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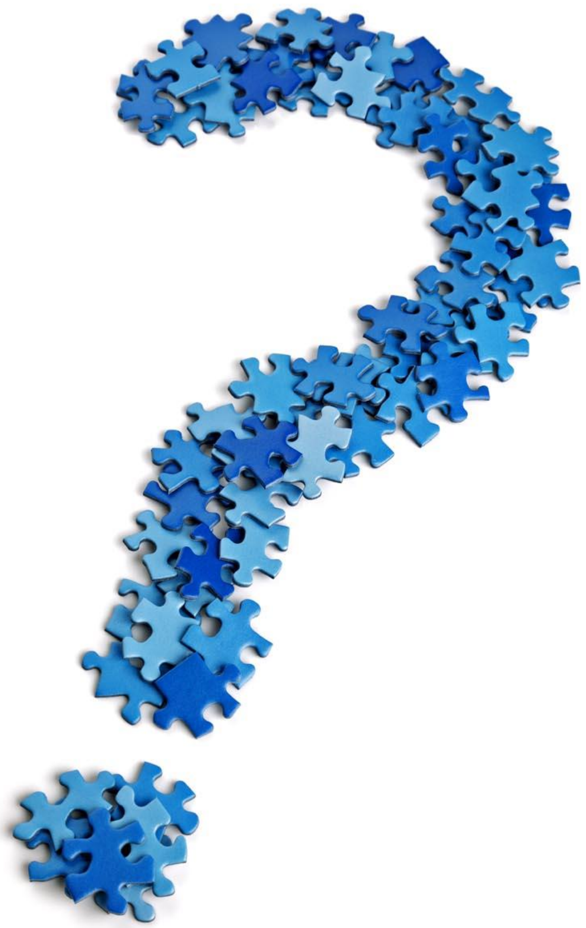

15 November 2012

Recent amendments to tax legislations

The aim of our Newsletter is to inform our clients about the latest amendments to the Bill related to the newly proposed tax legislations, which was submitted by the Government on the 8 November and was adopted on Monday.

According to the schedule of the parliament the final vote on the next year's tax package will be held early next week.

Personal income tax

According to the amended social security regulations the upper cap of the individuals' pension contributions (10%) will be abolished in 2013 and some related provisions are also modified (e.g. agreement on length of service for pension services and on care obtainment). According to the amended tax regulations the health care contribution levied on in-kind benefits will be increased from the current 10% to 14% instead of the originally proposed 27%.

In 2013, the Erzsébet voucher can be provided to the employees as in-kind benefit in the amount of 8,000 HUF per month instead of the current 5,000 HUF.

In 2013, Hungarian disburser companies can also provide cultural institutional services to individuals up to HUF 50.000 per year per individual.

Tax rules related to insurance products and services will significantly change, however, taxation of whole life products and insurances with buy-back value will remain applicable similarly to 2012.

Tax rules related to health insurance products and services will also change so that financing health insurance fees becomes possible through voluntary health funds.

The new regulation also contains interim rules applicable for the sale of privately issued securities if alienated after January 1, 2013. The above rule also applies to income deriving from the alienation of privately traded securities held on a long-term investment account.

In accordance with the provisions of the amendment, most of the PIT-related provisions will enter into effect on 1 January 2013.

Training fund contribution

According to the proposed regulation, employees' training costs could be deductible again if the company carries out at least 45 students' vocational trainings.

Corporate income tax

Loss carry-forward

The Bill proposes to ease the 50% rule on restriction of the use of the loss carried forward for those companies, the debts of which have been forgiven by a settlement approved by a court decision closing a liquidation due to insolvency or bankruptcy proceeding.

Development tax allowance

The Bill extends the benefit of the development tax allowance with two new entitlements. The tax allowance can be granted to investments valued at HUF 100 million or more at present value, which have been put into service and operated in the area of the so-called 'free entrepreneurial zone', which is a newly introduced definition in the tax law. Furthermore, the tax allowance can also be granted to investments valued at HUF 100 million or more at present value, and which investment serves energy efficiency certified under a separate provision. Areas of the free entrepreneurial zone will be designated by the government.

R&D

According to the introduced Bill, the triple tax base allowance related to the R&D activity can be granted to taxpayers based on agreements concluded also with research institutes acting as part of the central state budget or owned by the state, widening the scope of the applicable contractual parties.

Income tax of energy suppliers

In relation to the income tax of the energy suppliers, the foreign source income will be exempted from tax even if the income derives from a non-treaty country—provided that the activity carried out abroad gives rise to a permanent establishment over there.

Value added tax

New proposals regarding invoicing

One of the submitted commission proposals for amendment clarifies that the obligation of retaining documents should also be applied to electronic documents (invoices, correcting invoices); furthermore, electronic preservation is also required in case of data that warrant the authenticity of the origin and integrity of data content of the invoice.

Tax authority's supervision of cash registers

A submitted commission proposal for amendment establishes the possibility of online supervision of cash registers by the tax authority. According to the proposal, taxpayers shall have regular reporting liability towards the tax authority about data of the receipts issued through registers and about the cash register itself. The above provision will be governed by a separate regulation. The separate regulation can also prescribe that the tax authority may supervise the operation of the cash register via communication device and system. Pursuant to the proposal, the minister responsible for tax policy would be authorized for drawing up detailed rules and elaborating these rules in the form of regulation. The new regulation is planned to enter into force on 1 April 2013.

The regulation of tax refund

It is also stipulated in one of the amendments to the bill that taxpayers without a fixed establishment in Hungary can file more than one request in one tax refund period; however, maximum 5 requests can be submitted for one calendar year.

Further extension of the scope of transactions applying domestic reverse charge mechanism

According to a submitted amendment to the bill, as of 1 April 2013 the scope of domestic transactions to which reverse charge mechanism is applicable would be extended. Based on the submitted amendment, the sale of living swine, whole and cleaved half-swine and certain type of forage would fall under the scope of reverse charge mechanism.

Other proposals for amendment

According to two private member's proposals for amendment, regulation regarding tax deduction would be modified, as well.

As stipulated in one of the proposals, 50% of the amount of service load VAT applied at the preceding stage that is necessary for the operation and maintenance of the passenger car could be deducted.

Special tax of financial institutions

A submitted commission proposal for amendment draws up that the liability of the financial institutions to pay special taxes will still exist in 2013 since the relevant provisions regarding the law's effective period is modified. In accordance with the earlier announced plans, the rate of the special tax payable will not be decreased to 50% in 2013. Furthermore, the proposal also clarifies the regulations regarding legal succession in case the predecessor ceases after 1 January 2011.

Local business taxes

New tax type – public utility tax

According to the new amendments to the bill, the municipalities would have the right – within their jurisdiction – to levy tax on the ownership of utility pipelines on public areas (and in some special cases on private ground).

Under the provisions of the proposed amendment, the term ‘utility pipeline’ refers to water supply-, gas-, heating-, electricity- and telecommunication pipelines deposited on public areas, or on private ground in case several consumers are served.

The tax base would be assesses based on the length of the pipeline and the tax payable would be HUF 100 per meter.

Local business tax

The proposed bill would introduce an upper limit for the aggregated amount of the costs of goods sold and the value of intermediated services accounted for as decreasing items when assessing the local business tax base. The total amount of these items could be taken into account as decreasing items for the tax base without any limitation up to sales revenues of HUF 500 million. In case the sales revenue exceeds HUF 500 million, the maximum allowed sum of the decreasing items proportionately connected to the individual sales revenue ranges would progressively decrease. The applicable ratio caps for the sales revenue ranges would vary between 70% and 85% in accordance with the volume of the taxpayer’s sales revenue.

In case of affiliated companies, the tax base should be assessed on the group level. So should the costs of goods sold and the value of intermediated services while also applying the above rules. The tax base of the single companies would then be assessed according to their single sales revenue in proportion to the total sales revenue of the group.

Taking into account the complexity of the above calculation method, this amendment will likely give rise to several practical questions and it is expected that the new tax base calculation will significantly increase the administrative burden of the enterprises.

Financial transaction tax

The new amendments to the bill aim at extending the range of taxable persons and transactions already as of 1 January 2013 (when the already passed act comes into force).

The tax payment liability would be extended to currency exchange activities and also to currency exchange brokers, debt services, commissions and premium charges and cash equivalent payments (even if debited on an account other than a payment account).

The standard rate of the transaction tax would increase from 0.1 to 0.2 per cent. In case of cash payments, the rate would be 0.3 percent. For all cases, the amount of the transaction duty payable would be capped at HUF 6 thousands per transaction.

Transactions between the same person’s own accounts and transactions between at least partially mutual accounts (e.g. accounts of spouses) would be exempted from transaction tax.

The scope of transactions subject to transaction tax would be extended to trading with securities (including derivatives) as of 1 January 2014. The rate of the duty would be 0.01 per cent of the notional value in case of derivative transactions; whilst for other transactions it would be 0.1 per cent.

Rules of taxation

Abolition of the same rating principal

The introduced bill seeks repeal the obligation of the Tax Authority that during tax audits it is obliged to treat the same legal relation identically at both parties. Henceforth, the Tax Authority shall not be bound to consider and automatically apply the findings made at one of the parties in connection with the inspection of the other party. (Act on the Rules of Taxation, section 130)

Binding ruling

The introduced amendments seek to extend the scope of the provisions of binding rulings to transactions that are not considered future transactions. With regard to these transactions, binding ruling will only be obtainable for queries related to corporate income tax, personal income tax, small business tax and local business tax. The taxpayer can apply for a binding ruling only in case the taxpayer has reporting obligation at the time of the submission of the request neither in relation to the tax types nor the tax assessment period covered by the ruling request.

According to the introduced amendments, the procedural fee for binding rulings as of 2013 will not be assessed progressively – as previously planned in the Bill introduced in October – but determined similarly to the rules currently in effect. However, in order to avoid ambiguity, the amendments to the bill specify the terms “contract package” and “contract type” to that a fee of HUF 10 million (approximately: EUR 35,000) is applicable. The fee related to binding rulings for transactions that are not considered future transactions will be determined as twice of the relevant fee for the request but is capped at HUF 15 million (approximately: EUR 53,000).

For the rejection of a request without investigation, for the termination of proceedings or for the rejection of the request, under the introduced amendments to the bill, 85 per cent of the paid fee shall be reimbursed in opposition to the current 75 per cent. Further favorable change is that in case of exceeding the time limit set for an urgent procedure, the difference between the paid fee and the fee in case of a non-urgent procedure will be reimbursed.

Innovation Contribution

With regard to the top-up payment of the innovation contribution, which was introduced by an act earlier this year, the amendments to the bill set forth that the tax advance payable for Q4 shall be paid until the 20st of the last month of the financial year along with the due top-up payment instead of the 20st of the first month of the following financial year.

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