

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.

Limitation on cash payments

As we previously informed our Clients, as of 1 January 2013 the companies that are obliged to open a bank account are allowed to cash out a maximum of HUF 1.5 million in the course of a calendar month in consideration of the supply of goods or services provided based on a single contract. (The amount is considered to include VAT).

In order to prevent the infringement of the legislation, it is also prescribed by the new provisions that multiple contracts shall be considered as pertaining to one single contractual cash payment if it can be undoubtedly argued that the contracts have been concluded only with the aim to avoid the set limitation.

The relatively low cap on cash payments practically implies that the aggregated amount of payments cashed out in the course of a calendar month cannot exceed the HUF-1.5-million threshold if it can be argued with certainty that the payments derive from the same contractual relation regardless of the legal title and the number of the installments made.

During the implementation of the above new regulation many questions have arisen, such as:

- What can be considered as contract? Can daily orders or at-cashier purchases considered as contracts?
- In case one contract includes numerous orders, shall each transaction be considered as separate for the purposes of the monthly limitation?
- How many times and how often can the same customer purchase the same product throughout the month so that it is not considered as intentional misconduct of the provision?

Since the act only provides framework rules and the practice of the tax authority is yet unknown, relieving answer to the above questions could only be obtained through non-binding rulings tailored to specific cases.

Further to the above, it shall also be considered that the penalty arising from the incorrect practice of the provisions is excessively high. (The penalty is 20 percent of the amount exceeding HUF 1.5 million for both the payer and the recipient.) The fact that the purchaser of the goods or the recipient of the services – except individuals not conducting business activity – shall report every cash payment exceeding HUF 2 million within 15 days to the tax authority facilitates filtering noncomplying practices.

Based on the above, we advise our Clients to reconsider cash transactions with keeping the above legislative changes in mind.

2013 guidelines for labor inspections

We would like to draw our Clients' attention to the 2013 National Inspection Plan of the National Labor Office, which guidelines were published on the authority's website on January 9, 2013. As every year, the 2013 guidelines lay down the major labor law institutions to be examined during the inspections, the periods affected by the inspections and the professions the authority intends to concentrate on.

The inspections, as before, will be conducted through visits to the scene. In the course of these visits, labor inspectors may request access to documents and ask for information from both the employer and the employees. The labor inspection commences either on the authority's own initiative or based on public notifications or complaints, without any warning given in advance to the inspected employers. Therefore, it is not possible to

prepare for the inspections or to arrange the labor documentation afterwards. The legal requirements have to be fulfilled by the start of the inspection; otherwise, the irregularities may not be corrected without consequences. Such consequence is that the discrepancies revealed by the inspectors in certain cases shall be penalized with fines in the amount ranging from HUF 30,000 to HUF 10 million.

According to the plans, in the second quarter of 2013, employers pursuing service-supporting activities can expect inspections, particularly in sectors that were not affected by targeted inspections in previous years. Thus, this year, employers renting and leasing machinery, providing combined facility management, cleaning services, other office administrative services or warehousing may also be subject to visits of labor inspectors.

During summer, clandestine employment performed without an employment agreement or not declared to the authorities and compliance with the provisions on salaries will be brought to the forefront in all areas. For this reason, increased caution is required in case of employment for seasonal work.

In October and November of 2013, the labor inspections will focus on the commercial sector and the observation of the rules on working and resting time. In this regard, the most often criticized omissions are the lack or unsatisfactory management of the working time record, including registration of overtime, daily and weekly resting time and holidays.

In light of the growing number of labor inspections, it may become essential to identify the steps necessary for avoiding fines, in which process our Clients can rely on the assistance of our experts. Such a labor law audit is worth being conducted not only before, but also after the inspections in order to prepare for the increasingly important follow-up inspections.

Free entrepreneurial zones are on the way

As we earlier informed our Clients, according to the Act on Corporate Income Tax as of 1 January 2013 development tax allowance is available to taxpayers making investments valued at HUF 100 million or more at present value provided that such

investments are put into service and operated in the area of the so-called 'free entrepreneurial zones'. Under the development tax allowance, the investor may exempt up to 80 percent of its corporate income tax payable in the course of 10 years following the investment.

The government decree on the establishment and the operation of free entrepreneurial zones and the available legal titles of tax allowance is expected to be published in a few days. The free entrepreneurial zones in the 47 most underprivileged regions of the country will be assigned by this summer on the basis of the regulations of the Decree.

According to the recently published plans of the Government, in addition to the development tax allowance, companies operating in free entrepreneurial zones may also be eligible for job creation aid; furthermore, these companies could be exempted from the total amount of social tax in the first 2 years of employment and 50 per cent in the third year.

Obligation to report the end date of investments benefitting from development tax allowance

According to the new rule introduced under the Section 22/B (3) of the Act on Corporate Income Tax effective as of 1 January 2013, the taxpayer shall report to the Minister for National Economy the end date of the related investment in 90 days after putting the investment into operation. We draw the attention of our Clients to that the Ministry for National Economy has confirmed that the above new obligation applies only to investments completed after 1 January 2013. Apart from the date of completion, no additional data (e.g. value of the investment, number of created workplaces etc.) shall be declared.

R&D Competitiveness/Excellence Agreements – Grant applications may already be submitted

Under the call available for enterprises in all regions of Hungary, a grant amount of up to HUF 6 billion could be awarded for integrated R&D projects. The main objective of the call is to support projects with strategic importance in increasing Hungary's

competitiveness; accordingly, R&D projects even up to four years of duration can be eligible. It should be noted that an integrated R&D project may comprise several "subprojects".

The call for application is available for consortia only; however, one application can consist of more consortia, even different consortium for each subproject. The most important eligible activities are R&D activities (basic research, industrial research, experimental research). Related eligible costs comprise personnel costs, costs of contractual services, overheads (!), purchase of tangible and intangible assets.

Applications can be submitted from 15 January 2013 as long as funds are available but no later than 31 December 2013. The first evaluation will take place on 15 April 2013. Applications submitted prior to this date are more likely to receive funds since the call budget may run out further on.

Contacts

If you have any questions or comments concerning the above, please contact one of our tax experts below:

Dr. Attila Kövesdy

Partner in Charge
Deloitte Co. Ltd.
Tel: +36-1-428-6728
E-mail: akovesdy@deloitteCE.com

László Szakál

Partner
Deloitte Co. Ltd.
Tel: +36-1-428-6853
E-mail: lszakal@deloitteCE.com

István Veszprémi

Partner
Deloitte Co. Ltd.
Tel: +36-1-428-6907
E-mail: iveszpremi@deloitteCE.com

Dr. István Falcsik

Senior manager
Szarvas, Falcsik and Partners Law Firm
Customs and global trade
Tel: +36-1-428-6696
E-mail: ifalcsik@deloitteCE.com

Péter Gémesi

Director
Deloitte Co. Ltd.
Transfer pricing
Tel: +36-1-428-6722
E-mail: pgemesi@deloitteCE.com

Dr. Eszter Gyuricsku

Director
Deloitte Co. Ltd.
Global employer services
Tel: +36-1-428-6756
Email: egyuricsku@deloitteCE.com

Dr. Gábor Kóka

Director
Deloitte Co.Ltd.
International tax
Tel: + 36-1-428-6972
E-mail: gkoka@deloitteCE.com

Babett Korponai

Senior manager
Deloitte Co. Ltd.
Mergers and acquisitions
Tel: +36-1-428-6766
E-mail: bkorponai@deloitteCE.com

Dr. Csaba Márkus

Director
Deloitte Co. Ltd.
R&D and government incentives
Tel: +36-1-428-6793
E-mail: csmarkus@deloitteCE.com

Zsolt Sándor

Director
Deloitte CRS Ltd.
Business Process Outsourcing
Tel: +36-1-428-6800
E-mail: zsandor@deloitteCE.com

Dr. Júlia Szarvas

Attorney
Partner Associate
Szarvas, Falcsik and Partners Law Firm
Tel: +36-1-428-6465
E-mail: jszarvas@deloitteCE.com

Dr. Anna Katalin Papp

Attorney
Senior Associate
Szarvas, Falcsik and Partners Law Firm
Tel: +36-1-428-6736
E-mail: apapp@deloitteCE.com

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