

# Breaking Tax News

## Tax law changes adopted for 2016

**We would like to take this opportunity to inform our Clients that a new tax legislation was passed by the Hungarian Parliament. Please find below a summary of the relevant modifications.**

### Amendments to the rules of taxation

#### Reliable and unreliable taxpayers

**As of 1 January 2016** based on the Hungarian Tax Authority's qualification procedure, taxpayers may either qualify as "reliable" or "unreliable"). Accordingly, **full compliance with the legislation (reliable taxpayer)** will trigger favorable treatment. Alternatively, **non-compliance (unreliable taxpayer) will trigger a stricter treatment.**

A taxpayer registered in the Hungarian corporate registry or registered for VAT purposes in Hungary will qualify as a **reliable taxpayer if the following criteria are met entirely:**

- the taxpayer is operating or is registered for VAT purposes for at least 3 years continuously (if the taxpayer was not operating in the preceding 5 years prior to the current year, or was not registered for VAT purposes, then the criterion below should be examined as of the commencement of the operation or registration for VAT purposes),
- the Hungarian Tax Authority did not assess tax shortage exceeding 3% of the taxpayer's tax liability during the course of the current or the preceding 5 tax years,
- the Hungarian Tax Authority did not initiate a legal enforcement procedure (excluding the transfer between tax accounts and exercising retention right) against the taxpayer and the taxpayer was not subject to bankruptcy, liquidation or cancellation procedure during course of the current or the preceding 5 tax years,
- the taxpayer does not have an outstanding tax payment liability exceeding a net amount of HUF 500,000,
- the taxpayer was not subject to a tax number suspension or cancellation procedure and was not placed under an increased Hungarian Tax Authority supervision during the current or the preceding 5 tax years,
- the Hungarian Tax Authority did not impose default penalty exceeding 1% of the taxpayer's tax liability for the current tax year (which became payable within the preceding 2 years),
- the taxpayer does not qualify as an unreliable taxpayer.

**The essential benefits of being a reliable taxpayer are as follows:**

- If a tax audit is carried out by the Hungarian Tax Authority, the duration of the audit may not exceed 180 days (provided that the taxpayer fulfills its cooperation obligation and remains a reliable taxpayer).
- Apart from a few exceptions if the taxpayer fails to fulfill its filing and reporting obligation or misses an obligatory deadline, no default penalty will be levied by the Hungarian Tax Authority. The Hungarian Tax

Authority will issue an **alternate deadline** and will request the taxpayer to complete its obligations. The Hungarian Tax Authority will levy default penalty solely if the second deadline is missed.

- The **maximum amount of default penalty and tax penalty will be decreased by 50%** (provided that the taxpayer retains its “reliable status” regardless of the omission of its obligations) compared to the standard amount of penalties set forth by the respective legislation if certain additional conditions are met.
- In addition, once a year the Hungarian Tax Authority may allow late payment interest free payments to be made in 12 instalments if the total outstanding liability is at least HUF 10,000 but does not exceed HUF 500,000. On a quarterly basis an automatic notice would be sent to the taxpayer regarding the possibility of payment instalments.
- VAT reclaim filed by a reliable taxpayer would be completed by the Hungarian Tax Authority within a 45 day period as of 1 January 2017. This period will be further decreased from 45 to 30 days as of 1 January 2018.
- Not exceed 180 days (provided that the taxpayer fulfills its cooperation obligation and remains a reliable taxpayer).
- Apart from a few exceptions if the taxpayer fails to fulfill its filing and reporting obligation or misses an obligatory deadline, no default penalty will be levied by the Hungarian Tax Authority. The Hungarian Tax Authority will issue an alternate deadline and will request the taxpayer to complete its obligations. The Hungarian Tax Authority will levy default penalty solely if the second deadline is missed.
- The maximum amount of default penalty and tax penalty will be decreased by 50% (provided that the taxpayer retains its “reliable status” regardless of the omission of its obligations) compared to the standard amount of penalties set forth by the respective legislation if certain additional conditions are met.
- In addition, once a year the Hungarian Tax Authority may allow late payment interest free payments to be made in 12 instalments if the total outstanding liability is at least HUF 10,000 but does not exceed HUF 500,000. On a quarterly basis an automatic notice would be sent to the taxpayer regarding the possibility of payment instalments.
- VAT reclaim filed by a reliable taxpayer would be completed by the Hungarian Tax Authority within a 45 day period as of 1 January 2017. This period will be further decreased from 45 to 30 days as of 1 January 2018.

In addition to the above, the Amendment introduces the category termed as “unreliable taxpayers”. **A taxpayer would qualify as an unreliable taxpayer if:**

- the taxpayer is registered in the Hungarian corporate registry or registered for VAT purposes in Hungary,
- the taxpayer is not under liquidation, winding up or cancellation procedure and
- one of the four conditions set forth below is met:
- The taxpayer is indicated in the public list of taxpayers having a large amount of tax shortage as consequence of the resolution of the Hungarian Tax Authority that enters into force subsequent to 1 January 2016;
- The taxpayer is indicated in the public list of taxpayers carrying forward a large amount of tax debt as a result of a tax debt due subsequent to 1 January 2016;
- The taxpayer is indicated in the public list of taxpayers employing unregistered employees as a result of a non-compliance with the relevant rules subsequent to 1 January 2016;
- The non-compliance of the taxpayer triggered the closing of the business premises repeatedly within a one year period, subsequent to 1 January 2016.

**Within the category of unreliable taxpayers a more restrictive treatment would be applied**, including (among others):

- The affected taxpayer will qualify as an unreliable taxpayer for a one year period from the date on which the condition (leading to the unreliable status) was met. The unreliable status of the taxpayer would be revoked when the outstanding tax debt is settled.

- The VAT refund of an unreliable taxpayer will be completed in line with the generally applicable 75 day deadline.
- In the case of unreliable taxpayers, the general deadline for Hungarian Tax Authority audits will be extended by 60 days (provided that the unreliable status is applicable during the course of the whole or part of the audit or the period affected by the audit).
- If the taxpayer is considered as an unreliable taxpayer at the time of the imposition of the late payment interest on the tax difference, the amount of late payment interest will be five times the 365th part of the daily effective prime rate of the Hungarian National Bank on each day following the imposition of the penalty. Furthermore, the starting date for the calculation of the late payment interest should not occur later than the actual due date of the tax liability.
- The Hungarian Tax Authority will not be entitled to waive the tax penalty or the default penalty. Moreover, the minimum amount of the tax penalty to be assessed by the Hungarian Tax Authority on unreliable taxpayers will be 50% of the maximum amount set forth by the general rules pertaining to the applicable sanctions. In addition, the maximum amount of default penalty levied on unreliable taxpayers will be 150% of the maximum amount of default penalty set forth by the general rules pertaining to the applicable sanctions.

The procedure relating **to the qualification of reliable and unreliable taxpayers will be carried out** (for the first time) **by 30 April 2016**. The Hungarian Tax Authority will classify the taxpayers on a quarterly basis within a 30 day period from the end of each quarter, in line with the information available on the last day of each quarter. The Hungarian Tax Authority will send a notice electronically about the change in the qualification. The qualification enters into force on the first day of the month following the qualification. Taxpayers will potentially be able to check their current status through the government portal (Client Gate) subsequent to the second quarter of 2016. In addition to the above, the Amendment sets forth the rules pertaining to the qualification procedure in the case of a legal succession. Furthermore, taxpayers will be entitled to submit an objection to the qualification within 6 months.

### **Amendment to the rules on representation**

Based on the Amendment, **excise duty administrators acting as authorized representatives will receive a power of attorney during the course of excise duty related procedures** carried out by the Hungarian Tax Authority or the competent ministry.

### **Tax registration procedure**

Based on the Amendment multiple rules within the current legislation applicable to the tax registration procedure will become stricter. **The tax debt thresholds related to the tax registration procedure will be reduced from HUF 15 and 30 million to HUF 5 and 10 million respectively.** As a result of the restriction, a broader range of taxpayers will be affected in terms of both the refusal to issue a tax number and the cancellation of a tax number. In addition, the Amendment will broaden the scope of individuals investigated during a tax registration procedure. This Amendment will entail the investigation of the company director and every member of the affected company. The members of the given company will only be investigated if they lack a member with more than 50% of voting rights or a member qualifying as having majority control of the company. An additional effect of the Amendment in question is the extension of the period subject to the investigation in the following manner. The Hungarian Tax Authority may investigate the period which started on the 360th day preceding the 180th day of the continuous existence of the tax debt. As an additional condition, the Amendment sets forth the investigation of whether the affected individual is permitted to act as an executive officer.

### **Tax and customs account integration**

The Amendment will allow for the possibility of consolidating tax accounts held at the state Hungarian Tax Authority and the customs authority (maintained separately).

Other, non-direct tax related payment obligations accounted for on the tax account may be set forth by the regulation. As of 2016, the transfer of the overpayments between different tax types (including taxes such as customs, import VAT, registration fees, import excise duty and self-reported taxes such as VAT, CIT etc.) may be requested provided that the transfer does not fall within the scope of the restrictions set forth by a specific legislation. **As of 2016, the taxpayer will receive the balance of the tax account solely if the over- or underpayment on the tax account exceeds HUF 2,000.**

The authorization of electronic and personal administration of tax accounts held at the state Hungarian Tax Authority and the customs authority (on customs, non-community taxes and fees) provided by 31 December 2015 will be extended to include the integrated tax accounts (unless the authorization is cancelled by the taxpayer).

### Public debt free database

**The conditions for inclusion in the public debt free database should be fulfilled on the last day of the month of the submission of the relevant application.** Furthermore, the Amendment allows for the possibility of making comments pertaining to deletion from the public debt free database.

### Amendment related to tax audits

In the case of EKAER related inspections affecting the person carrying out the road transport the Amendment provides for the possibility of decreasing the time required for the related administration procedure provided that no violation of the effective rules is uncovered by the Hungarian Tax Authority. This is permitted based on the fact that minutes are not required unless specifically requested by the person impacted by the inspection.

**During a liquidation process, solely unreliable taxpayers will be subject to an obligatory tax audit.** During such a tax audit, the application of the increased sanctions related to the unreliable taxpayer status should not be applicable. If the liquidation procedure is finalized, but the business is not terminated then, the above mentioned increased sanctions should be applicable, in addition to the condition that in the 1 year period (concerning the unreliable taxpayer status) the period of liquidation, winding-up and forced cancellation process should not be included.

The period of time available for the comprehensive tax audit taking place at taxpayers that are not obliged to be registered in the company registry, **should not exceed 180 days** provided that the taxpayer cooperates with the Hungarian Tax Authority.

### Suspension of procedure

The rules pertaining to the suspension of official proceeding set forth in the Administrative Proceedings Act have been incorporated into the Act on the Rules of Taxation. **This means that as of 1 January 2016, the Hungarian Tax Authority will have the right to suspend its proceedings provided that either its decision depends on the merits of a case that falls within the competence of another public authority, or the case may not reasonably be decided without the decision of the respective Hungarian Tax Authority in another closely related case.** The taxpayers may also request (once) the suspension of a proceeding being carried out upon the request of the taxpayer, provided the request for suspension is sufficiently justified.

### Delivery by own means

Based on the Amendment, official documents sent by the Hungarian Tax Authority should be deemed as delivered to the recipient (on the day of the attempt of delivery) if the official document is delivered by own means (through a government agent, official agent, employee or other agent of the Hungarian Tax Authority) even if the taxpayer or the person authorized to receive such document refuses to accept the delivery. In the case of delivery by own means, the person authorized to receive postal deliveries should have the right to accept documents sent by the Hungarian Tax Authority.

## No late payment interest for individuals on payments by instalments

Apart from the above mentioned options for reliable taxpayers, the rules applicable to requesting payment by instalments (without any late payment interest) will also change as of next year. **The threshold will be raised from the current HUF 150.000 to HUF 200.000.** Furthermore, payments by instalments without any late payment interest will be available (in addition to the personal income tax) with respect to the health tax provided that election is made in the tax returns.

## Amendment pertaining to penalties

According to the Amendment, rather than imposing a default penalty, the Hungarian Tax Authority would first request the taxpayer (not required to register in the company registry) to either amend any non-compliance (filing which is inaccurate or deficient) by reporting, filing or reporting or correct the mistakes prior to a specific deadline. **Default penalty should be applied only if the taxpayer fails to fulfil its compliance related obligation or correct the mistakes by the new deadline.**

Concerning the tax filing declaration effective as of 1 January 2016, if the Hungarian Tax Authority (during the audit of an individual) identifies any tax shortage (compared to the data included in the tax filing declaration) which is the result of inaccurate or deficient reporting of taxes and contributions by the employer, then the tax penalty and the late payment interest should be payable by the employer (rather than the individual) impacted by the tax shortage.

**According to the Amendment, the Hungarian Tax authority will impose late payment interest solely if the threshold of HUF 2,000 is exceeded.**

## Amendment pertaining to personal income tax

### Tax reporting declaration on the 2015 tax liabilities

According to the Amendments, the Hungarian Tax Authority will assess the tax liability of those individuals who submit the respective declaration (serving as a request for the tax assessment) to their employer by 31 January following the tax year subject to the tax assessment. An individual would be entitled to submit a reporting declaration concerning 2015 by 31 January 2016. **The submission deadline constitutes a limitation period.** Thus a submitted declaration may not be withdrawn and a missing declaration may not be subsequently submitted. The submission of the reporting declaration will have the same legal consequences as the submission of a general tax return.

The submission of a reporting declaration will be subject to the fulfillment of the criteria below:

- The individual receives income solely from the employer which determines its tax advances during the tax year;
- The individual does not benefit from any tax or tax base allowance;
- The individual forgoes the right to decide on its tax depositions (with the exception of the 1+1% of its taxes). The individual may opt to offer 1+1% of by means of its employer, in a paper based or an electronic format.

The individual would not be entitled to submit a reporting declaration in the following cases:

- The individual received income taxable separately (e.g. interest, dividend, FX gain, income from land and building rental up to HUF 1,000,000 or income from an entrepreneurial activity) during the tax year;
- The individual intends to settle expenses by means of an itemized expense settlement;
- The individual opts for a tax or tax base allowance (e.g. family tax allowance, newlywed tax allowance),

- The individual opts to submit a declaration on tax depositions relating to voluntary mutual funds, retirement savings, pension insurance;
- The individual received taxable income from a “non-payer” entity, including any income received from foreign companies and organizations irrespective of the nature of the payment

**As a result of the above, individuals employed by foreign employers in Hungary and Hungarian employees working abroad would generally not be entitled to submit a reporting declaration.**

Based on the monthly tax returns submitted by the employer, the Hungarian Tax Authority would prepare the personal income tax return of the affected individual. The Hungarian Tax Authority would only contact the individual if a tax difference is identified. The individual is entitled to self-revise any previously assessed tax and the results of the submitted reporting declarations even if this individual was not entitled to submit a declaration (due to the lack of meeting with the conditions set forth by the respective legislation).

If the tax obligation of the individual changes subsequent to the determination of the amount of tax as a result of a self-revision or correction of the monthly data reporting by the employer, the Hungarian Tax Authority will inform the individual with respect to the differences. However, in this case no sanctions will be set forth.

Individuals not entitled to submit or opting not to submit a reporting declaration **would be liable to fulfill their tax reporting obligation by means of a self-assessment.** The previously applicable tax declaration and the simplified tax return may be submitted for the last time in relation to 2015.

#### **Draft tax return**

**Based on the Amendments, as of 1 January 2017 the Hungarian Tax Authority would prepare draft personal income tax returns and send them to taxpayers electronically for review.** The draft returns would be sent out subsequent to 15 March following the tax year in question. These draft returns would be prepared by the Hungarian Tax Authority provided that the taxpayer:

- has electronic access to the Client Gate Portal,
- did not request the employer to prepare the tax return (or the employer refused preparation),
- did not make a tax reporting declaration
- does not qualify as an agriculturalist or self-employed.

The taxpayer (if necessary with the corrected, amended data) may accept the draft return by 20 May. The taxpayer is obliged to settle the tax liability by this date. Furthermore, the Hungarian Tax Authority is obliged to refund the repayable tax within 30 days following the acceptance of the draft return by the taxpayer.

Considering the fact that the Hungarian Tax Authority prepares the draft tax return based on the information available, **the draft tax return should be reviewed and modified in the following cases:**

- the Hungarian Tax Authority does not have any information about the income received by the taxpayer (e.g. income received from a foreign entity which does not qualify as a disburser according to the Hungarian tax legislation),
- the private individual (at his/her own discretion) chooses to claim tax allowances.

**If the taxpayer does not accept the draft return by 20 May, the taxpayer is obliged to fulfil its tax compliance obligations by self-assessment.**

## Data reporting obligation of employers and disbursers

In connection with family tax allowance, as of 1 January 2016 the employers and other disbursers are obliged to provide more in-depth information (e.g. information pertaining to jointly claimed allowances, legal basis for the claim) within the scope of their monthly reporting obligation.

## Employee Ownership Program

The regulations of the Employee Ownership Program (EOP) will be significantly amended as of 1 January 2016. **The Amendment allows the setup of an EOP for the purpose of managing financial instruments provided in connection with a remuneration policy. This regulation will allow Hungarian companies (including the previously excluded credit institutions and insurance companies) to establish an EOP in order to manage financial instruments provided in connection with a remuneration policy.**

Within the scope of such a special EOP (related to a remuneration policy), securities may be provided by the company for free of charge or under preferential conditions provided that the provision of the securities is subject to:

- the increase in the company's future performance
- the increase in the efficiency of the risk bearing of the company, or it relates to
- entering into the market by capital market act.

The employees and the executive officers at the company and its controlled related parties may participate in the program. The terms of the participation should be stated in internal regulations.

The securities acquired by the employees as within the scope of the EOP should be considered as tax-free allowance at the time of its receipt. The income derived from the assets of the EOP should be qualified as incomes taxed separately.

## Amendments to value added tax

### Tax deduction

As of January 2016 the taxpayer may deduct input VAT solely within the 2 calendar years following the date the input VAT was incurred. **However the deduction right of the input VAT may be exercised subsequent to the above 2 years in the tax period** when the input VAT was incurred provided that the deductible VAT incurred within the statute of limitation period.

### Date of supply for periodic settlements

Based on the Amendment, as of 2016, **if the parties agree on periodic settlements, then tax liability will arise within 60 days rather than the previously applicable 30 days.** The aim of the extended deadline is to avoid unnecessary self-revisions.

According to the transitional rules the new date of supply rules should be applicable to transactions where the date of the issuance of invoices and payments are due subsequent to **31 December 2015.**

### Amendment related to VAT groups

As of 2016 related parties owned by the state or municipalities may also form a VAT group

## Exemption from invoicing obligations

As of January 2016 international air passengers transport, telecommunication, media and e-service providers are exempt from issuing invoices provided that they are not established in Hungary for VAT purposes, subject to VAT in another Member-State and the invoice is not requested specifically by the recipient of the service. Upon the request of the recipient the service provider is not required to indicate the HUF amount of VAT on the invoice.

## Amendments to corporate income tax

### Subsidies to performing arts organizations

The aim of the Amendment pertaining to subsidies provided to performing arts organizations is to ensure consistency with the relevant state and EU legislations (decree no. 651/2014/EU). The Amendment clarifies the definition of performing arts organization, revenue derived from ticket sales and provides a deadline for the supplementary subsidy payment. The subsidy payment certification and the amount of supplementary subsidies will be capped at HUF 1.5 billion.

### Tax Credit for Growth

The Amendment clarifies the legislation regarding the tax credit for growth. According to the new rules the payable tax advance and the tax base modifying items should be taken into account proportionally to the pre-tax profit defined by the tax credit rules for the specific tax year. Furthermore in the case of restructuring, mergers and demergers the successor is obliged to file and pay the amount of tax credit for growth which was not paid before.

## Amendments to the acts of duties

In addition to vehicles powered by electric engines the Amendment extends the transfer tax free treatment of the acquisition of other environmentally friendly vehicles. This exemption qualifies as “de minimis” aid. Furthermore, in order to upgrade the vehicle fleet of logistic and freight companies, in the future the acquisition of industrial vehicles will also be exempted from transfer tax.

In order to support the maintenance and renovation of historical monument buildings, the Amendment allows taxpayers the possibility to reclaim the related transfer tax. Nevertheless, the beneficiary will only be eligible for the reclaim if the construction work is initiated within 1 year and completed within 5 years following the date of acquisition.

The Amendment introduces a new provision for the transfer tax free treatment of the free of charge acquisition of securities, shareholdings and members' interest within the course of an EOP. In addition, gifts will also be exempted from transfer tax, provided that the donator or the receiving party has personal income tax, social contribution tax or health contribution liabilities incurred in connection to donating or receiving the gift.

**As a result of the Amendment those private individuals who are repurchasing their previously owned and then rented apartments, in addition to those individuals who provide renting and repurchasing rights to their sellers for at least 5 years are exempted from the transfer tax levied in connection with the real estate acquisition.** The Hungarian Tax Authority will assess the tax liability, however, it will suspend the payment. The tax liability will be canceled once the repurchase takes place within a 5 year period. The Amendment also sets forth limitations pertaining to the annual rental fee and the repurchase quota.

The Amendment clarifies the cases in which a building is constructed on a land parcel (owned by someone other than the developer) based on a contract concluded between the owner of the land parcel and the constructor. In the case of the future acquisition of such real estate, the amount equal to the market value of the real estate is exempted from the transfer tax liability levied on its market value, provided that the purchaser of the real estate is undoubtedly the constructor.

In addition, the Amendment eliminates the rules which stipulate that duties must be paid by means of duty stamps.

### Amendments of local taxes

According to the current rules, 7.5% of the 'electronic' toll charges (payable on transporting vehicles above a certain weight threshold) accounted for as expenses in the respective tax year may be deductible from the payable local business tax. **According to the Amendment, the fee charged and accounted for with respect to the use of any tolled motorway, main and regular highway as well as the toll incurred abroad is included in the above mentioned deductibility option.**

The Amendment extends the right of local municipalities to provide tax incentives. In the future, local municipalities will have **the right to provide enterprises with tax incentives in an amount equivalent to 10% of the direct costs of basic, applied or experimental research.** Any newly introduced rule should ensure that the incentive (once adopted by the local municipality) is available to every enterprise. Consequently, the local municipality may neither restrict the amount of the tax credit nor limit the scope of taxpayers who may receive it.

Companies with numerous permanent establishments incurred significant administrative burdens when submitting tax returns. In order to decrease this administrative burden, the completion of local business tax related compliance obligations will be possible by means of the software and system applied for state tax purposes (AbevJava - ÁNYK). The Hungarian Tax Authority will forward the submitted tax returns to the local government. **The Hungarian Tax Authority will not review content or formal requirements.** The simplification will be available as of 1 January 2017.

### Special taxes

**Taxpayers should declare the increase in corporate loans for each tax year separately.** The deadline for submitting such declarations will be 25 February of the current tax year. Incorrect declarations cannot be corrected for the benefit of the taxpayer.

### Vehicle, company car and registration tax

**The Amendment provides for exemption from vehicle tax as well as company car tax** (available in the form of de minimis benefits) **not only to all electric but also to other environmentally friendly cars.** The law adopts the definition of the environmentally friendly car in accordance with the KöHÉM decree referred to in the Vehicle Tax Act.

The change in calculation methods applicable to the vehicle tax base for semi-trailer trucks is an amendment affecting freight carriers.

**As of January 2016, the lump sum tax on vehicles used for two-way transportation should be paid through wire transfer at least 2 working days prior to the vehicle entering the territory of Hungary.** The wire transfer certificate must be maintained along with other vehicle related documents while the vehicle remains within the territory of Hungary.

As a result of the modernization of payment methods, the amendment allows for the payment of any vehicle tax shortage and fine by wire transfer. Simultaneously, it abolishes payment through duty stamps as of 2016.

**Benefits pertaining to vehicle registration tax will be amended in connection with environment-friendly cars.** As of 2016, zero tax will be applicable (in addition to plug-in electric passenger cars) to all passenger cars defined in the respective decree.

## Mayor amendments to customs act

The Amendment allows for the recording of payment liabilities (previously recorded in separate accounts by the Hungarian Tax Authority and the customs authority) on a joint account. In addition, the rules applicable to settling accounts will be governed by the provisions of the Act on the Rules of Taxation.

## Excise duty

**The Amendment raises the threshold for payment liability from HUF 200.000 to HUF 500.000** (without raising the excise tax guarantee) **in order to better accommodate contract distillers**. Contract distillers will be required to pay excise tax to the customs authority on all distilled spirits.

With regards to private distilleries (i.e. spirits distilled for personal consumption), the obligatory purchase of "distillation stamps" effective as of 1 January 2016 will be introduced. This new regulation seeks to meet the EU requirement which sets forth that home distilled alcohol for personal consumption must be taxed.

**One distillation stamp per liter of a spirit containing 42% alcohol is equal to HUF 700. Based on the Amendment a minimum of 5 and a maximum of 86 distillation stamps may be purchased annually.**

## Environmental tax

Amendment of 2011. LXXXV. Act on Environmental Fee, enters into force on 1 January 2016.

As a consequence of the Amendment **the following definitions will be subject to change:**

- packaging;
- commercial packaging;
- commercial packaging material;
- flat-rate environmental tax;
- re-usable packaging material.

In addition to the above, **the following new definitions will be included in the environmental tax legislation:**

- component of packaging;
- packaging-element;
- part of the packaging;
- packaging waste;
- building product;
- motor vehicle;
- craft industry product;
- craft industry activity;
- large fixed industrial equipment;
- environmental tax shortage;
- environmental tax margin;
- environmental tax debit;
- customs tariff number.

The clarification of the definitions was required due to the harmonization of the environmental tax legislation with the waste management legislation.

The definition of taxpayers subject to environmental tax will be extended to entites responsible for taking products into inventory in addition to those entities responsible for removing packaging.

In addition, due to the Amendment, **in the case of exports carried out within the framework of triangular transactions, as of 2016 the products subject to environmental tax may be transported abroad by the domestic or foreign customers, rather than solely by the manufacturer.** Furthermore, the administrative burden impacting the parties involved in an export triangular transaction will decrease significantly. At the same time, the competitiveness of the entities would increase as a result of the modification.

The regulations regarding individual waste management have also been modified. Due to the Amendment, an annual tax reporting period would be determined for individual waste managers. Accordingly, they will be required to file their tax returns annually. The purpose of the amendment is to decrease the administrative burden of individual waste managers.

The compliance liabilities of the taxpayers choosing to apply the individual waste management method will be similar to those choosing to apply collective performance. Accordingly, in addition to the annual compliance liability, taxpayers will also have a tax advance payment and submission liability. The deadline of the tax advance payment liability will be 20 December of the financial year.

The justification of administrative liabilities has also been revised. As a result of the revision, the partial liability of obligatory bill-endorsement will not be applicable to packaging materials or advertising materials. Further clarifications will be related to the contractual takeover of environmental tax liabilities.

Accordingly, the transferee will become the entity responsible for the reporting of the environmental tax liabilities towards the Hungarian Tax Authority.

The legislation regarding the flat-rate environmental tax payment has been supplemented. This form of payment may also be chosen in the case of motor vehicles. In order to facilitate the enforcement of this legislation, its structure has been modified. The environmental tax penalty has been harmonized with the new definitions in the legislation. The EU's decree, which determined the definition of farmers, has been repealed. Therefore, all references to farmers have to be updated.

New definitions (through the amendment of the Act on the Rules of Taxation with the specific terminology for environmental tax purposes) have been introduced (environmental tax shortage, outstanding environmental tax and environmental tax liability). The amendment of the definition applicable for environmental tax sanctions intends to harmonize with the new terminology and through the clarification of the new system of potential sanctions, increases legal certainty.

The act on environmental taxes has been supplemented by annex 4. This annex sets forth the data regarding the weight of the products subject to environmental tax that are generally built into motor vehicles. It will also set forth the amount of the flat rate environmental tax (rounded off to thousand HUF) of the product parts of those motor vehicles that are listed under certain customs tariff codes.

Based on the Amendment, the definition of first domestic distribution has been broadened to include long-distance sale transactions (online trade). The amendment aims to regulate the market disadvantages arising between domestic online traders and the foreign salespersons. Environmental tax liability will be broadened to include two-party transactions that are aimed at acquiring products from abroad and as such are subject to environmental tax.

### **Amendments to the Act on the National Tax and Customs Authority (NTCA)**

One of the amendments **deals with the status of the tax authority. It is re-classified from a government function to a central function.** The NTCA remains a public administration agency, responsible for carrying out armed law enforcement tasks. The supervision of the agency remains the responsibility of the relevant minister. As a result of the amendment the secretary of state will be responsible for management roles. Rather than the former NTCA president, the authority will be headed by the secretary of state.

The head of the NTCA will be supported by under-secretaries of state, supported by a maximum of two professional directors.

As a result of the modification, the new organisational structure of NTCA will become a two-tier model with the Central Directorate (taking over the roles of the Central Office) and the Directorate of Criminal Affairs.

The NTCA will consist of:

- county (municipal) tax and customs directorates that may operate branches,
- Appeals Directorate,
- regional bodies performing the investigative tasks of the NTCA,
- directorates and institutions defined in the government decree.

The amendment clarifies which body may act as a supreme body in the new organisational structure. In the case of first instance decisions of the regional bodies the review procedures are judged by the Appeals Directorate, while in other cases the supreme body is the Central Directorate. The supreme body is the appointed minister for the Central Directorate.

**NTCA cases and procedures in progress on 31 December 2015 will be taken over as of 1 January 2016 by the competent body (branch) of the NTCA as appointed by law.**

### Amendments pertaining to the rules of taxation

#### Applicability of estimates

According to the new legislation, **estimation in a wealth increment audit is only justified in criminal procedures** initiated for suspected crimes against property, against the safety of money and stamp circulation, against t

#### Request for supervisory procedure

The supreme tax authority will revise the case upon request or ex officio. The minister responsible for taxation and the minister responsible for the NTCA will only revise the case ex officio in two cases:

- if the resolution or ruling (action) of the acting tax authority (which may be contested through a separate appeal) is unlawful or
- if due to an unlawful procedure such resolution or ruling (action) failed to be adopted.

**The amendment stipulates that the minister responsible for taxation and the minister responsible for the NTCA will reject without review all requests submitted after 1 January 2016 for supervisory action.**

In addition, in line with former regulations, the minister responsible for taxation and the minister responsible for the NTCA will only proceed after the supreme authority has made a decision. Ministers may not proceed if the acting tax authority's decision has been revised by court.

Provisions pertaining to the submission of documents, judging cost exemption, rejection without substantial review as well as provisions regarding the decision will not change.

#### Repeated tax inspection

According to the amendment, **the resolution on the findings of supervision may be appealed by filing the appeal to the minister responsible for NTCA** rather than the head of the National Tax and Customs Authority. This modification is already applicable in pending procedures.

### Corporate income tax – subsidy for spectator team sports

The new legislation **extends the deadline available to taxpayers for reporting the financial settlement of the basic subsidy and the supplementary subsidy to 30 days**. The legislation abolishes the limitation period for such reporting.

The extended deadline will be **applicable to the basic subsidy of new sports development programs submitted subsequent to 1 January 2016 for the period 2015—2016**. In addition, the legislation will allow exemption (upon the request of the taxpayer) from the legal implications and from the loss of eligibility for tax incentives (with respect to the corporate income tax return) if the taxpayer does not meet the available 8-day deadline. The request may be filed by the last day of the deadline available for filing the corporate income tax return for 2015.

### Local Business Tax

**The Amendments would provide the possibility of consolidating tax accounts held at the state tax authority and the customs authority** (those maintained separately).

### Customs related amendments

According to the amendment of Act CXXVI of 2003 on the Implementation of Community Customs Law, **the organisational changes in the National Tax and Customs Administration results in the full integration of the tax and customs divisions**. As a result, the terms "Customs Authority" and "Customs Office" shall refer to the National Tax and Customs Administration, furthermore to its tax and customs directorates and branches.

By means of the organisational changes in question the rules pertaining to the law enforcement procedure have been clarified. The law enforcement procedure will become subject to the provisions of the Act on Rules of Taxation.

Previously tax accounts were managed separately by the customs and tax authorities. As a result of the new legislation **the integration of tax accounts will be implemented**. As such, the rules applicable to retaining funds due to public debts recorded at the tax and customs authority are specified. According to the new legislation the tax and customs authority is entitled to retain customs duties and non-community taxes and charges repayable to the taxpayer up to the amount of the taxpayer's debt of customs duty, non-community taxes and charges, customs penalty, correctional fee and public debts recorded by the tax and customs authority.

### Amendments pertaining to the public health product tax

Act CIII of 2011 on Public Health Product Tax is supplemented by the definition of the preventive medical programme. According to the new legislation, **taxpayers may decrease the amount of the public health product tax** (up to 10% of the amount payable) **by the costs of their health prevention programmes**.

**Should you have any remarks or questions regarding the above, please contact our professionals:**

#### Dr. Attila Kövesdy

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

#### Péter Gerendási

Partner  
Deloitte Co. Ltd.  
Tel: +36 1 428 6340  
E-mail: [pgerendasi@deloittece.com](mailto:pgerendasi@deloittece.com)

#### Dr. Gábor Kóka

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

#### Dr. Csaba Márkus

Partner  
Deloitte Co. Ltd.  
Tel: +36-1-428-6793  
E-mail: [csmarkus@deloitteCE.com](mailto:csmarkus@deloitteCE.com)

#### Dr. László Winkler

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

#### István Veszprémi

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

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