benefits,
    - 27% in the first two years of employment and 14,5% in the third year of employment for long-term unemployed jobseekers.

These reductions would have to be treated separately from the benefits available under the Start Card scheme (Start Bónusz, Start Extra and Start Plusz). Please also note further subsidies and grants available in connection with employees in 2012:

- job retention grant (120%of the gross minimum wage for a maximum of 6 months)
- subsidy to maintain the net value of wages and salaries (to be requested),
- subsidy to help qualified career starters to gather work experience (to be requested),
- wage guarantee subsidy (to be requested),
- job retention subsidy (to be requested),
- group commuting subsidy (to be requested),
- local transport subsidy (to be requested).

International Social Security — New Rules for Multi State Workers in the EU

Overview

On 18 April 2012, the European Parliament adopted proposed amendments to the social security coordination regulations EC 883/2004 and 987/2009 (the “Regulations”), which will affect the social security position of employees working in employment in two or more EU member states for two or more employers. The changes came into force on 28 June 2012.

Summary of changes

Pursuant to former regulations, individuals with separate employments in different member states were subject to the social security scheme of their state of habitual residence, even if they carried out little or no work activity there.

Under the amended provisions, employees will only remain subject to the social security scheme of the member state of residence if:

- they pursue substantial activity there; or
- regardless of the level of employment activity in the member state of residence:
  - all the employers concerned are situated in the member state of residence; or
  - the employment is with two or more employers, and at least two of the employers are located in different states other than the member state of residence.

Other than above, if no substantial activity is performed in the member state of residence:

- the liability will arise in the member state in which the employer is situated where only one employment is involved (as per the current rules); or
- the liability will arise in the member state in which the employers are situated where two or more employments are involved and those employers are based in the same member state; or
- if the individual has at least one employer in his or her country of residence and at least one in one other member state, i.e., if there are only two member states involved as far as the employing undertakings are concerned, the liability will arise in the member state in which the ‘other’employer(s) is situated.

Impact of revised rules

Once the amended provisions come into force, multistate workers with two or more employments will be more likely to fall out of the social security legislation of the country of their habitual residence than under the former rules.

In particular, the amended provisions may affect

- individuals with dual contract arrangements involving minimal work in the state of residence; and
- those with a series of directorships across the EU (whether executive or nonexecutive) where that type of directorship is considered to be employment rather than self-employment

It is a good time to review the employment circumstances of multistate working employees who hold more than one contract of employment since the amended provisions may affect applicable social security regulations and, as a result, both overall social security costs of companies and the access of employees to various benefits, as well as the amount of the benefits.

EU proposal - New EU instrument for speedy response to VAT fraud

On 31 July, the European Commission proposed a new instrument which would enable member states to respond more swiftly and efficiently to VAT fraud. The proposal would introduce a new procedure, the so called quick reaction mechanism (QRM) which would enable member states faced with a serious case of sudden and massive VAT fraud to implement certain emergency measures that could be suitable for avoiding the resulting negative effects. For the time being, the proposal specifies only one of the approved measures, namely the adoption of reverse taxation in a wider scope while it allows member states to introduce other measures approved by the Commission unanimously.

Pursuant to currently effective EU legislation, member states wishing to adopt measures against VAT fraud which are contrary to EU laws must request derogation, which is a slow and lengthy procedure and delays member states in responding to cases in a timely manner.

According to the proposal of the European Commission, the new instrument would offer a solution to this problem since member states would be temporarily exempted from adopting particular EU instruments and have the opportunity to introduce the appropriate measures following a much faster procedure (after one month at the latest). The derogation period may not be longer than one year. This enables immediate action by member states against serious VAT fraud until a long-term solution is found for the problem and, if necessary, until the general derogation period is over.

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