

## Tax News+

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**This Newsletter aims at providing an in-depth overview of the changes adopted by Parliament on 19 November 2012 relevant to the accounting and tax laws and related regulations.**

## Personal income tax, social security contribution, health care contribution, voluntary mutual insurance funds

### Employment income

Employee's liabilities up to an annual income of HUF 2,424,000 would remain unchanged at the 16% PIT and 18.5% contribution liabilities.

In the case of annual income between HUF 2,424,000 and 7,942,000, the amount in excess of HUF 2,424,000 would be subject to 16% PIT instead of the current 20.32% and the contributions would remain at 18.5%. As a result, the tax liability of the part of the income above the annual 2,424,000 income would reduce by approximately 4%, which gives a maximum additional income of HUF 19,865 per month (HUF 238,377 per year) (the maximum amount is available for those receiving an annual income of HUF 7,942,000).

In the case of an annual income of over 7,942,000, 16% PIT instead of the current 20.32% and contributions at a rate of 18.5% instead of 8.5% would be payable. Accordingly, the PIT and contribution liability on the part of the income above the annual HUF 7,942,000 would probably increase by 5.68%, which additional liability is compensated by the additional net income resulting from the lower tax rate applicable annual incomes up to HUF 12,139,000. As a result, the PIT and contribution liability of annual incomes of over 12,139,000 is expected to rise in 2013.

### Tax base

In line with previous plans, the 27% tax base adjustment as part of the consolidated tax base would be abolished as of 1 January 2013. Accordingly, the PIT rate on income involved in the consolidated tax base (e.g. employment income)

would be a uniform 16% (even for annual incomes of over HUF 2,424,000).

### Family tax credit

Concerning foreign national employees, the changes extend the scope of the family tax credit provisions to apply also to foreign nationals from outside the European Union and clarifies the

provisions by stipulating that their eligibility for the tax credit applies only if they are ineligible for an equivalent or similar benefit in the same period from another state where their incomes are also taxable.

### Non-cash benefits (cafeteria)

According to the amended tax regulations the health tax levied on in-kind benefits will be increased from the current 10% to 14%, which will result a total cost of 136 in case of 100 units benefit (total cost of 131 units in 2012).

The accepted bill clarifies the provisions concerning workplace catering by stipulating that the provision of employees with meal vouchers that can be used in workplace canteens may be treated as a non-cash benefit if the canteen serves not only employees but also other external individuals (e.g. business partners, representatives of authorities).

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 and the accepted bill specify the provisions on the usage of the Erzsébet voucher.

### Tax free benefits

In 2013, a Hungarian disburser can also provide cultural institutional services (e.g. theatre tickets, tickets for dance, circus or music shows) or tickets/season tickets for sport events to individuals up to HUF 50,000 per year per individual.

Furthermore, the employer can provide services sponsored by the European Union as tax free to the employees provided that the use of service could not be treated as offset against the activities of the employee.

### Separately taxed income

The bill restricts the definition of income from stock exchange transactions by exempting income from private company shares from the provisions applying to income from stock exchange transactions as from 2013. In line with the above, if a private company share is indicated in the long-term investment registry before 1 January 2013, such share could remain in the registry after 31 December 2012 as well and the interim rules are also applicable for the interest, dividend or other similar payments relate to such share.

As of 2013, in lack of a Hungarian disburser (e.g. in case of dividend paid by a foreign entity), no personal income tax liabilities are to be paid in advance during the year and the applicable personal income tax liability is to be settled by the filing deadline of the tax return.

### Insurances

As of 2013, the personal income tax definitions and rules of insurances will be largely modified. According to the concept of risk insurance introduced by the bill, life, accident and sickness insurance policies without payout upon expiry and surrender value and with monthly premium not exceeding 30% of the minimum wage per month may be treated as tax-exempt benefits from 2013. Special rules are applicable in case of whole life insurances (for death) with payout upon expiry and surrender value which cannot be treated as risk insurances. In case of the above insurances, the regular premium paid by a disburser (employer) remains tax free after 31 December 2012.

At the same time, the premium paid by the disburser under risk insurance policies (not including the whole life insurance schemes with payout upon expiry and surrender value) become taxable as a non-cash benefit and subject to 16% PIT and 27% health tax calculating with a 1.19 tax base adjustment. As of 2013, certain insurances (e.g. combined and pension insurances) are taxable as non-cash benefits.

In general, the taxation of whole life insurances will remain tax free in 2013. From the risk insurances, tax free treatment applies in case of the whole life

insurances (for death) and insurances for accident or sickness. From the non-risk insurances, tax free treatment only applies in case of the pension and life annuity insurances. However, the accepted bill includes additional provisions as well. Such as the indemnity of income protection insurances (based on insurances for accident or sickness) which could be treated as tax free up to HUF 15,000 per day and the amount exceeding the above value would be taxed according to the legal title of the lost income. In case of whole life insurances with surrender value provided by a disburser, the indemnity (when the individual surrendered) is to be treated as other income which is subject to 16% PIT and 27% or after 10 years 14% health tax. In the case of taxable indemnity, the bill qualifies the amount of the premium in excess of the total of insurance premium paid as interest income.

In the case of taxable indemnity, the new rules defining interest income are completed as below if the premium becomes taxable as interest income also in line with the provisions on income from long-term investments:

- *In the case of single premium insurance plans*, 50% of the interest income after 3 years and the total proceeds after 5 years following underwriting are tax-exempt.
- *In the case of regular premium insurance policies*, 50% of the interest income after 6 years and the total proceeds after 10 years following underwriting are tax-exempt.

However, the provisions on the preferential tax treatment of interest income would not apply if payments are remade in excess of the contractual premium during the term of the policy or if the level of regular premium indexing exceeds the amount of the consumer price index as increased by 30 percentage points.

### Social security and pension contributions

According to the changes, the employee pension contribution cap (HUF 7,942,200 in 2012) will be abolished in 2013 and the 10% employee pension contribution is payable on the total income. Due to the above, some related provisions are also modified (e.g. agreement on length of service for pension services and on care obtainment).

The accepted bill changes the scope of mandatory social security to apply, as from 1 January 2013, besides Hungarian nationals, also to foreign individuals working in Hungary.

In case of individuals not insured, the applicable health service contribution will increase to monthly HUF 6,660 from monthly HUF 6,390.

### Health tax (EHO) and voluntary mutual insurance funds

Similar to the former provision of the Social Security Act, the changes allow Hungarian resident employers to pay the health tax if the Hungarian employer's employee receives income from a foreign resident affiliate.

The EHO exemption of the membership fee paid by the employer to the voluntary mutual insurance fund would be abolished from 1 January 2013. The 27% EHO liability on such income would have to be paid by the employee when the PIT return is filed.

Based on the accepted bill, the health insurance provided to the member of the insurance fund and to her/his family member can be treated as the service of the voluntary mutual insurance fund.

### Social tax

In line with the changes of the corporate income tax rules, a company operating in a free entrepreneurial zone (new concept of the CIT Act) and entitled to the development tax allowance could apply for a social tax exemption within 5 years of the installation if the company increases the number of its employees. The exemption could be applied up to HUF 100,000 gross remuneration per month in the first 2 years of employment and under certain circumstances from the total amount of the social tax and employer's training contribution.

In case of company research centres, social tax exemption could also be applied in 2013 based on employees with scientific degree or title.

### Enforcement

According to the bill accepted by the Hungarian Parliament on 19 November 2012, most amendments to PIT will enter into force as from 1 January 2013.

### Employer's training contribution

Based on the accepted changes, in case of operating trainee programs with more than 45 trainees, a part of the employees' training costs will be deductible again.

## Corporate income tax

### Loss carry-forward

The accepted 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 liquidation due to insolvency or bankruptcy proceeding.

Pursuant to loss carry-forward rules introduced in 2012, the legal successor may only recognize the legal predecessor's carried forward losses if at least one of the activities pursued previously by the latter generates revenues for the legal successor in two tax years following the transformation.

This was not applicable to asset management activities according to former regulations, whereas the accepted bill would lift this restriction, and in the case of a demerger, the above condition is extended to apply, aside from the new entity, also the one from which the new company has demerged.

Furthermore, the accepted bill stipulates that the above two-year condition need not be satisfied by taxpayers dissolving without a legal successor within two years after transformation.

Pursuant to the regulations effective in 2012, the condition of continuing the former activity for two years in order to be allowed to recognize the carried forward losses of the legal predecessor might even apply to, apart from transformations, acquisitions, as well. In case of acquisitions, the accepted bill stipulates the same exception if the acquired entity dissolves without a legal successor within the two years concerned. This provision may be applied already to tax filings for 2012.

### Development tax allowance

The accepted bill includes a new condition, i.e. that taxpayers would be required to report the date of project completion to the minister responsible for tax matters if they wish to receive development tax incentive.

The accepted bill also 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.

### Reported intangible asset

The accepted bill extends the concept of 'reported intangible asset' introduced in 2012. Related deductions apply also to self-developed intangible assets. The provision may also be applied to tax assessments for 2012.

### Controlled foreign company

The accepted bill clarifies the definition of controlled foreign companies where the non-resident entity's pre-tax profit is zero or negative and it is to be analyzed what tax rate (equal to what CIT rate) the foreign country applies. The accepted bill requires the lowest rate to reach the 10% specified in case the foreign country applies different tax rates depending on the amount of the tax base (i.e. in case of progressive tax rates).

According to the accepted bill, when qualifying a controlled foreign company, the burden of proof of verifying that Hungarian resident private individual does not control directly or indirectly 10% of the voting rights or the capital of the investigated company does not lie with the taxpayer.

### Minimum income (profit)

According to the accepted bill, 50% of the part of the average daily balance of current-year liabilities due to shareholders (shareholder loans) which is in excess of the balance of shareholder loans as of the last day of the previous fiscal year would be added to the total income for determining the minimum income (profit) as from 2013.

### Thin capitalization

The accepted bill excludes trade receivables outstanding towards customers from accounts receivable when determining their ratio to liabilities for the calculation of thin capitalization.

### Reported participation

The accepted bill adjusts the tax base also by the expenditure recognized due to the retirement of related goodwill recognized previously upon the retirement of notified shares (due to sale or in-kind contribution to equity).

### Product samples

The accepted bill does not require the statement of the entity receiving free product samples as per the VAT Act for these transfers to qualify as eligible costs for CIT purposes.

### Deferred non-realized FX-difference

In accordance with the passed bill, the amount of the deferred FX-difference accounted for previously on long term liabilities does not have to be taken into account as a tax base adjusting item when it is re-classified as short-term liability, but only when the liability is actually removed from the books.

### R&D

According to the accepted 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

According to the accepted bill, the income tax of energy suppliers will be 31 % of the positive tax base as from 1 January 2013. Additionally, development tax allowance can be granted also in relation to the income tax of energy suppliers as per the CIT Act up to 50% of the calculated tax payable.

In relation to the income tax of 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.

### Vehicle registration tax

The amendment introduced primarily clarifying provisions on vehicle registration tax. Accordingly, certificates released by the customs authority

concerning passenger cars leased out by vehicle fleet operators include additional information in order to better identify fake certificates, which would help identify unlawful use in the case of a certificate not included in police computer databases. Furthermore, the amendment defines special standardization provisions for hybrid passenger car tax.

## Value added tax

### Electronic invoicing

The amendment is primarily aimed at conformity to EU legislation. Electronic invoicing will be simplified in several aspects. For instance, in line with the EU VAT Invoicing Directive, the law does not define a mandatory procedure for electronic invoicing if invoices satisfy the general requirements as defined in the law (among others, it is necessary to prevent manipulation of the data content and ensure the authenticity of origin). At the same time, to help taxpayers, both methods currently applicable under effective regulations (invoice with electronic signature and invoice sent through EDI) are preserved in the new law in order to ensure that electronic invoices satisfy general invoice requirements.

In line with EU legislation, the amendment requires the invoice receiver's approval of the adoption of electronic invoicing. The amendment furthermore ensures a uniform treatment of both paper-based and electronic invoices by requiring from both types authenticity of origin, integrity of the data content, as well as legibility from their issuance up until the end of the period of mandatory retention. At the same time, the amendment fails to clarify how this obligation should be observed.

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

### Mandatory data content of invoices

The amendment extends and also clarifies the mandatory data content of invoices. As to formal invoice requirements, the amendment introduces stricter provisions given that it requires additional information to be indicated on invoices as compared to the currently effective mandatory data content.

For instance, 'own invoice' should appear on invoices where the issuing obligation is assumed from another entity and the term 'reverse charge' should be indicated if the buyer of the product or the user of the service is the taxable entity while a similar itemized reference is required by the amendment for transactions subject to difference based VAT payment. Current rules only require the issuer of the invoice to include a reference to some statutory provision or any other clear reference on the invoice in case of any specially taxed transaction.

Also in line with the EU directive, the amendment defines the member state whose laws are applicable to the invoicing of cross-border transactions.

### The tax authority to supervise cash registers

The amendment establishes the possibility of online supervision of cash registers by the tax authority. According to the amendment, taxpayers would have regular reporting liability towards the national tax authority about the data of the receipts issued by registers, invoices and about the cash register itself based on a separate regulation. Separate regulation may also stipulate that the tax authority supervises the operation of the cash register via communication device and system. Pursuant to the amendment, the minister responsible for taxation matters is authorized for drawing up detailed rules and elaborating these rules in the form of regulation. According to the amendment the new regulations will enter into force on 1st of April, 2013.

### Transfer of business lines

As an important simplification, the amendment proposes the treatment of business line sales, similarly to in-kind contribution and legal succession, as non-taxable transaction for VAT purposes if the special conditions defined in the law are met. It is, however, considered a serious restriction that the non-taxable VAT status can only be applicable if the business activity pursued by the business line is a product sale or service supply that entails the deduction of input VAT deduction. Accordingly, the non-taxable status cannot apply to taxable entities pursuing tax-exempt activities or the sale of a business line pursuing such activity, which may sustain considerable VAT liability for these taxpayers.

### **Long-term lease of transportation vehicles to non-taxable entities**

The amendment modifies the place of delivery rule for the long-term lease of transportation vehicles (over 30 or 90 days in case of ships and boats) to non-taxable entities with the aim of complying with the EU legislation. Accordingly, as from 1 January 2013, the place of delivery depends on the permanent establishment, domicile or residence of the user of the vehicle in every case, irrespective of whether the vehicle is leased to a taxable or non-taxable person in the long term.

### **Applicability of ECB exchange rates**

The amendment allows taxpayers to apply ECB exchange rates for converting tax liability to HUF if it is denominated in a foreign currency. It might simplify tax administration primarily for taxpayers involved in international business.

### **Date of delivery in case of tax-exempt intra-community product supplies**

In line with EU legislation, the amendment requires partial delivery on the last day of every calendar month in case of tax-exempt product supplies within the EU if the parties agreed on payment by installments or deferred terms payment and if the chargeable period is longer than one month.

The amendment furthermore cancels the invoicing obligation for advances received on tax-exempt product supplies within the EU.

### **Range of domestic transactions under reverse taxation to be extended**

The amendment further extends the range of transactions subject to reverse taxation in Hungary. Thus, the amendment includes in the category subject to reverse taxation product supplies, not only between debtor and creditor but also between third persons entrusted by debtor and creditor which are designed to act as tangible guarantees for the payment of overdue liabilities. The definition here, however, might remain prone to raising interpretation issues.

Furthermore, as of 1st of April, 2013 the sale of living swine, whole and cleaved half-swine and certain type of forage fall under the scope of reverse charge mechanism. In case of these products, subject to reverse taxation, the VAT reporting obligation namely the range of data included in the VAT return are also expanded.

### **Other changes**

The amendment clarifies that only those real property leases are subject to VAT, according to general rules, which qualify as provision of accommodation as a commercial activity.

Furthermore, the amendment clearly establishes that those transactions when the taxpayer from Hungary transfers the product to another EU Member State with the sole purpose of appraisal do not constitute product movement within the EU subject to VAT, provided that the product is returned to the taxpayer (Hungary) after appraisal.

The amendment extends the range of languages that can be used in VAT reclaims to English, German and French apart from Hungarian.

The amendment also includes the transitional provisions applicable with respect to Republic of Croatia's accession to the European Union.

Further to the above, the amendment makes it clear that taxpayers are allowed to disclose changes in VAT payable and deductible amounts in one and the same period in the case of transactions subject to reverse taxation if the VAT liability is adjusted subsequently.

It is also stipulated in the amendment that taxpayers without fixed establishment in Hungary can file more requests in one tax refund period; however, maximum 5 requests can be submitted for one calendar year.

Based on the amendment, 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 can be deducted.

### **Special tax of financial institutions**

In 2013, the amendment requires financial institutions to reimburse 50% of the amount assumed by the state for 2013 in the exchange rate scheme pursuant to the Act on the FX Loan Exchange Rate Cap for Installments and Forced Selling of Residential Property. For this purpose, the relevant provisions regarding the law's period of validity was modified.

Please also note that solidarity tax rates shall not be reduced to 50% in 2013, i.e. financial institutions' solidarity tax filing obligation remains to be calculated at the tax rates applied in 2012.

Furthermore, the amendment also clarifies the regulations regarding legal succession in case the predecessor ceases after 1st of January, 2011.

## Accounting Act

### Material misstatement

The bill would reduce both larger and smaller enterprises' administrative burden by amending the threshold for material misstatements in the 3-column balance sheet to over 2% of the balance sheet total or HUF 1 million, whichever is higher. (Current regulations qualify the lower of amounts over 2% of the balance sheet total or HUF 500 million as material misstatement.)

### Intellectual property definition

In order to make the definition of intellectual property compatible with current practices, the bill extends it by introducing more general terms.

### Measurement and valuation

The bill modifies the definition of permanent and significant difference in market value as the condition of revaluation. Accordingly, a difference might qualify as permanent even if the period during which it is experienced is shorter than one year but it is considered final.

### Repeated publication requirement abolished

To ease corporate administration, the accepted bill would abolish provisions on the repeated publication requirement due to material misstatements by replacing them with transitional provisions.

## Local taxes

### Local business tax

An upper limit has been introduced by the bill 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 can 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 above decreasing items is

capped at a determined percentage of the sales revenue ranges set. The ratio varies between 70 and 85 per cent according to determined sales revenue ranges.

The bill defines the term of the tax liability on temporary gainful business activity in the construction industry as the period lasting from the date when the activity is started until the date when the customer accepts the performance based on the agreement.

For those costs of goods sold and intermediated services in relation to which the company accounted for export sales revenue, the above calculation should not be used.

In case of affiliated companies, the tax base shall 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 is then assessed in proportion of their single sales revenue within the total sales revenue of the group.

Apart from the original amendment, the final bill states that only taxpayer affiliated companies can be taken into account to the calculation method. An other condition is that the aggregate value of costs of goods sold and value of intermediated services have to exceed 50% of the sales revenue of the affiliated company. The legislation therefore reduces the imbalances deriving from situations where the ratio of the sales revenue and the tax base decreasing items at the affiliated companies significantly differs.

Taking into account the complexity of the above calculation method, these changes are 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.

### Publicly available information on local taxes

To raise taxpayers' awareness of any applicable local tax types and liabilities, the Hungarian State Treasury will, as of 1 January 2013, publish on its website the tax types introduced by each municipality along with their rates and rules (per each municipality).

According to the bill, further changes affecting the Act on Local Taxes will enter into force as from 1 January 2013.

## Sales revenue of leasing companies

The new bill amends the definition of sales revenue for credit institutions and financial companies. This change is especially beneficial to companies providing financial leasing. In their practice it means that interest and interest like income received can be decreased by the costs of financial leased assets in addition to interest and interest like expenses.

For double deduction avoidance purposes the related amount cannot be taken into account as costs of goods sold within tax base decreasing items. This allows financial companies to deduct the whole costs of financial leased assets from the tax base (regardless of the amount of the income).

## Building tax – property holder's underlying liability

The bill enhances the efficiency of collecting taxes related to valuable rights registered in the land registry. If the beneficiary of such a valuable right fails to fulfill his tax liability for the period after 31 December 2012, with the liability remaining uncollectible even after a payment warrant procedure, the tax authority will be allowed to require payment of the outstanding amount from the holder of the real property.

## Public utility tax

The public utility tax was excluded from the final bill. However, a new proposal was simultaneously submitted to the Parliament with very similar content.

According to the separately submitted and passed bill, the state tax authority will have the right (instead of the municipalities) to levy tax on the ownership of utility pipelines on public areas (and in some special cases on private ground).

Within the scope of the new legislation, the term 'utility pipeline' refers to – amongst others – water supply-, gas-, heating-, electricity- and telecommunication pipelines deposited on public areas, or on private ground in case several consumers are served.

The taxpayer is the owner of the pipeline which is the public utility company. In case of state-, or municipality owned pipelines the taxpayer is the operator.

Incentives are available to use in the taxation of communications pipelines. Under the length of 170,000 meters 80% incentive can be used. Between 170,000 and 300,000 meters length incentives can be used according to decreasing ratio caps in accordance with the length of the pipeline. Over the pipeline length of 300,000 meters no incentives can be used.

The tax base is assessed based on the length of the pipeline and the tax payable is HUF 125 per meter (increased from the originally proposed HUF 100 per meter).

## Transfer tax and procedural fee

### Inheritance and gift tax

To simplify tax rates, the bill abolishes the differentiation between the types of the acquired property and between the outstanding relationships of the parties. It introduces two tax rates for both inheritance and gift tax, namely a general rate of 18% and a preferential 9% rate for real property purchases.

The bill extends tax exemption without threshold in the case of inheritance between direct relatives to property acquisition by the surviving spouse. In addition, the bill raises the threshold for the 50% preferential rate of home purchases by individuals below 35 years from HUF 8 million to HUF 15 million and abolishes the HUF 40 thousand cap on exemption.

### Property transfer tax

The bill preserves the current tax exemption of real property acquisitions under leaseback (where ownership title to the real property passes on to the lessee upon the end of the tenor) which is in force temporarily until 31 December 2012.

The bill repeals rules on deals of conspicuously disproportionate value. Since conspicuous disproportion is typical of transactions between direct relatives, with these transactions becoming tax exempt under the bill, the provision would become "pointless".

### Procedural fees

The bill introduces several amendments to the scope and amount of procedural fees. Below we

outlined those which will most probably affect clients:

- Advances on procedural fees are repealed.
- Pursuant to currently effective rules, the liability to pay procedural fee applies, among others, even if the authority refuses the request or terminates the procedure for any reason whatsoever. However, according to the bill, the procedural fee is not justified in cases where the authority refuses a request without examining the merits of the case or closes down a case because it should have refused it without looking at its merits. Therefore, the bill modifies the relevant provisions of the Act on Procedural Fees.
- Courts and public authorities should, in the future, regard the electronic payment of the procedural fee as completed and start the action only based on the tax authority's certificate (currently, the bank transfer slip is sufficient).

## Financial transaction tax

The new bill extends 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 is now 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 has been increased from 0.1 to 0.2 per cent. In case of cash payments, the rate is 0.3 percent. For all cases, the amount of the transaction tax payable is 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) are exempt from transaction tax.

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

## Rules of taxation

### Suspension and cancellation of the tax ID

According to the amendment, the tax authority – compared to the pre-existing indefinite suspension – will suspend a taxpayer's tax number for a definite period of 180 days if the taxpayer fails to fulfill his reporting obligation or to pay his tax liability (or tax advance liability) within 365 days from the payment deadline or due date of payment despite the tax authority's warning. In case the taxpayer still fails to fulfill his reporting obligation or to pay his tax liability as described in the suspension ruling within 180 days from the date when the ruling becomes effective, the tax authority will cancel his tax number as a further penalty.

Furthermore, under the proposed amendment of the Act on Public Company Information, Company Registration and Dissolution Proceedings in connection with the cancellation of tax numbers, the Company Registry will declare companies terminated within 15 days from the date of the electronic notification received from the state tax authority concerning its final and non-appealable resolution on cancelling a company's tax number. On the one hand, the legislature ensures remedy against the above proceedings of the Company Registry in form of appeal within 15 days of the appearance in the Companies' Gazette, on the other hand the Companies Registry is allowed to close the dissolution proceedings if the tax authority withdraws, annihilates or the court repealed the ruling on the cancellation of the tax number.

### Risk assessment

Since 1 January 2012, the tax authority has been allowed to conduct risk assessment in case of recently established taxpayers and taxpayers with change in senior officer positions or majority shareholders. According to the amendments, the tax authority may conduct such procedures within 1 year as from the filing deadline in contrast with the current regulations under which the tax authority must conclude such procedures immediately following the issue of a new tax number or the date when the tax authority is informed of a personal change.

Given that a cancellation of the tax number currently used as a sanction is not always proportionate to the damage caused to the tax system by failing to return the tax risk assessment form, the bill would levy a fine after the first offence instead of an immediate cancellation of the tax

number. Then, the tax number would be cancelled only after the taxpayer has failed to return the form before the deadline specified in the resolution imposing the fine. A further significant modification is that leading officers and majority shareholders of companies with already cancelled tax ID will not be excluded from founding new companies for five years.

### **New legal concept – Call for self-revision**

The bill introduces the institution of "call for self-revision". Under this term, the tax authority facilitates self-revision process by providing a standstill period in cases where tax difference is revealed – based on the taxpayer's tax returns and available information – at an individual taxpayer who is not engaged in business activities.

### **Appeals**

In the future, late appeals, currently treated as supervisory procedures, may be dismissed by the first instance tax authority without substantial examination, similarly as in case of appeals submitted by non-eligible persons and appeals against decisions which cannot be contested through a separate appeal.

### **Self-revision fee**

According to the bill, the self-revision fee may not exceed the total of default fines that would be assessed for the period between two filing deadlines if the self-revision does not incur any additional tax liability because the amount of payable taxes was declared and paid in full by the taxpayer or would have been treated as deductible tax in a subsequent tax return.

### **Method of paying innovation contribution advance payments**

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 day of the last month of the financial year along with the due top-up payment instead of the 20st day of the first month of the following financial year.

### **Representation rules**

The amendment introduces the institution of mandatory representation by an attorney, tax advisor, tax expert or certified tax expert in binding ruling procedures, procedures to determine the applicability of a binding ruling procedure, those aimed to determine arm's length prices, as well as those initiated based on a request for a supervisory procedure by the minister responsible for tax matters.

### **Customs administration**

#### **Reliable customs debtor defined using the term 'debt' instead of 'outstanding liability'**

The definitions introduce the term 'debt' to replace the term 'outstanding liabilities' which has been used so far. The bill defines debt as the taxpayer's liability to amounts payable to the state tax or customs authority but left unpaid (i.e. overdue and outstanding) after the deadline defined by law or in the payment notice. new term applies to the entire act as a whole affecting, among others, the terms 'reliable customs debtor', 'exemption from VAT provision' and 'serious breach of customs agent liabilities'. As a new element in establishing reliability – in opposition to the current regulations that only require taxpayers to declare that they are not under bankruptcy proceedings, liquidation or voluntary dissolution –, the new regulations require the certification of such facts which implies the necessity of the petition of the Company Court.

#### **Subsequent review with the indirect customs representative**

The rules of subsequent reviews will also change. As a fundamental change, subsequent reviews would not only be possible at the client but they may, in the future, be conducted also at the taxpayer acting as indirect customs representative for the client before customs administration. The amendment is justified by the fact that the indirect customs representative is to be treated as client owing to its special right of representation. The authority's right to suspend the procedure for the period of related inspections becomes unreasonable due to the fact that the deadline for the review is calculated regardless of the duration of the related inspections while the deadline for passing a resolution is calculated without respect to the duration of the additional review.

## Energy tax

### Changes in competence

The tax administration of energy tax related matters should, in the future, be processed by the tax instead of the customs authority. At the same time, the customs authority would maintain competence in matters where the energy tax is to be paid as levied by the authority.

## Excise tax

### Changes to the 'reliable excise debtor' category for AEO certified taxpayers

The bill modifies the conditions of categories 'reliable excise debtor', 'reliable tax-exempt user' and 'reliable license holder'. AEO certified taxpayers are granted that status pursuant to current regulations while according to the bill it becomes necessary to investigate whether these taxpayers were charged with excise tax or tax penalty in excess of 10% of the excise tax guarantee and whether they have tax arrears.

### Tax reclaims

The bill simplifies and standardizes excise tax refund procedures by repealing the obligation to enclose the underlying invoices not only in the case of electronically filed requests but also for those submitted in a printed format.

## Reduction/omission of excise fines

The bill specifies the maximum amount of the fine levied under Section 170 of the Act on the Rules of Taxation on products subject to excise duty. As a general rule, the fine levied by the tax authority is capped at 100 per cent of the tax shortage or the amount unlawfully reclaimed except the case when tax shortage is due to undisclosed income or the falsification or destruction of source documents, books and accounts. In the latter case, the fine is capped at 200 per cent of the tax shortage or the unlawfully reclaimed amount.

Provisions on reducing and cancelling the excise fine have also been changed. While it has been, so far, a circumstance to be considered in case of requests for both the reduction and cancellation of the fine whether the unlawful person acted with due care in concerned matter, the bill would consider this circumstance only in case of requests to cancel the fine and it would be irrelevant in requests for to reduce the fine.

## Environmental product charge

### Changes in competence

According to the bill, tax administration of the environmental product charge would be processed by the state tax authority. Only certain review tasks remained in the competence of the customs authority.

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