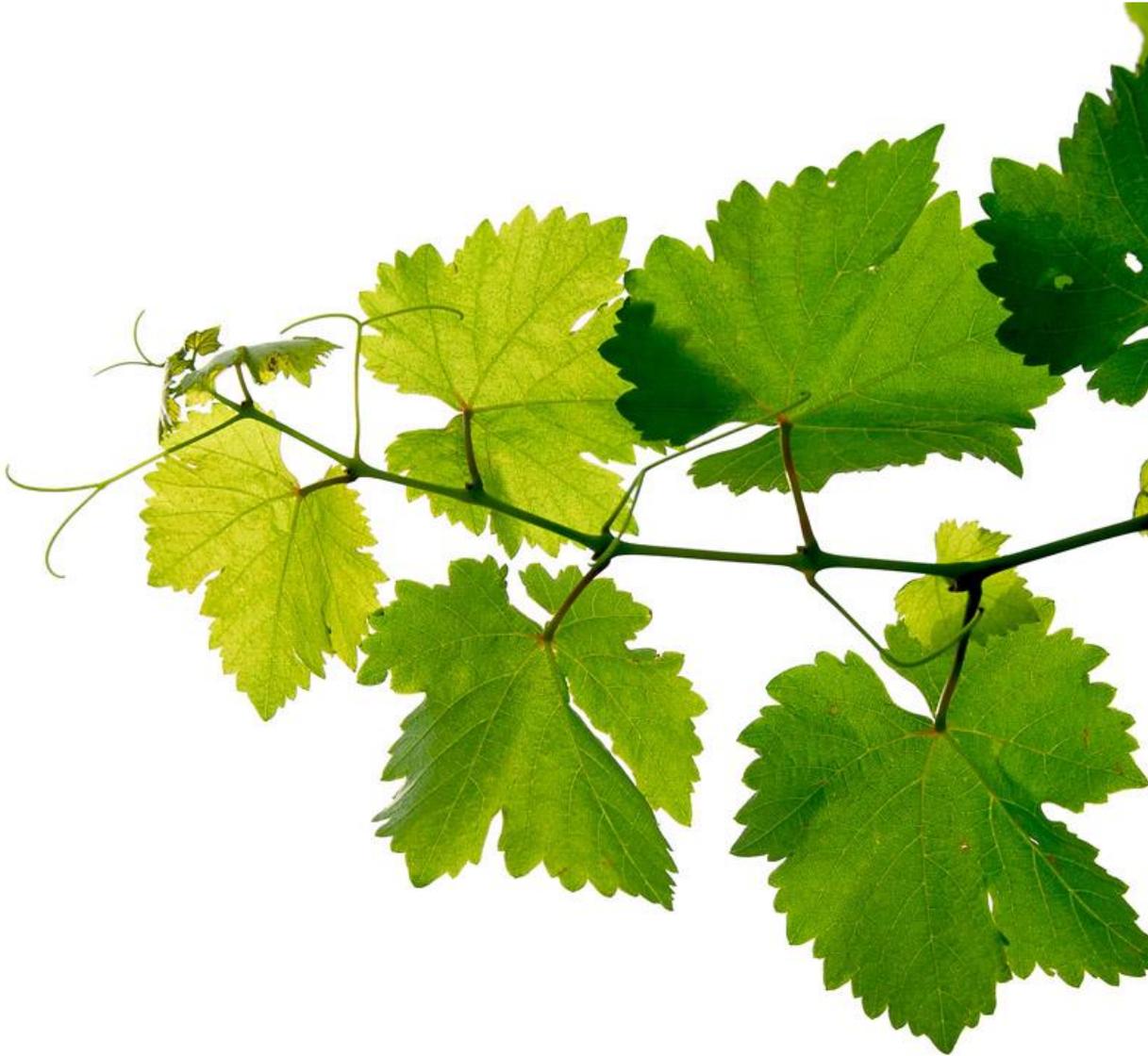


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Central and Eastern Europe Tax Firm of the Year
International Tax Review European Tax Awards
2012, 2013, 2014



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Tax News+

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 risks related to the application of year-end transfer pricing adjustments

For years, the Hungarian tax authority has focused primarily on taxpayers' obligations as set forth by transfer pricing legislation (i.e. the regulations concerning the prices applied between related parties).

Based on our professional experience, the scope of the tax authority's audit procedure includes not only the review of transfer pricing documentation from a formal and substantial perspective, but also the performance of year-end transfer pricing adjustments. This practice is based on the fact that transfer pricing adjustments may trigger interpretation issues related to certain tax types (e.g. VAT, LBT, customs) alongside with the usual CIT and transfer pricing related questions. Furthermore, the accounting treatment of transfer pricing adjustments may be interpreted in various ways. These interpretation issues may constitute a tax risk for our Clients.

As previously mentioned in an earlier newsletter, the respective regulations of the Accounting Act were amended in June 2013 and again in January 2014. Based on the amendments, related parties are permitted to carry out year-end transfer pricing amendments in a more effective manner than previously. Specifically, parties may calculate the transfer pricing adjustment as the difference between the consideration applied and the arm's lengths price relating to the purchase/supply of assets/services during a given period of time. The calculated adjustment may be accounted for as follows:

- In the case of purchasing assets, the adjustment may be accounted for as part of the cost of the asset;
- In the case of purchasing services, the adjustment may be accounted for as an amendment to the incurred costs/expenditures;
- In the case of supplying assets/services, the adjustment may be accounted for as part of the net sales revenue.

Taxpayers may opt for this accounting practice rather than a tax base modification. Moreover, no correction invoice should be issued if this option is chosen.

Within the scope of the amendments made to the Accounting Act, the prescribed accounting treatment of year-end transfer pricing adjustments was specified. Nevertheless, interpretation issues continue to arise from a taxation perspective. These interpretation issues should be clarified prior to accounting for the year-end transfer pricing adjustment.

As a further controversy, the year-end transfer pricing adjustment may pertain to the following:

- Subsequent modification of the purchase price of previously purchased or sold assets and/or services;
- Price or fee correction within the arm's lengths range;
- Revenue adjustment.

The tax authority may request supporting documentation (with various content requirements and in varying levels of detail) in all of the above cases. If the supporting documentation is unavailable, contrary to the respective legislation or (from a substantial perspective) the transfer pricing amendment made, the significant assessments may be set forth by the tax authority affecting several tax types during the course of a potential tax audit.

Due to the fact that the tax authority does not have an accepted practice in dealing with year-end transfer pricing amendments, our Clients should consider this as an issue of significance requiring attention.. We recommend establishing (at the beginning of the tax year) a practice to handle year-end transfer pricing amendments and the related supporting documentation. In this respect the following issues should be considered:

- Does the Company have a transfer pricing policy or agreement based on which purchase prices may be modified retroactively?
- Does the company have a valid business purpose in applying the transfer pricing amendment?
- Is the Company able to assess the actual amount of the transfer pricing amendment?
- How will the Company's profitability be affected by the transfer pricing amendment?
- Should the transfer pricing amendment be documented? If yes, which party should issue the documentation?
- Which formal criteria should the invoices and other supporting documentation meet in order to be in line with the respective Hungarian tax and accounting regulations?

Based on the above, taxpayers have many important issues to consider when performing year-end transfer pricing adjustments. Consequently, if the taxpayers' transfer pricing adjustment practice is in line with the effective legislation, then their operation may be significantly simplified. If the taxpayers have the necessary agreements and invoices, in addition to detailed transfer pricing documentation (preferably at the beginning of the tax year), then the recent amendments to the legislation may simplify accounting practices related to year-end transfer pricing adjustments.

Binding tax ruling systems under review

The European Parliament has recently decided to create a committee to detect any abuse in the member states' binding tax ruling systems, with special regard to triggering unauthorized tax advantages for multinational companies. Recent reviews of similar decisions by the tax authorities may be seen as precursors of this initiative. These investigations of Fiat and Amazon in Luxemburg, of Apple in Ireland, and of Starbucks in Belgium and the Netherlands received widespread publicity, not only within the tax profession but among the general public as well.

If a member state operates a ruling system in a selective way and a manner distorting competition, its practice may qualify as provision of prohibited state aid. In a recent press release the European Parliament set forth that the effect of tax avoidance in the European Union may reach up to one trillion euro per annum, partially as result of aggressive tax planning techniques.

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: gakoka@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

Beáta Horváthné Szabó

Director
Deloitte Co. Ltd.
Global employer services
Tel: +36-1-428-8267
Email: bhorvathne@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. Péter Göndöcz

Attorney
Partner Associate
Deloitte Legal Szarvas, Erdős and
Partners Law Firm
Tel: +36-1-428-6974
E-mail: pgoncoz@deloitteCE.com



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