

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.

Tax allowance relating to the support of motion picture production

We would like to draw the attention of our Clients to the amendments that were adopted by the Parliament and that were promulgated on December 15, 2012. Based on these amendments, the system of the tax allowance relating to the support of motion picture production will be changed. Under the previous regulation, taxpayers could only benefit from the tax allowance related to the support of motion picture production on condition that a so-called motion picture authority sponsorship certificate was issued by the relevant authority to the name of the taxpayer. This certificate, however, could only be issued upon completion of the film production which could give rise to uncertainty of a certain extent considering the scenario when the production fails and the tax allowance cannot be utilized.

The new legislation aims at resolving the above problem by making it possible in the future to transfer funds to the depository account held by the *Hungarian National Film Fund* (Magyar Nemzeti Filmalap) and, hence, to foster indirectly the national motion picture production instead of providing funds directly to particular motion picture projects. The new regulation is more beneficial from the taxpayers' point of view because, according to the adopted amendment, the tax allowance related to supporting motion picture production can be applied immediately after the fund is transferred to the depository account of the Hungarian National Film Fund. Furthermore, the applicability of the tax allowance does not depend on the actual completion of the production and whether the completed movie fulfills the necessary requirements set forth by the legal provisions; the issuance of the sponsorship certificate is guaranteed.

Subsequently, our Clients that have been considering supporting the national motion picture production, but had concerns because of uncertainty risks, now can provide such support in a more predictable environment. For those of our Clients that have not benefitted so far from the possibilities relating to providing support to motion pictures, we would like to emphasize the excellent characteristics of this tax allowance from tax planning perspective – deriving from the fact that the amount of the provided support is deductible from both the tax base and the tax payable – and the additional advantage of having the possibility to support the national motion picture industry.

Risk assessment

As we previously informed our Clients, as of 1 January 2012, the tax authority is allowed to conduct risk assessment in case of recently established taxpayers and taxpayers with change in senior officer positions or majority shareholders.

Considering the fact that the applied sanction of cancelling the tax number has not always been in proportion to the damage caused to the tax system by failing to return the tax risk assessment form, the adopted amendments coming into force on 1 January 2013 stipulate that – instead of an immediate cancellation of the tax number – the Tax Authority would be allowed to impose a fine as a first sanction. If the taxpayer fails to return the form before the deadline specified in the resolution imposing the fine, the tax number could then be cancelled. Yet, this amendment will only be applicable to the proceedings initiated after its enforcement or to the currently running proceedings; subsequently, it would not provide remedy for companies with tax numbers deleted previously.

To resolve the above problem, a new bill was introduced and is promulgated on 22 December 2012; the bill stipulates that companies with deleted tax IDs (which deletion was due to the failure of submitting the tax risk assessment form) can request to have the resolution cancelling their tax IDs repealed. According to the bill, the completed risk assessment form must be enclosed to the request, and the failure of meeting the deadline of February 15, 2013 results in forfeiting the right to further appeal.

In case the company with a deleted tax number successfully requests the repeal of the cancellation resolution before the given due date, the Tax Authority shall inform the Court of Registry, resolving the sanction that is deemed excessive even by the legislators.

Year-end adjustments

The end of the financial year could imply numerous challenges for companies. One of these challenges comprises the year-end adjustments when the companies' profitability is adjusted through issuing additional invoices in order to ensure arm's length profitability from transfer pricing point of view. This, however, gives rise to questions in relation to the taxes (e.g. value added tax, local business tax) – besides transfer pricing and corporate income tax, of course.

Additionally, uncertainty may arise also from the accounting perspective which, in the aggregate, goes beyond the border of the general transfer pricing principles and may result in serious tax risks for the companies.

Deloitte had numerous consultations in the recent months with the Hungarian Tax Authority and the Ministry for National Economy as regards the above, and the authorities issued non-binding rulings with regard to certain questions in the concerned topic as well. As a result of the consultations, it can certainly be concluded that several alternatives may trigger with regard to the optimal treatment of the year-end adjustments from the different tax types' point of view (taking into account the different direction of the invoicing, the residency of the parties in the transactions, the diversity and differences of the agreements, etc.). From the value added tax perspective, the formal requirements of the invoices to be issued have also been confirmed (i.e. for which period and with what kind of invoice correction can the adjustment be properly made). This is also important since in the recent past this area came up during tax authority audits and the tax office challenged the incorrect year-end adjustments.

Based on the above, it is necessary for the companies to proceed with due care regarding the year-end adjustments in order to minimize the related tax risks.

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