

## 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.**

## Installation schedule of online enabled cash registers

In October 2012, the Government of Hungary decided to connect cash registers to the online system of the national tax authority in order to reduce infringements related to the usage thereof. Amendments to Act CXXVII of 2007 on Value Added Tax (hereinafter: "VAT Act") (effective as of January 1, 2013) provide legal ground to the planned modifications, while Government Resolution 1059/2013 (II. 13.) specifies the installation schedule of the online enabled cash registers to be connected to the system of National Tax and Customs Administration of Hungary (hereinafter: "Tax Authority"). The detailed legal requirements have been established by the Decree 3/2013 (II. 15.) of the Ministry for National Economy of Hungary (hereinafter: "Decree") promulgated on February 15, 2013. Based on the above, we advise our Clients to reconsider cash transactions with keeping the above legislative changes in mind.

### Scheduling

In accordance with the Decree, the online enabled cash registers to be connected to the online network of the Tax Authority are scheduled to be installed through the following 4 phases:

**Phase 1:** Taxpayers liable to operate cash registers are allowed to use the "old" registers (unable to record a digital log) until April 30. Nevertheless, the use of the old registers cannot be penalized by the Tax Authority in the course of the transitional period lasting until June 30, 2013. The license number and the type description of those registers that are not permitted to be used after June 30 will be published on the Tax Authority's homepage no later than March 10, 2013.

**Phase 2:** Taxpayers liable to operate cash registers are allowed to use non-online enabled registers that are able to record a digital log until December 31, 2013.

**Phase 3:** Taxpayers liable to operate cash registers and that use non-online enabled registers able to record digital logs shall comply with the requirements of providing data to the Tax Authority over the period between July 1, 2013 and December 31, 2013 by submitting electronically the digital logs to the Tax authority. The necessary technical details of submitting the digital logs electronically will be published on the Tax Authority's homepage no later than March 10, 2013.

**Phase 4:** Taxpayers not liable to operate cash registers are allowed to use the old type of registers until December 31, 2014.

### Important changes to technical specifications of cash registers

An important element of the new technical solution is the so-called "fiscal control unit" (hereinafter: "FCU") responsible for protected data communication between cash registers and the Tax Authority. The FCU constantly records every event occurring through the cash register: in addition to invoice creation, it records power cuts, switches, and the operation in practice mode (etc.). Under certain conditions, the FCU signals its reporting intentions towards the Tax Authority. However, data will actually be transferred only if the Tax Authority's server so requests.

### Reporting requirements

The Decree establishes for the taxpayers liable to operate cash registers that reporting requirements prescribed by the VAT Act shall be completed with the required data established by the Decree and stored on the FCU via the electronic messaging

network. According to the Decree, the term "online" connection shall not refer to general Internet connection but a kind of mobile data connection. In case mobile data connection is not available where the invoicing of the taxpayer is taking place and the cost of installing such a device would be disproportionately high, the taxpayer can request for an individual exemption from the Tax Authority. The individual exemption expires within one year but it can be extended.

In case of individual exemption, the taxpayer shall fulfill the reporting requirements by saving the data contained in the FCU on a CD/DVD or on a non-rewritable optical data carrier and submitting it on a monthly basis no later than the 10th day of the month following the reporting period to the competent tax authority according to the seat or permanent establishment of the company. Further, the reporting requirements – based on a separate permission – can be fulfilled by placing the cash registers into a position for one hour after the closure of the day, where the electronic data network is available.

### Legal consequences

The most severe consequences could be expected by those distributors trading with the cash registers without a distribution license, distributing the cash registers after the withdrawal of their distribution license further those distributing cash registers other than they have license for. In these cases, the maximal default penalty is applicable adding up to HUF 10 million.

In case of violating the obligations established in the relevant legislation regarding the distribution, operation, and repair of the cash registers (e.g. the usage of the newly introduced type of cash registers during the temporary measures, causing disruption to the connection between the cash register and the server of the tax authority, etc.) or in any other way, the Tax Authority can penalize individuals (distributors, operators, repairmen, technicians) by up to HUF 500 thousand and non-individuals up to HUF 1 million.

The withdrawal or blockage of cash registers by the Tax Authority is also possible in case of suspicion of infringement if the circumstances cannot be clarified otherwise. We would like to emphasize that the above rules are authoritative for the taximeters as well.

The Tax Authority has placed great emphasis on supervising the lawful completion of invoicing obligation, and it aims to carry on with this practice the more so since every fourth audit taken place in 2012 revealed non-compliance issues with the invoicing rules.

Based on the above, proceedings of increased caution are important. Additionally, please note that the introduction of the system of online cash registers in most countries did not go without any hitch and many question and problems are expected to arise in this respect.

### Contradictions in relation to the remuneration for the periods affected by vacation

We would like to draw our Clients' attention to the recently published contradicting interpretations on the calculation of remuneration for the periods affected by vacation, which interpretations influence wage-costs differently.

The controversy is caused by the rule introduced by the new Labor Code, according to which the absentee fee of employees having a monthly salary stated in their employment agreement shall be calculated by dividing the monthly salary with 174. Then, the resulting one-hour absentee fee shall be multiplied by the amount of daily working hours. Since the divider of 174 represents an average number, it does not take into account the fact that the actual number of working hours that can be scheduled in a month differs. Therefore, the possibility to proportionate the calculation to the monthly changing number of working days ceased. The monthly salary shall be divided with the same fixed number in each month. Consequently, the amount of the absentee fee may vary in every month, depending on the number of working days in the respective month and the number of vacation days the employee takes.

The uncertainty is further increased by the circumstance that the Labor Code prescribes the application of the 174 divider in every case where the salary needs to be calculated. In contrast, according to the interpretation of the Ministry for National Economy, it shall not be taken into account when establishing the salary for the working days of the employee. Based on the information provided by the Ministry, in order to determine the above salary-element, the daily salary needs to be

calculated and then multiplied by the number of working days, in accordance to the earlier practice.

To sum up, in case the employee is away from work due to, for instance, vacation, the employee's salary varies depending on the number of working days in the respective month. As the salary actually paid to the employee may differ from the salary set out in the employment agreement in both positive and negative direction, it may happen that in certain months the employee, if employed on a minimum wage, receives less salary than the lowest amount prescribed by law. For this event, the implementation manual of the Ministry for National Economy declares it to be the employer's obligation to complement the calculated amount to the level of the minimum wage. However, the legal basis for this obligation is not indicated in the manual.

The above matter caused significant discussions in the recent months, both among employers and employees. Realizing the controversy, the competent ministry stated its readiness to rethink and modify the law for the sake of clarity. In the meantime, and until the practice crystallizes, we are gladly at our Clients' disposal in answering the related questions.

## Land Utilization Registry

As from January 1 and February 1, 2013, the provisions of *Act LV of 1994 on Arable Land* (hereinafter: "Land Act") with regard to land utilization registry have been modified. The modification extends the scope of persons who are obliged to register into the land utilization registry on the one hand, and the scope of data to be reported on the other. The aim of the modification is to prepare an aggregate register with a searchable database on the area of arable lands used by natural persons or business associations in Hungary.

From January 1, the use of all arable lands and incorporated lands used for agricultural or forestry purposes (except for land parcels registered in the forestry sector), independently of their size, have to be reported to the Land Registration Office within 30 days from the date of commencement of the use. Until the end of last year, those who used less than a total area of 1 hectare of arable land in Hungary were exempted from such reporting obligation. The current user or, if the land utilization was not conveyed to anyone else, the owner of the land is subject to the reporting obligation.

Further, pursuant to the modification of the Land Act, private person land users have to report their personal identification number and citizenship, and business associations have to report their statistical code until March 30, 2013, at latest. If only these data are reported, the procedure is free of charge.

Failing to report the above data results in imposing of a fine corresponding to the amount of the quality rating ("aranykorona") of the arable land as indicated in the real estate register multiplied by one thousand, and the fine has to be imposed repeatedly if the new deadline provided by the Land Registration Office passes unsuccessfully. If the land user is not reported to the land utilization registry, the owner or, in case of beneficial interest, the holder of the beneficial interest has to be regarded as the land user.

# 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](mailto:akovesdy@deloitteCE.com)

## László Szakál

Partner  
Deloitte Co. Ltd.  
Tel: +36-1-428-6853  
E-mail: [lszakal@deloitteCE.com](mailto:lszakal@deloitteCE.com)

## István Veszprémi

Partner  
Deloitte Co. Ltd.  
Tel: +36-1-428-6907  
E-mail: [iveszpremi@deloitteCE.com](mailto: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](mailto:ifalcsik@deloitteCE.com)

## Péter Gémesi

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

## Dr. Eszter Gyuricsku

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

## Dr. Gábor Kóka

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

## Babett Korponai

Senior manager  
Deloitte Co. Ltd.  
Mergers and acquisitions  
Tel: +36-1-428-6766  
E-mail: [bkorponai@deloitteCE.com](mailto: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](mailto:csmarkus@deloitteCE.com)

## Zsolt Sándor

Director  
Deloitte CRS Ltd.  
Business Process Outsourcing  
Tel: +36-1-428-6800  
E-mail: [zsandor@deloitteCE.com](mailto: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](mailto: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](mailto:apapp@deloitteCE.com)

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