

wts newsletter

WTS Klient.
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highlights

Be good if you can – or why it is worth being a reliable taxpayer

One of the greatest novelties of the 2016 tax package is the introduction of the good and bad taxpayer concept. This essentially means that taxpayers fulfilling their legal obligations can enjoy several benefits, whereas notorious tax evaders have to face tighter conditions. In this newsletter we present the criteria for rating taxpayers along with the related pros and cons.

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Who qualifies as a reliable taxpayer?

WTS Klient: Unfortunately, the detailed legislation only enables us to give a complex answer to this question, but we have compiled a survey for your guidance. (We have marked the answers which, collectively, will make your company eligible to be a reliable taxpayer.) Nonetheless, we emphasise that the final decision on the rating is made by the tax authority as described below.

	Yes	No
Has the company been operating continuously for at least 3 years, or has it been a VAT-registered taxpayer for at least 3 years?	✓	
Does the total tax difference of the company determined by the national tax authority in the reporting year or the five preceding years exceed 3% of the tax payment determined for the reporting year?		✓
Did the national tax authority initiate enforcement proceedings against the company in the reporting year or the five preceding years, not including reclassifications and exercising the right to withhold payment?		✓
Was or is the company currently under bankruptcy, liquidation or forced deletion proceedings in the reporting year or the five preceding years?		✓
Does the net tax debt of the company exceed HUF 500,000?		✓
Was or is the company's tax number currently suspended in the reporting year or the five preceding years because it did not fulfil its obligation to submit returns or pay taxes (tax advances) to the national tax authority after the statutory deadline and within 365 days of being required to do so, despite the tax authority's notice?		✓
Was or is the company's tax number currently being deleted in the reporting year or in the five preceding years?		✓
Does the amount of any default penalty imposed by the NAV on the company due in the two years preceding the reporting year exceed 1% of the tax payment determined for the reporting year?		✓
Was or is the company currently under increased tax authority supervision in the reporting year or the five preceding years?		✓
Does the company qualify as a risky taxpayer?		✓

Who qualifies as a risky taxpayer?

WTS Klient: As seen from the previous table, a reliable taxpayer rating is subject to the company under review not being considered a risky taxpayer, which is elaborated in the following survey. (We marked the answers that prevent your company receiving risky taxpayer status.)

	Yes	No
Are you on the published list of taxpayers with a considerable tax shortfall?		✓
Are you on the published list of taxpayers with considerable tax debt?		✓
Are you on the published list of taxpayers with employees not duly registered?		✓
Was a business closure measure taken again against the company over the last year?		✓

Risky taxpayers may only be companies that are not under solvent liquidation, winding-up or forced deletion procedures.

Who decides on the rating of my company?

WTS Klient: Ratings are given by the tax authority. Taxpayers registered in the company register or VAT-registered taxpayers are rated on a quarterly basis within 30 days of the given quarter. The rating takes effect on the first day of the month after the month of the rating. Accordingly, the first ratings can be expected in May 2016. The tax authority will send electronic notification of the rating.

What advantages can reliable taxpayers expect? What disadvantages does the risky taxpayer rating have? What about companies that are neither good nor bad?

WTS Klient: The following table summarises the major rules that are affected by the good/bad taxpayer concept introduced by the tax authority.

	Average taxpayer	Reliable taxpayer	Risky taxpayer
Tax penalty (to be imposed)	0-50% of the tax shortfall, by default	0-25% of the tax shortfall, by default	25-50% of the tax shortfall, by default
Default penalty	as a general rule the penalty imposed upon violating the given obligation, e.g. a penalty of HUF 0 up to HUF 500,000 may be imposed for hindering inspections	the ceiling of the default penalty decreases by 50%, e.g. a penalty of HUF 0 up to HUF 250,000 may be imposed for hindering inspections	the ceiling of the default penalty increases by 50%, the lower limit is at least 50% of the penalty to be imposed as a general rule, e.g. a penalty of HUF 250,000 up to HUF 750,000 may be imposed for hindering inspections
Default charge	double the central bank base rate	the same as for average taxpayers	five times the central bank base rate
Inspection deadline	as a general rule the deadline for the given inspection type, e.g. 90 days and 120 days for the subsequent inspection of returns (may be extended on several occasions for no more than 300 days)	no more than 180 days	the deadline applicable for average taxpayers + 60 days
VAT reimbursement deadline	75 days, and 30 or 45 days depending on the invoices paid (in the case of reclaimable taxes of more than HUF 1 million)	2016: the same as for average taxpayers 2017: 45 days, and 30 days if less than HUF 1 million is to be reclaimed, and all deducted invoices are paid from 2018: 30 days	75 days

How can we help your company?

WTS Klient: There is a wide range of legal responses to tax authority decisions and measures, which now also includes claims with regard to the rating of taxpayers. Such claims may be filed within six months of the rating or the absence thereof. There are also several procedural aspects of the good/bad taxpayer system, where the tax authority's approach is obviously not yet known; this requires care as well as complex/case-specific reviews. For instance, it matters how the company's taxpayer status changes during the inspection, and when the legislation infringement detected during an inspection was actually committed (this can influence the more severe sanctions imposed on risky taxpayers).

Our colleagues have considerable experience in tax administration proceedings and an insider's knowledge of tax authority practices and procedures, which enables them to provide you with great assistance in communicating with the tax authority as well as preparing official applications and legal responses. Furthermore, we guarantee full-scale qualified representation in tax matters from the receipt of the engagement letter to the court phase. Naturally we are also happy to provide ad-hoc consulting services, offering customised answers to questions about these new legal procedures or any other official procedures.

The newsletter accurately reflects the statutory provisions as they stand at the time of its issue.
The authors of the news articles have endeavoured to provide general information that both reads well and is professional.
Given the general nature of the content and possible changes to legal regulations, please contact us if you require this information tailored to your personal circumstances.

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WTS Klient Group • Tamás Gyányi, Partner
1143 Budapest • Stefánia út 101-103. • Hungary
Telephone: +36 1 887 3700 • Fax: +36 1 887 3799
tamas.gyanyi@klient.hu • www.klient.hu