Deloitte.

European Tax and Transfer Pricing Firm of the Year
Central European Tax Firm of the Year
International Tax Review European Tax Awards 2013

Tax News+

Tax law changes adopted for 2014

22 November 2013

Content

Tax law changes adopted for 2014

The aim of our present newsletter is to inform our Clients about the most recent legal amendments in relation to taxes adopted by the Parliament on November 18. This newsletter is in accordance with and based on our previous one summarizing the provisions of the then proposed law changes that were submitted to the Parliament on October 18.

Personal Income Tax, Social Security Contribution and Social Tax

Family tax credit, family social security contribution credit

According to the tax law changes family social security contribution credit will be introduced as of 1 January 2014. This credit would be beneficial for individuals who are unable to use the full amount of the family tax credit to decrease their personal income tax liability.

The family social security contribution credit decreases the individual's healthcare and pension contributions (employee part of social security contribution). The benefit would be available for the insured individual and the individual's spouse or partner as well. The application of the family social security contribution credit would result in increased administration.

It is important to note that the family social security contribution credit does not affect the individual's eligibility to social security benefits. Moreover, the individual's statement of intent is required for the credit.

Tax free employer provided accommodation financing support

The new tax legislation widens the scope of the employer provided tax free support. It allows employer support which is provided to help employees for the repayment for loans taken out from either financial institutions or their previous employer, to be considered tax free. The further conditions remain the same as before, e.g. the support should be transferred through a financial institution or through the Hungarian State Treasury and it should not exceed the lower of 30 per cent of the total cost of construction or HUF 5 million.

Pension insurance contract

In addition to the voluntary healthcare service premiums, an individual taxpayer will be entitled to dispose in his tax return 20% of the premiums (but a maximum of HUF 130.000) paid by him as contracting party (or paid on behalf of him by another party creating taxable income) for a pension insurance policy taken out from an insurance company resident in Hungary or in another Member State of the European Economic Area. The maximum aggregated amount of disposals deriving from voluntary healthcare service premiums, retirement account contributions and pension insurance premiums cannot exceed HUF 280.000. This regulation shall be applied to pension insurance premiums which are paid based on contracts concluded only after 31 December 2013.

Tax free single and season tickets for sport events

There are amendments in the regulation relating to the tax free single and season tickets for sport events. As of 2014, the single and season tickets for sport events are to be considered as tax free benefits without any limit (previously, a limit of 50.000 HUF applied).

Insurances

In addition to the pension insurance premiums related disposal, the tax law changes affect the definition of future risk insurances and the tax free treatment of the related premiums, the regulation related to whole life insurance policies with a redemption value, furthermore, the tax consequences of the benefits paid by the insurance companies (i.e. tax free payments and the payments considered to be interest income). Apart from some corrections supporting the coherency of the legislation, the amendment to the Act on Health Tax provides exemption from the 6% health tax for the benefits deriving from certain insurance policies

(i.e. policies in which at least 80% of the underlying assets or the premium reserve consists government bonds).

In case of whole life insurance policies with a redemption value, covering death risk only (which are not considered to be solely future risk insurances) and provided that the insurance premiums are paid by a disburser, additional to the insurance benefit paid upon death the benefits paid in occasion of qualified accident and sickness will also be tax free.

According the lawmaker's intention, the amendment was necessary to prevent possible tax avoidance by transforming these kinds of insurance policies into pension insurance policies.

Student employment contracts

Students who are employed based on a student employment contract as a part of their university course, or as a part of the internship of their university course, would not fall under the scope of social security insurance. Consequently, social security contribution payment liability does not arise in relation to the income earned by these students. Moreover, such employment does neither result in social tax liability according to the amendments adopted by the Parliament.

Vouchers

The new legislation amends the conditions of providing vouchers as benefit in kind: the voucher could be considered as benefit in-kind – besides the previous conditions – if it cannot be redeemed (bought off).

Approved employee share scheme

The registration obligation of the approved employee share schemes (Act on Personal Income Tax Section 77/C.) with the Hungarian Authorities will be abolished. The conditions for the beneficial tax treatment are mostly unchanged; consequently maximum 25 percent of the employees participating in the scheme could be executive officers, who are only permitted to obtain not more than 50 percent of the nominal value of the shares made available in the scheme. Furthermore, the draft legislation proposes new conditions on the participation in the scheme: the eligibility for the participation in the scheme could not be related to the performance of the employee or the executive officer.

Employment income paid after the tax year

Considering that a significant part of the employers pay remuneration in the beginning of January for the previous year (e.g. wages for December), the employment income paid by the 15th of January should be regarded as income realized on the last day of the previous year. In order that the personal income tax legislation is in accordance with the social security legislation in this area, the tax law amendment changed this deadline to the 10th of January. Hence, in the future, employment income obtained before this date will be considered as income realized in the last year in both personal income tax and social security.

Loyalty and other promotions

According to the amendments adopted by the Parliament – besides Hungarian entities qualifying as disburser – foreign entities could also provide the discount in the framework of a public campaign, the discount related to the purchase of goods or services, and sample products to an individual tax free.

Interest discount, tax free benefit

The range of the interest discount that could be provided tax free will is wider. According to the tax law changes adopted by the Parliament, in the case when a financial institution does not charge interest on credits and loans provided to not related parties, as a result of the implementation of measures for re-establishing the liquidity of the debtor, the interest that was not charged could not be treated as income for the individual.

Furthermore, the forgiveness of loan receivables on behalf of financial institutions qualifies as tax free benefits for private individuals provided that (1) the forgiveness of the receivable takes place between unrelated parties and (2) it is in accordance with the financial institution's internal policies and (3) all the clients of the financial institution of the same situation are treated equally.

Interest income

According to the adopted amendment, in case of such assets which are considered to be a special form of interest income from which the tax cannot be withheld (e.g. prizes won based on premium bonds), the fair market value of the prize multiplied by 1.28 will be the personal income tax base.

(Currently, the fair market value should be multiplied by 1.19.) In this case, the 6% health tax should be determined similarly: the tax base should be increased by 28%.

Long-term savings accounts

In accordance with the adopted legislation, in case of the conversion (exchange) of securities held on long-term savings accounts, the investment period will not be regarded as intersected provided that the new securities or the cash instruments – received in consideration for the securities – are deposited on the long-term savings account in 15 days. Subsequently, no personal income tax payment liability should arise in this respect. (Previously, private individuals were required to declare that the new securities or the cash instruments acquired in exchange for converted/exchanged securities shall be deposited on the private individual's long-term savings account.)

Aiming to encourage competition among investment service providers, in line with the amendment, it does not qualify as intersection of the deposit, if the owner of the assets deposited on long-term savings accounts decides to transfer the assets to another investment service provider (one time within a given tax year).

Healthcare service contribution

According to adopted amendments, the Hungarian Tax Authority cancels the healthcare service contribution liability of an individual in case the Authority is informed officially about the termination of the liability. The amount of the healthcare service contribution in 2014 is HUF 6,810 per a month (HUF 227 per day).

Social security status of third country citizens

The Hungarian activity of third country citizens will continue to be exempt from social security contribution (employee part) and social tax liabilities if their Hungarian activity does not exceed two years. In case the Hungarian activity of the third country citizen exceeds two years, the individual can continue to be exempt from social security contribution (employee part) liability if the following conditions are met:

- the extension of the Hungarian activity is a result of an unforeseen reason at the time of the beginning of the activity,
- the reason for the extension of the Hungarian activity arises after one year of the start date of the Hungarian activity,
- the individual notifies the Hungarian Tax Authority within 8 days after the extension of the Hungarian activities.

The legislation does not contain the social tax liability exemption of the individual. Therefore, in case the Hungarian activity of the third country citizen exceeds two years, social tax liability should arise from the first day of the Hungarian activity (retrospectively).

The legislation provides further relief in case of Hungarian assignments starting even before 1 January 2013. The two-year exemption period should be counted from 1 January 2013. Therefore, social security insurance liability could only arise from 1 January 2015. Thus, the earliest time as from employee social security contribution and social tax should be paid could be this date.

Taxation of foreign performing artists

The adopted tax law amendment introduces a new, simplified method for determining foreign performing artists' (e.g. musicians, dance artists) personal income tax base. The method is optional, it can be chosen if the artist is present in Hungary for the period not exceeding in the aggregate 183 days in any twelve months period and the revenue deriving from the Hungarian activities exceeds HUF 200,000 per annum. In this case, 70% of the artist's revenue is to be considered as taxable income (allowing a 30% expense deduction). The calculated personal income tax should be declared and paid before the performing artist leaves Hungary.

Corporate income tax

Research and development activity of associated enterprises

The adopted amendments allow the deduction of expenses arising from own R&D activity of associated entities from the corporate income tax base of the taxpayer, provided the taxpayer

complies with all other relevant conditions. The taxpayer is entitled to apply the deduction provided that it acquires a declaration of the associated entity indicating the amount of the direct expenses and the deductible amount as well as the expenses are directly attributable to the business activity of both the taxpayer and its associated entity. For the accurateness of the content of the declaration, the taxpayer and its associated entity are jointly responsible. Both parties are obliged to provide related data in their respective corporate income tax returns.

Easing in the rules of reported participation

The adopted amendments modify the rules on reported participation by decreasing the minimum percentage of participation subject to reporting from 30% to 10%, while the deadline for reporting such participation is extended to 75 days from 60 days.

Self-revision of non-significant errors

The adopted amendments also modify the corporate income tax treatment of non-significant errors (for accounting purposes); however the adopted modification differs from the originally planned modification set out in the Bill. Should a taxpayer be obliged to perform self-revision for its own benefit due to non-significant errors incurred in prior tax years, he may decide to take the determined amount of difference into consideration upon preparing the tax return for the actual financial year when the errors are revealed, instead if performing self-revision. In this case, the tax base of the actual financial year should not be increased by the amount of determined difference.

Restaurant services – expenses incurred in the interest of business activities

The adopted amendments consider the expenses of restaurant services incurred for business entertainment purposes as described by the Act on Personal Income Tax as expenses incurred in the interest of business activities provided that the completion of the restaurant services is confirmed with a receipt and the payment was done via bank card or credit card.

Using tax losses carried forward in case of preferential transformation and preferential transfer of assets

The adopted amendments clarify the rules of using tax losses carried forward in case of preferential transformation and preferential transfer of assets. Based on the amendments, it is confirmed that the profit before tax can be first decreased by tax losses taken over in the tax year including the day of transformation/asset transfer.

Tax allowances on sponsorship of cinematic and performing arts organizations, as well as of spectacular team sports

The adopted amendments expand the deadline of using tax allowances related to sponsoring cinematic and performing art organizations, as well as spectacular team sports. As per the effective rules, tax allowances can be used in the year of granting the sponsorship but no later than in the third consecutive year. According to the amendments, this latter deadline will be expanded to the sixth consecutive year following the year when the sponsorship is granted.

Further noticeable modification is that supplementary grants – previously known only in case of sponsoring spectacular team sports – will be initiated for sponsorship of cinematic and performing arts organization as well, with the same rate. The amount of supplementary grants should be at least 75% of amount counted applying the 10/19% tax rate in respect of the amount of the sponsorship given. Practically this means, that the taxpayer has to perform supplementary payment to a beneficiary set out in the CIT Act in an amount of at least 75% of the net tax benefits (all tax benefits decreased by the amount of the sponsorship granted). Supplementary grants do not qualify as costs incurred in the interest of the business upon assessing the CIT base and therefore they should be taken into account as tax base increasing items.

Accounting

Bookkeeping in US dollars

The adopted amendments unconditionally permit bookkeeping and preparing financial statements in US dollars – as it has already been permitted using EUR as the currency of bookkeeping.

Accounting treatment of payment of dividends in-kind

The adopted amendments clarify the – the previously ambiguous – rules on the payment of dividends in-kind and set forth that in such cases transferred assets must be accounted for in the books according to the rules of sale.

Application of the ECB exchange rates

The adopted amendments make possible the application of the exchange rates issued by the European Central Bank for the valuation of foreign currency items – similarly to VAT-legislation – aside the currently applicable exchanges rates of financial institutions and the Hungarian National Bank.

Preparation of consolidated financial statements

The adopted amendments restrict the scope of companies required to prepare consolidated financial statements by increasing the respective thresholds. Companies not exceeding two of the below three thresholds during the two consecutive business years prior to the actual business year will not be required to prepare consolidated financial statements:

- Balance sheet total – 5,400 million HUF
- Annual net turnover – 8,000 million HUF
- Average number of employees – 250 persons

Audit obligation

Based on the adopted amendments, companies having public debts exceeding HUF 10 million, expired for more than 60 days on their respective balance sheet date will not be exempt from audit obligation regardless of whether they should be exempt from audit obligation based on their net turnover or average number of employees.

Contribution of credit institutions

The adopted amendments orders credit institutions belonging under the scope of the act on credit institutions and financial service providers to make a single payment in the amount of 19% of the decrease in the amount of their general risk provisions. The pertaining tax return must be filed and the tax must be paid until March 10, 2014. The tax liability on the decrease of the general risk provision shall not be fulfilled as surtax, but as corporate income tax. The contribution of credit institution has to be paid regardless of whether the company is loss generating based on the corporate income tax return for the 2013 business year. Considering the fact that the adopted amendments set out corporate income tax liability, the amount of such tax liability should not be presented in the annual report as expenditure, therefore it does not decrease the profit before tax.

Income tax of energy suppliers

The adopted amendments set forth that taxpayers will be obliged to make advance payments in respect of this tax type – similarly to other taxes. The amount of the advance due will be the amount of the tax paid in the previous tax year. In the event the amount of the tax due exceeds 5 million HUF, the advance will be due on a monthly basis in equal installments; otherwise quarterly installments will be due. Furthermore, provided the taxpayer's sales revenue of the preceding tax year exceeds 50 million HUF, a payment will due until the 20th day of the final calendar month of the actual financial year in the amount of 90% of the tax obligation.

Local Taxes

The adopted amendments amend and correct the definition of *'land property'* and *'building structures'* from many perspectives. They also amend the rules related to the starting and ending dates of the period through which the tax liability is payable.

Local Business Tax

Based on the effective legislation, entrepreneurs taxed under the fixed rate tax of small taxpayers (hereinafter referred to as: "KATA") are entitled to apply a simplified tax base calculation method for local business tax only as long as they are subject to KATA. Should a taxable person decide to terminate the application of simplified tax base calculation method, it can only do so, if it ceases to be subject to KATA either. As a result of the adopted amendments, taxable persons subject to KATA will be enabled to choose the simplified tax base calculation method on a taxable year basis. The above scenario can be beneficial in case the taxable person does not deem it rational to apply the simplified method anymore. Accordingly, a taxable person may choose to apply the general rules of tax base calculation while it still remains subject to KATA.

Split of local business tax base of mobile network operators (MNOs)

The adopted amendments re-regulate the definition of permanent establishment of taxpayers performing wireless telecommunication activity (i.e. at least 75% of its net turnover originates from such activity). Under the effective rules, MNOs have permanent establishments for LBT purposes in municipalities where the invoicing addresses of their customers requiring the wireless telecommunication services are registered. According to the adopted amendments based on the general rule, MNOs will have permanent establishment for LBT purposes also in municipalities where they perform – partly or entirely – business activities (e.g. they have an office, a store or any kind of customer service).

The method of splitting local business tax base also changes. Under the new rules, MNOs will have to split 20% of their LBT base between municipality of their seat and those of where the MNO has permanent establishments as per the general rules (e.g. office, store or customer service). The split has to be performed applying the general LBT base splitting methods (i.e. in proportion of asset value / or in proportion of personnel expenditures). The outstanding 80% of the LBT base should be split in accordance with the current rules (i.e. the tax base is to be split based the number of customers between municipalities where customers have their invoicing addresses).

Duties

The currently effective legislation will be amended at several points with regard to the scope of exemption from duties applicable to real estate companies.

The scope of transfer tax exemption for private individuals to be extended

According to the adopted amendments, gifting among spouses, property transfer among spouses and income deriving from the dissolution of matrimonial communities will not be subject to transfer tax. Furthermore, all individuals acquiring their first residential property will be entitled to apply for deferred payment of tax free of surcharges, regardless of their age (under the current regulation only individuals under the age of 35 are entitled to apply for it).

Modifications to the conditions and the subject of transfer tax exemption

The adopted amendments will enact a stricter regulation with regard to the exemption from transfer tax in case of 1) the acquisition of movable properties within the frame of asset transfers without consideration and 2) the forgiveness of receivables among business associations. In addition, the conditions of transfer tax exemption related to the transfer of properties will be stricter in case of preferential transformations, preferential exchanges of shares, and preferential asset transfers. At the same time, the conditions of transfer tax exemption will also be stricter in case of transfers of participation in real estates and real estate companies between affiliated parties. According to the adopted amendments, these transactions can only be exempted from transfer tax in case the acquirer is not seated or tax resident in a country where the effective corporate income tax rate is below 10 per cent or – in case of a negative or zero tax bases – the nominal corporate income tax rate is below 10 per cent. The aforementioned transactions should not be exempt from transfer tax either in case the income deriving from the alienation of the shares is not subject to a tax of at least 10 per cent in the country of the acquirer. The fulfillment of the pre-requisites of transfer tax exemption shall be declared by the acquirer.

Based on the adopted amendments, the forgiveness of dividend receivables will be exempt from gift tax. So will be the forgiveness of a receivable under a bankruptcy agreement or in the frame of a liquidation process provided that the beneficiary of the receivable is not a shareholder of the business association in bankruptcy/under liquidation.

The adopted amendments clarify that the acquisition of a real estate or a motor vehicle within the frame of a closed-end financial lease contract will be also subject to transfer tax taking into account the fact that actually an ownership transfer takes place.

Companies holding domestic real estate properties

The adopted amendments re-regulate the notion of *'domestic real estate company'*. A business association should be considered to be a domestic real estate company in the future only if (1) the book value of real estates listed among its balance sheet

assets exceeds 75 per cent of the book value of its total assets (excluding cash equivalents and cash receivables), or (2) the company has a direct or indirect participation of at least 75 per cent in a company that meets criterion (1) (i.e. in a domestic real estate company).

According to the adopted amendments, the acquisition of shares in a real estate company will be subject to transfer tax (assuming an acquisition of at least 75 per cent of the shares in such a company) not only in case if the acquired company's main activity is the organization of construction projects or other real estate utilization activities. In the future, the acquisition of shares in a domestic real estate company will be subject to transfer tax regardless of the main activity of the acquired company indicated in the company registry.

Public utility tax

The adopted amendments initiate tax exemption for communication wires up to 200 kilometers (replacing the current tax allowance of 80% up to 170 kilometers). In addition, the previously determined thresholds for applying degressive rates of tax allowances will be expanded in respect of wire bands exceeding 200 kilometers.. In the future 100% tax rate should be applied for only wires longer than 500 kilometers (the current threshold is 300 kilometers).

Regulated real estate investment companies

The adopted amendments also aim to clarify the rules applicable to regulated real estate investment companies. The amendments affect the rules of dividend distribution and those related to the limitations on acquisition of shares.

Public health product fee

The adopted amendments extend the scope of public health product fee to various syrup products and will, in addition, specify the list of products falling under this category in order to clarify jurisdictional issues.

Vehicle registration tax

The adopted amendments amend the conditions regarding tax refund claims related to the modification of motor vehicles. This means that for vehicles placed into circulation after having been modified, negative differences in tax originating from the difference between the post-modification and pre-modification status will be reclaimable provided that the classification of the modified vehicle for environmental protection purposes is higher than the one preceding the modification.

Value added tax

Date of performance for periodic settlements

According to the adopted amendments, for transactions concerned with periodic settlements the last day of the settlement period will be considered as the date of performance as a general rule. An exception will apply to cases where periodic settlements are applied according to public service agreements as specified in the Civil Code and in case of telecommunication services. In these cases, the due date of payment will prevail as the considered date of performance.

Based on the adopted amendments, the rules related to date of supply in respect of periodic settlements shall be applicable in all cases when the consideration applied in the course of the transaction is stipulated for a pre-determined period. Consequently, these rules shall prevail in cases when there is only one settlement period. The new rules shall be applicable to settlement periods beginning after June 30, 2014 in relation to which the due date of payment is after June 30, 2014 as well.

Retrospective decrease in the tax base

The adopted amendments initiate a new possibility of retrospectively decreasing the tax base in certain cases and under certain conditions when retrospective cash discount reimbursement is provided. The retrospective decrease of the tax base will be possible if the seller is a taxable person that provides cash reimbursement to its customer based on special coupon (voucher) specified by the law. Another condition of retrospectively decreasing the tax base is that the buyer of the product or the

service is a taxable person or a non-taxable person who that acquired the given product or service in indirectly from the seller.

The adopted amendments furthermore amend the regulation related to posterior tax base decrease executed without self-revisions. The amendments aim to simplify the provisions related to the posterior tax base decrease and to extend the scope of these provisions to every potential scenario when the tax base (and subsequently the amount of the payable tax) is posteriorly decreased for any reason.

Deadline for release of goods exported outside of the Community

According to the adopted amendments, in cases where tax exemption connected to export of goods could not be applied as a result of missing the deadline of 90 days for the release of the goods outside of the Community, there will be a possibility to extend the deadline to 360 days. This means that if the goods were to be released in 360 days, the retrospective reduction of the payable VAT can still be applicable.

Extending the scope of observation period to intangible property

The adopted amendments extend the obligatory observation period of 5 or 20 years to intangible property, similarly to tangible assets. During the aforementioned observation period, retrospective adjustments regarding changes of circumstances determining the amount of deductible VAT charged previously are obligatory.

Contribution in-kind, legal succession and transfer of going concern

The adopted amendments modify the application of the correctional rule regarding tangible assets in cases where the asset is transferred as contribution in-kind or as a result of succession to another taxpayer or by way of a transfer of going concern. In this matter, the concerned asset should be regarded as having been owned by both the contributor/legal predecessor/alienator of the business unit and the receiver of the contribution/legal successor/the acquirer of the business unit for the whole calendar year in which the transfer takes place. This also means that both parties are obliged to perform time-proportionate year-end adjustments.

Other changes

The adopted amendments unify and simplify the regulation concerning the VAT treatment of retrospective adjustments of the payable and deductible tax.

The adopted amendments modify the content requirements of simplified invoices and receipts.

The adopted amendments extend the period available for applying reverse charge mechanism for certain agricultural products and initiate a preferential tax rate of 5% for certain pork products as of 1 January 2013.

Furthermore, the adopted amendments – as an exception – set out the deductibility of VAT related to purchase of dead-wagons.

Amendments relating to customs

According to the adopted amendments, payment relief is to be established by authorizing payment deferral and lump-sum payments, in case the taxpayer suffered from payment difficulties in connection to the customs. Authorizing payment relief is subject to consideration of the customs authority.

The amendments give rise to the so-called adjustment supplement, which will be assessed by the customs authority if modification of customs declaration is requested by the taxpayer. Should the request be filed within 90 days, the adjustment supplement rate is 1/365 of the central bank's prime rate for each day, but at least HUF 3,000 and not more than HUF 1,000,000. In case of modifications requested after 90 days, the amount of adjustment supplement may increase.

Most significant amendments relating to excise procedures

Changes in relation to the trade of lubricating oils

Based on the adopted amendments, domestic trade, import, export and intra-community acquisition and sale of certain lubricating oils and other lubricants will be subject to the possession of excise license. However, conditions of being entitled to the excise license – in opposition to the

main rules – are facilitated. Should lubricating oils be purchased in bulk, the customs authority should not have to be informed in the future. This latter remains the liability of persons transporting such products

Conversion to the application of CN codes

As of July 1, 2014, applying CN codes in their up-to-date version will be obligatory regarding excise procedures, furthermore in registries and information provision of affected entities. Harmonizing with the general intra-community business and legal practice, the amendments terminate this ambiguity being outstanding since 1998. CN codes to be applied should be published by the customs authority on its website.

Warehouse keeping and excise licensed activities related to liquidated hydrocarbons

In case of companies performing warehousekeeping and other activities being subject to licensed trader and user permission with regard to liquidated hydrocarbon falling under CN code 2901 10, a reduced tax rate established for gazes of motoric purposes should be considered upon calculating the excise guarantee. Until now, the tax base established for motor gasoline of fuel purposes had to be considered. According to the above, the proposal sets out the application of this reduced tax rate upon assessing penalties related to infringements.

Based on the adopted amendments, mineral oil warehousing license can be requested also for handling liquidated hydrocarbons of CN code 2901 10. Furthermore, should the company be in possession of this license, such activity may be performed.

A further amendment in respect of this product group is that in order to perform activities that require an excise license – contrary to the general rules – sets out the provision of excise guarantee of reduced value, i.e. HUF 1,000,000. Furthermore, the disposability of the necessary storage capacity will no longer be a requirement in case of liquidated gases provided that the gases are traded in 25-kg vessels.

Restrictions related to tobacco products

The adopted Amendment sets out the definition of dried and fermented tobacco, as well as devices suitable for filling cigarettes by hand, aiming to restrict the excise control of such products. The amendments expand the possibility of controlling and sanctioning tobacco producers and also traders of devices who are able to make tobacco products. As per the amendments, domestic and foreign trade, possession of dried and fermented tobacco products will be subject to preliminary registration at the customs authority.

The system of sanctions applicable in case of infringements of rules relating to tobacco products and producing devices (e.g. cigarette filler, cigarette tube) – including persons performing such activities in tobacco stores without license or at any other place – will be significantly intensified (e.g. the penalty to be assessed might be increased to ten times the current amount).

Changes related to the regulation of environmental protection product charges

Introducing the instrument of ‘product charge warehouse’

The most significant modification of the adopted amendments in respect of environmental protection product charge is that the instrument of ‘product charge warehousing’ gets to be introduced as of July 1, 2014. The adopted amendments set out two different forms of such warehouses. The first type is called industrial product charge warehouse and applies to those who carry out manufacturing and producing activities. The second type applies to those who carry out trading activities and it is called trading product charge warehouse.

The operation of a product charge warehouse will be subject to licensing of the national tax authority, Licenses could be obtainable for a period not exceeding five years. Nevertheless, the obtainment of such a license will be subject to the employment or the engagement of a product fee official. For the operators of product charge warehouses the current system of assumptions which have been negatively influencing the operation of a segment of the industry.

Promoting the system of refillable products

In the future, no product charge should be paid in respect of reusable packaging provided that is leased by the person liable to pay the product charge to the person making the actual packaging in the frame of a general leasing. The terms of a *'general leasing'* for environmental protection product charge purposes should be determined by an adjunct decree of the relevant authorities responsible for environmental protection. Further provisions are expected to be introduced with the aim of promoting the use of recycled loading gears instead if non-recycled loading gears.

New possibilities related to stockpiling liability

The former regulations of environmental protection product charge did not allow taxpayers becoming subject to the product charge during the course of a given business year to opt for the liability of stockpiling. Based on the adopted amendments, this exclusion shall be terminated. In addition, taxpayers shall declare their election in respect of the liability of stockpiling for the actual business year in the first quarterly return to be submitted in the following business year.

Amendments on the rules of taxation

Regulations related to representation

The adopted amendments ease the rules of representation in case of procedures related to VAT refund, i.e. a taxpayer that is not established in Hungary for the purposes of the VAT Act, may be represented before the tax authorities by a foreign individual, legal person or other organization also.

Exemption from VAT registration

In line with the adopted amendments, a taxpayer, who imports products under the provisions of the VAT Act related to the VAT-free intra-Community import while engaging a direct customs representative, will be not obliged to register provided that he does not carry out any other activity in Hungary. Taxpayers that are not established or are not obligated to be established in Hungary for the purposes of the VAT Act, may be exempt from VAT registration as well. This exemption may be applicable if the business activity of the taxpayer in Hungary is limited to selling products under tax warehousing proceedings provided that the products remain under that tax warehousing or the customs authority exits the products to outside of the Community.

Self-revision

In accordance with the modified provisions of the VAT Act as cited above, a phrase of the Act on the Rules of Taxation related to the exemption from self-revision obligation will be also abolished. Accordingly, it will indeed qualify as self-revision if the amount of the declared value added tax is adjusted as a result of the modification of the customs authority's resolution declaring the amount of the import VAT.

Furthermore, the provision prescribing that self-revision returns can only be submitted subsequent to the deadline set for the submission of the tax returns shall be repealed. Therefore afterwards taxpayers will have the possibility to submit the self-revision returns prior to the deadline of the submission of the tax returns. In this case the adjusted tax and state subsidies will be due based on the general rules.

Changes with respect to tax audits

With the purpose of increasing efficiency and promptness of tax inspections, the adopted amendments introduce the possibility to deliver the engagement letter electronically, furthermore it makes possible for the tax authority to question the validity of the data contained in the taxpayer's registries and tax returns through the inspection of any software, IT system and calculation used for bookkeeping and processing receipts.

It will be possible to keep the requested documents during tax inspections until the end of the procedure at the tax authority in opposition to the current 60 days. Therefore, it shall be advisable to duplicate these documents.

Binding rulings

In opposition to previous regulations, binding ruling requests should determine only tax liabilities that relate to the taxpayer who submits the request. Besides, binding ruling requests should be processed within 75 days compared to the previous

60 days, while urgent requests should be processed within 45 days.

The rules on the assessment of the fees of ruling requests will be simplified. The fee for a standard ruling request will be 5 million HUF, while requesting an urgent or a permanent ruling request will be 8 million HUF and finally, the fee will be 11 million HUF for requesting an urgent permanent ruling request.

The adopted amendments introduce the so-called *'consultation'* that will provide the possibility for taxpayers to participate in a consultation before handling in a ruling request within a legal setting. The consultation will be subject to a fee of HUF 100 thousand, and minutes in respect of the consultation will be prepared. The statements made in the course of the consultation will not bind the tax authority.

The adopted amendments contain a significant modification also in terms of providing the possibility for taxpayers to appeal the binding resolution of the Ministry in front of courts while the possibility of appealing the resolution at the Ministry will be terminated.

New rules of penalty related to the failure of making the top-up payment

Taxpayers may unintentionally fail to comply with their top-up payment obligation taking into account the year-end foreign exchange fluctuations. The adopted amendments aim to fix this unsettling problem by eliminating from the base of the default penalty the difference deriving from foreign exchange fluctuations between the day of making the top-up payment and the balance sheet date provided that the difference of income nature is included in the tax base.

Strict sanctions in relation to infringements in relation to the operation of tills

In case the taxpayer fails to fulfill the obligations set in the legislations in relation to the operation of tills, beside the imposition of default penalty, the premises that serve for the aim of the taxable activity may be closed for 12 working days, or in case of activities performed in lack of premises, the authorities may levy penalty as a replacement of the closure of the premises.

Introduction of authority prices

According to the adopted Amendment, the price of the services that are provided to the operator of the tills, and are obligatory in case the issuance of the receipts are performed mechanically, furthermore the price of all the services that support the data service implemented through direct retrievals hereinafter will be maximized with the determination of an price to be determined by the authorities. The authority price and the related conditions of the application will be determined by the Minister responsible for tax policies in a minister decree.

In case of the infringements of the regulations related to authority prices, the National Media and Infocommunications Authority (“NMICA”) will prohibit the further application of the price violating the legal provisions, oblige the entrepreneur to reimburse the surplus turnover achieved by violating the provisions concerning authority prices to the person that suffered detriment on account of the infringement. The NMICA may also levy default penalty on the entrepreneur infringing the provisions related to authority prices.

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

Dr. Gábor Kóka

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

Dr. Géza Réczei

Partner
Deloitte Co. Ltd.
Tel: +36-1-428-6767
E-mail: greczei@deloitteCE.com

István Veszprémi

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

Dr. István Falcsik

Senior manager
Deloitte Co. Ltd.
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. 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: +36-1-428-6692
E-mail: zsandor@deloitteCE.com

László Winkler

Director
Deloitte Co. Ltd.
International tax
Tel: +36-1-428-6683
E-mail: lwinkler@deloitteCE.com

Dr. Gábor Erdős

Attorney
Partner Associate
Deloitte Legal Szarvas, Erdős and Partners Law Firm
Tel: +36-1-428-6813
E-mail: gerdos@deloitteCE.com

Dr. Júlia Szarvas

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

Dr. Anna Katalin Papp

Attorney
Managing Associate
Deloitte Legal Szarvas, Erdős and Partners Law Firm
Tel: +36-1-428-6736
E-mail: apapp@deloitteCE.com