

wts newsletter

WTS Klient.
The Bridge.

12.2014



highlights

Adopted proposals amending 2015 tax laws – On 18 November 2014 the Parliament adopted Bill T/1705/60 on year-end tax amendments, in our newsletter we have summarised the main points.

contents

Adopted proposals amending 2015 tax laws

- 3 Personal income tax
- 3 Corporate income tax
- 4 Value added tax
- 5 Act on the Rules of Taxation
- 5 Local taxes
- 5 Duty
- 6 Social security
- 6 Part-time employment
- 6 Health service contribution
- 6 Accounting
- 7 Excise tax
- 7 Advertising tax
- 7 Financial transaction duty
- 7 Income tax of energy suppliers
- 7 Environmental protection fee
- 7 Special tax on investment funds
- 8 Food-chain supervisory fee

Adopted proposals amending 2015 tax laws

On 18 November 2014 the Parliament adopted Bill T/1705/60 on year-end tax amendments, and below we have summarised the main points.

Personal income tax

- » The family tax relief available for families with two children will gradually rise over four years from 2016 to twice its current level, from HUF 62,500/month to HUF 125,000/month per eligible dependant.
- » A new tax relief is to be introduced from 2015, a "newlywed allowance" for people getting married for the first time, based on which the spouses can claim a collective monthly tax allowance of HUF 31,250 for a period of no more than 24 months from the month following their marriage, but only until they become entitled to family allowance. In possession of the allowance statement, spouses can already claim the allowance against their tax advances.
- » Under the law amendment, whole life insurance with a surrender value (WL) and other savings-type life insurance products will be subject to the same tax treatment given their identical economic content (the tax exemption of the WL regular premium will cease). The regulation shall enter into force on 1 January 2018, thereby providing a 3-year transitional period.
- » The modification standardises the personal income tax and social security rules on temporary labour in cases where employees are hired in Hungary as temporary employees and the company providing them is a foreign enterprise. Based on Section 56/A of the Social Security Act, the domestic company shall be responsible for the obligations of notification and keeping records as well as assessing, declaring and paying contributions. The amendment creates the opportunity for the domestic hirer to fulfil the personal income tax obligations.
- » The minimum income (profit) for sole traders is to rise in line with corporate tax legislation; entrepreneurial income may not be reduced with cost of goods sold and the value of services sold (mediated).
- » Next year there will be major changes regarding the conditions of fringe benefits. On an annual basis up to HUF 200,000 the tax on fringe benefits will remain unchanged; the personal income tax of 16% and the 14% health care contribution shall be payable on 1.19 times the value of benefits. The ceiling of fringe benefits taxable at the preferential rate shall decrease from HUF 500,000 to HUF 450,000, over this amount benefits shall be considered other benefits. For fringe benefits between HUF 200,000 and HUF 450,000 preferential tax rates and contributions may only be imposed on amounts transferred to SZÉP cards, so the rule is stricter. Fringe benefits provided over the individual threshold and the annual amount of HUF 450,000 shall be considered as other benefits, which shall be taxed as follows: personal income tax of 16% and health contribution of 27% imposed on 1.19 times the value of the benefit.
- » As of next year, electronic travel orders shall also be acceptable if they contain the data prescribed by law and are completed and stored in a closed system.

Corporate income tax

- » The modification introduces a corporate income tax base allowance in the event of contract-based subsidies provided to higher education institutions for at least 5 years. The tax base allowance that can be claimed in the tax year of the benefit amounts to 50% of the subsidies paid.
- » The assessment of the minimum income (profit) tax base is to change: cost of goods sold and the value of services sold (mediated) will be deleted from the list of deductible items.

- » The rules on utilizing loss carry forwards are being tightened again. Instead of unlimited loss carry forwards, losses incurred in the tax year may only be used in the five tax years following the tax year. Loss carry forwards incurred up until the last day of the tax year commencing in 2014 and not yet claimed in the tax base may be written off by the taxpayer according to the rules as of 31 December 2014 (this applies for taxpayers with a tax year other than the calendar year, as well) with the restriction that the loss carry forwards may be used to reduce pre-tax profit until no later than the tax year including 31 December 2025. As regards loss carry forwards assumed in the course of restructuring or acquisitions, such can only be used in each tax year up to the proportion of the tax-year sales revenue or revenue from the continued activity relative to the average sales revenue or revenue of the predecessor in the three years preceding the restructuring / acquisition.
- » The related party concept is to be broadened, whereby parties shall also qualify as related parties if there is controlling influence over business and financial policy between the parties based on overlaps in the respective management teams. The rules on transfer pricing documentation have been tightened in that the use of statistical methods (interquartile ranges) is compulsory during database filtering.
- » In the event of missing assets, the taxable base only needs to be increased if both the taxpayer is found not to have acted with the required due diligence and did not make satisfactory effort to mitigate the loss.
- » The amendment makes the eligibility for deducting advertising costs conditional upon the declaration of the person liable to pay the advertising tax only in the case of annual advertising costs exceeding HUF 30 million (approximately EUR 100,000).

Value added tax

- » Regarding the performance date for transactions with periodic settlements, as a general rule the Bill accepted sets the last day of the period affected by the settlement or payment as the performance date from 1 January 2016. In derogation from this rule, if the document is issued and payment is due before the end of the given period, the date of the tax payment liability is the issue date of the invoice or receipt. If the payment due date falls after the last day of the period affected by the settlement or payment, the performance date is the same as the due date; however, the performance date falls on the 30th day after the end of the period if the payment deadline is on a later date. The new rules shall be applied from 1 July 2015 with regard to bookkeeping, auditing and tax consultancy services.
- » Following the decision adopted by the European Court of Justice in case C-44/11, the VAT on portfolio management is to change. According to the modification, VAT exemption shall not apply to portfolio management from 1 January 2015 if such services are offered to private clients.
- » The modification enables the deduction of input VAT on petrol purchases in cases where the fuel so purchased is used directly as a material expense by including it into the taxable base of another product supply.
- » A new rule provides exemption from VAT registration obligations for foreign taxpayers if the taxpayer's activity in Hungary is limited solely to intra-EU tax-free sales from a VAT warehouse, or export supplies to third countries. This is subject to the operator of the tax warehouse discharging the tax liabilities connected to the intra-EU tax-free supplies instead of the foreign taxpayer – based on an agreement.
- » VAT rate on the sale of large livestock (cattle, sheep and goats) and carcasses considered intermediate products shall fall from 27% to 5% from 2015.

- » The limit for having to report individual invoices in domestic VAT summary reports will drop from HUF 2 million to 1 million from 2015, resulting in more administration.
- » When hiring temporary labour, reverse charging will not depend on whether the construction work for which the labour was hired is subject to an official construction permit or acknowledgement from the construction authority.

Act on the Rules of Taxation

- » The basic principle of this act is to change, whereby the differing legal interpretation by states of legal relationships affecting international agreements and promulgated by law or decree cannot result in the given legal relationship avoiding tax in every country.
- » To suppress tax fraud, the modification prescribes more frequent VAT return obligations for newly formed companies and those enterprises generating sales revenue in excess of HUF 50 million (approximately EUR 167,000). Thus newly-formed companies are subject to monthly VAT returns, while companies generating sales revenue in excess of HUF 50 million must submit VAT returns on at least a quarterly basis.
- » The amendment reverses the burden of proof to prevent the avoidance of tax in both countries. Hence, with transactions and legal relationships concerning international agreements, taxpayers have to prove that the different legal interpretation of the transaction or legal relationship between countries does not mean no tax is paid in either country.
- » There is a new notification rule to combat VAT fraud: taxpayers have to notify the tax authority electronically in the EKÁÉR (Electronic System Reviewing Road Transportations) system of any product purchases or other imports transported to Hungary from European Union member states by road using a vehicle subject to the road toll, product sales or other exports from Hungary to the European Union, and any first-time taxable supplies in Hungary that are not destined for end-users. This notification obligation applies to all activities involving road transportation. Failure to comply with the notification obligation for road transportation means that unnotified products shall be considered to be of unverified origin, enabling the national tax and customs administration (in Hungarian "NAV") to impose default penalties of up to 40% of the market value of the goods in question.
- » The amendment to the Act on the Rules of Taxation gives the NAV the opportunity to request data on internet purchases from telecommunication companies, which would help to monitor and map electronic services with a view to encouraging the fulfilment of tax payment liabilities.

Local taxes

- » Local governments will be entitled to introduce municipal taxes alongside local taxes in their jurisdictions. Organisations or entrepreneurs based on their self-employed status may not be subject to the municipal tax.
- » The Bill accepted provides some relief on assessing the local business tax base in the case of related parties, based on which only the sales revenue and cost of goods sold over the period of the related party relationship – prorated to the day – must be taken into account.

Duty

- » As regards the amendments to provisions of the 2015 tax law on duties, we would like to underline an important amendment affecting the business sector, namely the amendment to the definition of "company with real estate". When calculating the 75% ratio, loans, prepayments and accruals

shall not be included from 2015, thus more company may qualify as "company with real estate" that is the acquisition of the shares in such companies will be subject to duty.

- » According to the explanatory statement regarding the amendment, business entities currently qualify as companies with domestic real estate assets if the ratio of domestic real estate in the assets recorded in the balance sheet (excluding financial assets and financial receivables) exceeds 75%. Based on the explanatory statement: "This ratio is easy to manipulate by means of loan agreements and generating transactions to be treated as prepayments and accruals. The aim of the amendment is to combat tax fraud."

Social security

- » The duration of employment of foreign workers seconded to Hungary where they are exempt from social security contributions, as stipulated in a transitional provision, shall be extended by half a year (the deadline is now effectively 1 July 2015).
- » In the case of an employment contract governed by foreign law, the earnings constituting the base of the social security payment shall be the monthly amount of remuneration set out in the contract.

Part-time employment

- » The apportionment rule does not need to be applied for parents working part time who also have young children, thus employers can claim the tax relief on them up to the full gross amount of HUF 100,000.

Health service contribution

- » The monthly amount of the health service contribution shall increase from HUF 6,810 to HUF 6,930, with the daily amount being HUF 231.

Accounting

- » It will be clear that assets and liquid assets may only be allocated to the capital reserve upon establishment and during capital increases at the time of such establishment or capital increase, as part of this process – alongside raising the registered capital. Thus, provision of capital to the capital reserve cannot be considered a separate economic event, only at the same time as raising registered capital and considering the assets contributed to the capital reserve "as a premium".
- » When transferring business divisions it sometimes happens that the parties to the transaction set the value of the division higher than the market value of the assets provided – minus the value of assigned liabilities. This excess value expresses their view that the division is worth more than the sum of its constituent assets at market value – minus the liabilities. This excess value (recognised at the buyer of the division as goodwill according to the Act on Accounting) must be accounted at the vendor of the division as net sales revenue.
- » Amounts given/received (discounts) in indirect cash refund campaigns will no longer qualify as non-repayable cash transfers or extraordinary items, and instead must be recognised under other income and other expense.
- » Under the new Civil Code, the payment liability for default interest shall commence on the day of default. Accordingly, default interest may not be recognised as an accrued expense under the Act on Accounting, only as a liability.

Excise tax

- » The modification would increase the excise guarantee for alcohol products (beer, wine and champagne) and intermediate alcohol products from HUF 22 million to HUF 150 million, and raise the guarantee amount required for mineral oil products from HUF 120 million to HUF 600 million. By contrast, for entities only distributing lubricating oil and fuel additives, the general excise guarantee will fall from HUF 120 million to HUF 6 million.

Advertising tax

- » The Bill accepted provides some relief on assessing the tax base in the case of related parties, based on which only the tax base over the period of the related party relationship – prorated to the day – must be taken into account.
- » The amendment contains further relief concerning the declarations of taxable persons, according to which the client ordering the publication of the advertisement shall not be liable to pay advertising tax even if the client requests a declaration to be made by the publisher and he is able to provide reliable evidence to prove it, furthermore he reports this fact to the tax authority. The client shall also be exempt from advertising tax if he orders the publication of the advertisement from an organisation included in the list published on the website of the state tax authority.
- » In line with the amendment, the rate of advertising tax shall increase from 40% to 50% on a tax base over HUF 20 billion.

Financial transaction duty

- » The modification contains a different duty base and duty rate for bank card purchases, and for cards enabling touchless payments.

Income tax of energy suppliers

- » Alongside the current year-end top-up obligation for tax payments, taxpayers also have a tax advance payment liability from 2014 tax year. These tax advances must be topped up not to 90% of the total expected tax amount but to 100%, thus tightening the existing rule.

Environmental protection fee

- » The modification extends the scope of the law to other plastic products, other chemical products and office paper products.
- » In-kind contributions, terminations with legal succession and transfers of divisions which do not incur any value added tax payment liability shall not qualify as distribution and therefore not be subject to environmental protection fee liability.

Special tax on investment funds

- » The modification introduces a special tax on investment funds and traders. The annual tax rate shall be 0.05%, which shall be assessed and paid quarterly based on the value of assets managed by the investment funds or registered on the securities account held by the trader for his clients, denominated in Hungarian currency.

Food-chain supervisory fee

- » The adopted Bill significantly increases the current 0.1% rate of the supervisory fee in the case of businesses that sell everyday consumer items and have net sales revenue of over HUF 50 billion.
- » The tax base shall be the net sales revenue of the previous year from this activity. Taxation shall be progressive, up to a net sales revenue of HUF 500 million no tax shall be imposed, while 0.1% is payable on net sales revenue of over HUF 500 million but below HUF 50 billion. In the case of net sales revenue over HUF 50 billion up to HUF 300 billion, the 1% supervisory fee shall increase by 1% for each HUF 50 billion segment. Over a net sales revenue of HUF 300 billion the supervisory fee shall be a flat rate of 6%.

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.

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

The WTS Klient Group won the Hungarian Quality Product Award in 2014 regarding cross border accounting and tax services.

