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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 law changes of recent weeks

Considering the active legislation procedures of recent weeks, first we would like to summarize the planned, implemented and still pending tax law changes for our Clients that we already detailed in our previous Breaking Tax News newsletters.

The Government decided in favor of the earlier regulation and rejected the modifying provisions in relation to the supplies subject to periodic settlement regarding value added tax. Based on the standpoint of the Law Enactment Committee, the adopted bill will come into effect after its promulgation in a way that on the currently effective provisions of Section 58 (1) of the VAT Act remain applicable. The adopted bill does not postpone the application of the newly planned provisions (that would have required that tax payment liability be fulfilled on the last day of the settlement period) but reinforces the original, currently applicable legislation. Consequently, the date of supply remains the due date of the payment. Therefore, the current rules remain applicable after 1 July 2014.

As we pointed out in our previous newsletters, the Act on Advertising Tax and certain changes to the CIT Act concerning the development tax allowance were also accepted.

The tax law changes that are currently in progress in front of the Government affect the following tax types and topics as we reviewed in our earlier newsletters. The acceptance of the following provisions is currently pending VAT:

- special rules regarding the place of supply of telecommunication, radio and media broadcasting and electronically supplied services;
- the provisions concerning the installation of the one-stop-shop system;
- the regulation extending the scope of reverse charge mechanism to steel industry products.

A decision in respect of corporate income tax is expected regarding the tax deferral applicable in case of preferential exchange of shares and the abrogation of transfer pricing obligations for

companies qualifying as related parties to the State or municipalities in case of free of charge transactions with these entities based on statutory obligations. In relation to personal income tax, a decision is expected regarding the interest income that is applicable in relation to collective investment vehicles and employer provided housing subsidies.

Beyond the tax law changes detailed in our previous newsletters, certain modifications concerning the method of assessing the tax base of the recently initiated advertising tax are to be expected. According to the bill concerning this tax, taxpayers will be entitled to decrease their 2014 tax base by means of carried forward tax losses – under the provisions concerning personal income tax or corporate income tax – only if the profit before tax generated in 2013 is negative or nil. The tax losses considered as decreasing item for advertising tax purposes will likely be considered as utilized tax losses for personal income tax and corporate income tax purposes. As a result, the utilized tax losses cannot be considered again as decreasing upon assessing the personal income tax and corporate income tax bases. In addition, the bill expands the group of taxable persons by involving the outsourcing of advertising activities to advertising agencies to the scope of taxable activities. Furthermore, the purchaser of an advertisement might also be liable to pay tax instead of the publisher of the advertisement if the purchaser does not have the publisher's declaration of making the tax payment. For example, the purchaser of an online advertisement might be liable to pay advertising tax if the publisher of the advertisement does not provide a duly prepared declaration about having complied with the reporting and tax payment criteria. The bill aims to ease the determination of the tax base of taxable persons that do not fall within the scope of the Hungarian Accounting Act or Personal Income Tax Act by clarifying the definition of net sales revenue.

Below you can read about those tax law changes which we referred to in previous editions of our [Breaking Tax News newsletter](#). However, the below mentioned topics require in-depth analysis due to their nature of high importance.

Foreign individuals in Hungary – 183 days of residence but in which period?

Based on the treaties on the avoidance of double taxation (“double tax treaties”), those foreign individuals who are working in the territory of Hungary might be exempt from personal income tax if certain conditions are met. As a condition, the OECD Model Convention and several double tax treaties of Hungary set forth that the private individual should not spend more than 183 days in Hungary during any 12-month long period (including working days, holidays and weekends).

The Hungarian tax authority published a guideline on 12 June 2014 clarifying the term “any 12-month long period”. The guideline reflects the wording of the Commentary on the OECD Model Convention and states the following. Upon determining the tax treatment of an income incurred on a given day spent in Hungary, the number of days has to be considered the foreign individual spent in Hungary during a 12-month long period prior and subsequent to the given day. The guideline illustrates the prescribed method of summarizing the days with concrete examples. As a result, it is recommended paying significant attention to the foreign individuals’ presence in Hungary not only in case of secondments but in case of short-term working or business trips also. The foreign individual might perform activities in Hungary in several separate portions that can give rise to tax payment liability in Hungary.

In addition to the disadvantageous legal consequences of not complying with the tax liabilities, the host company might also be subject to the tax authority’s sanctions in case of failing to report foreign individuals who are liable to pay Hungarian personal income tax.

Changes regarding the development tax allowance

The regulation of the development tax allowance ruled by Section 22/B of the CIT Act changed in several points according to the new rules effective from the day after the enactment of the new provisions.

Based on the new rules, two of the titles regarding the utilization of development tax allowance have been abrogated:

- the legal title supporting projects for energy efficiency valued at 100 million forints or more at present value;
- the legal title supporting the broadband internet service projects valued at 100 million forints or more at present value.

The amendment mitigates the tax risks associated with the utilization of the tax allowance by unequivocally stating that the tax allowance may be utilized in line with the regulation that was effective at the date of submitting the request for tax allowance or the filing of the registration form.

Concerning the utilization, the legislation provides new definitions and refines definitions that already existed. “Identical or similar activity”, “independent environmental project” and “initial investment” have been defined and the “free business zone” definition has been refined.

In the future, the minister in charge of taxation will publish certain data of the taxpayers who utilize development tax allowance. Further details will be published in the amended government decree on development tax allowance in the future.

As of 1 July, large enterprises may receive regional investment aid only in certain settlements in the Central Hungarian region. However, the tax allowance will be available for small and medium sized enterprises in the whole Central Hungarian region. Tax allowances exceeding 7.5 million euros must be approved by the European Commission and by the Government by a separate decree.

The Decision of the European Commission and the decree of the Hungarian Government will also be necessary if the taxpayer closed down activities that were the same or similar to the ones that the allowance was given for in the European Economic Area during the course of the two calendar years prior to the submission of the request for tax allowance or if the taxpayer has concrete plans to close down such an activity within a period of up to two years after the initial investment for which aid is requested is completed.

The legislation ruled out the possibility of the presentation of application for continuation regarding not only registration forms but also requests for tax allowances.

For small and medium enterprises the numeric requirements of increasing either the number of employees or labor costs is halved for the purposes of the legal title related to the tax allowance created for small and middle sized enterprises.

Modifications related to excise procedures / obligatory application of CN codes

In earlier newsletters, we already informed our Clients about the modifications of excise regulations regarding the obligatory application of the Combined Nomenclature that will enter into force by 1 July 2014. The present newsletter aims to remind our Client to the obligatory application of the up-to-date CN codes instead of customs tariff codes for the purposes of excise registries, accounting documents, data provision and preferential excise procedure to be initiated in the future.

Introduction of the product fee warehousing

We kindly inform our Clients about the introduction of industrial and trade product fee warehouses, the operation of which will be subject to the license issued by the tax authority. The regulations on the product fee warehousing will enter into force by 1 July 2014.

We informed our Clients about the related benefits and liabilities of product fee warehouse operators in our previous [Breaking Tax News](#).

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please contact one of our tax experts below:

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