

wts newsletter

WTS Klient.
The Bridge.

4.2016



highlights

2017 tax law amendments adopted – rules for next year – On 7 June 2016, the National Assembly approved the tax law amendments for 2017. In our newsletter we summarise details of the main changes for decision-makers.

2017 tax law amendments adopted – rules for next year

On 7 June 2016, the National Assembly approved the tax law amendments for 2017. Below we summarise details of the main changes for decision-makers.

Further new features were introduced to the package of tax law amendments in comparison to the original bill.

Surprising overhaul of fringe-benefits system

The European Court of Justice condemned Hungary in its judgement made on 23 February 2016 because it breached the internal market services directive, which triggered the transformation of the fringe-benefits system. The government met this obligation in the amendment proposal of the Legislative Committee.

As part of the changes, the scope of support that may be given by employers as **fringe benefits** was significantly narrowed, as illustrated by the following table:

2016	2017
Széchenyi Rest Card » accommodation account, HUF 225,000 » hospitality account, HUF 150,000 » leisure, HUF 75,000	Széchenyi Rest Card » accommodation account, HUF 225,000 » hospitality account, HUF 150,000 » leisure, HUF 75,000
	Cash benefit, up to HUF 100,000
Workplace meals, up to HUF 12,500	
Income in the form of Erzsébet vouchers, up to HUF 8,000	
Recreation services from employer to employees, to students during traineeships, and to those drawing pensions as well as their close relatives, up to the minimum wage	Recreation services from trade unions to members, retired members, close relatives of the above, close relatives of deceased trade union members, up to the minimum wage
	Non-cash income benefits from the community fund of a cooperative to private individual cooperative members, up to 50% of the minimum wage
Contribution to voluntary mutual pension fund	
Employer contribution to voluntary mutual health funds / mutual funds	
Employer contribution to occupational pension institutions	
Back-to-school vouchers	
Local travel passes	
Supporting formal training costs by paying training costs	

The personal income tax of 15% and the 14% health care contribution shall still be payable on 1.19 times the value of the fringe benefits.

In contrast to the now customary rules, the portion in excess of the annual funds that can be provided in cash (HUF 100,000) will no longer be considered as an other benefit, but as wage income.

It is important to note that the tax authority is planning to examine tendentious wage reductions at companies, which means it will be examining whether companies reduce employee wages upon providing the HUF 100,000 cash benefit (thus exploiting the HUF 100,000 preferential taxation opportunity).

New tax-free benefits will also be available in 2017:

- » besides crèche service and crèche care, nursery service and nursery care (we note here that WTS Klient has lobbied for this tax-free rule to be introduced many times, and it is nice to see the fruits of our labour reflected in this positive change).
- » health-care services defined by the Minister for Health, which cannot be provided in the form of vouchers.

New tax from 2018

A new tax is to be rolled out from 1 January 2018 called the tourism development contribution.

The VAT on certain services in restaurants will be cut substantially from 1 January 2018 to 5%. The tourism development contribution is to be introduced to ensure the financing of national tourism development objectives, legal certainty and a fair distribution of taxes drawing on the principles of the Fundamental Law. The contribution amounts to 4%, levied on the amount of the service subject to payment of the contribution (without VAT); it must be declared by self-assessment by the deadline for submitting VAT returns, and paid. The funds raised from the contribution shall flow into the central budget, and must be spent on tourism development tasks based on targeted tourism appropriations from the central budget.

New sanction to combat abusive business conduct

The new provision of the Act on the Rules of Taxation to be introduced next year shall penalise abusive business conduct in cases where, before liquidation or compulsory strike-off proceedings commence, limited-liability members of a legal entity transfer their shareholdings and exit their company to escape large tax debts that subsequently prove to be irrecoverable. According to the provision, the tax authority will determine the indemnification liability of the members of the limited liability legal entity, who transferred their shareholdings or a part thereof with, or probably with, knowledge of the large tax debt accumulated by the legal entity, yet did not do all in their power to ensure the legal entity could satisfy its obligations. In these cases, the former member selling the shareholding can be compelled by the tax authority to settle the part of the tax debt that can no longer be recovered from the legal entity, to an extent commensurate with the size of the transferred shareholding.

The most important elements of the proposed bill originally submitted are as follows:

Value added tax

Electronic data transfer from 1 July 2017

An electronic data transfer to the Hungarian tax authority must be applied in cases where the output tax is HUF 100,000 or more.

Tax administration – Big Brother will see everything

Under the adopted amendment, from 1 January 2017 the buyer's tax number must be stated on invoices issued to domestic taxable persons if the output tax is HUF 100,000 or more. Pursuant to the rules currently in force, this threshold is HUF 1 million. The threshold for itemised VAT declarations will be reduced from HUF 1 million to HUF 100,000.

VAT cut

Range of products affected by VAT cut	Reduced tax rate	Effective from
Poultry	5%	1 January 2017
Eggs	5%	1 January 2017
Fresh milk	5%	1 January 2017
Food and homemade non-alcoholic beverages sold at restaurants	18%	1 January 2017
Milk and dairy products	18%	1 January 2017
Internet services	18%	1 January 2017
Food and homemade non-alcoholic beverages sold at restaurants	5%	1 January 2018

Personal income tax

Family tax relief increases

Alongside fringe benefits, another important change affecting employees is the increase in the family tax relief. From 1 January 2017, families with two children may claim a tax relief of HUF 100,000 per dependent. Next year, the other eligible person (spouse, parent) will not need to present the tax advance statement required for the allowance to his/her employer, or have it signed and stamped.

Earnings on capital market transactions

According to the adopted amendment, investment service providers will determine the earnings on controlled capital market transactions and the ancillary costs not directly linked to the transactions, and report relevant data to the tax authority in the context of data reporting following the tax year. The amendment will enable the tax authority to include these incomes in its tax return draft in 2017, once in possession of this control data. The control data will also allow the tax authority to identify any unreported incomes in the context of audits.

Higher cost reimbursement for commuting

The cost reimbursement on car use for getting to work will increase from HUF 9/km to HUF 15/km. The costs of establishing and operating workers' hostels will be given preferential corporate tax treatment, alongside the housing tax allowance aimed at fostering mobility.

Corporate tax

Tax planning

To prevent tax evasion and improve the transparency of transactions, classification as the beneficiary of restructuring and asset transfers is subject to the transaction being based on actual economic or commercial reasons, which the taxpayer must prove.

Royalty transactions

For the tax base relief linked to royalties received, royalty revenues used to constitute the base for the statutory corporate tax discount, while according to the adopted amendment, the relief can be applied on the basis of earnings derived from royalties, subject to additional conditions.

Good news for castle renovators!

As a new tax incentive, the cost of historic listed building renovations can now be deducted from the tax base, meaning that the cost can be claimed twice (once as a cost, and once as a tax base deductible).

Related party transactions

In an effort to fight fraud, for uncollectible claims from related companies taxpayers can apply the 20% deductible if, upon submitting their tax return, they report data on the related company and the actual economic cause providing the grounds for the uncollectible claim.

When applying a deductible linked to transfer pricing, the condition for the deduction is that the related party must declare that it will account for the difference between the applied price and the arm's length price when assessing corporate tax.

According to the treaty regulating international taxation, Hungarian branches exempt from Hungarian taxation do not have to prepare transfer pricing documentation in respect of transactions between foreign enterprises and their domestic permanent establishments.

Advertising tax

Hungary's "Google tax"

This instrument serves to collect advertising tax from companies registered abroad that are not subject to Hungarian advertising tax. As a result, publishers/broadcasters of advertising not registered as Hungarian taxpayers may be fined with a repeatable HUF 10 million fine, rising exponentially up to even HUF 1 billion (over EUR 3 million) if they fail to meet their reporting obligation despite the tax authority's request. In addition, a tax base estimated at HUF 3 billion was also mentioned in the draft legislation, the application of which is highly questionable, while the draft, to put it lightly, is very taciturn about implementation in practice.

System of taxation

Overloaded vans

The EKAER reporting obligation will also apply in future for the transport of non-risky goods with a vehicle not subject to a road toll, but with a total weight exceeding 3.5 tonnes after loading. The amendment aims to fight fraudulent taxpayer behaviour. Another amendment linked to the EKAER is that if the quantity of notified goods exceeds the actually transported quantity, the national tax and customs administration may levy a penalty of up to 40 percent of the value of the notified but not actually transported goods.

Payment in instalments without penalty – if requested

Another amendment to the Act on the Rules of Taxation affecting private individuals is the automatic opportunity for payment in instalments without a penalty. The amendment will allow private individuals not subject to VAT to pay in instalments over a period of up to six months free of any penalty, with a debt of no more than HUF 200,000. Instead of filling out a payment relief request this can even be requested in person at customer service points.

Statute of limitations

Due to judicial proceedings that often stretch on for years, it can happen in practice that taxpayers are unable to settle their past tax obligations in accordance with the court ruling because the statute of limitations on the affected tax ruling period has expired. The amendment allows submission of self-revisions, irrespective of the statute of limitations, thus also allowing the tax authority to conduct audits within one year. Taxpayers are no longer able to use self-revisions to settle their tax obligations for a period closed with an audit, so in this case the tax obligation can be corrected in the context of a repeated audit launched at the taxpayer's request.

Local taxes

Electronic local business tax returns

According to the effective rule enshrined in the Act on Local Taxes, effective from 1 January 2017, from this date onwards, taxpayers subject to local business tax will be able to submit their local business tax returns to the competent local government through the NAV. The amendment makes it clear that the declaration/submission of tax returns through the NAV would also apply to the self-revision of submitted tax returns, as well as to the repeated submission of corrected tax returns.

Higher tourism tax

According to the draft of the 2017 budget law, budget support provided to fund holiday resort services, and which is related to local government tax receipts from tourism, will fall. To compensate for this, local governments can levy a higher tourism tax, rising to no more than HUF 400 per guest and per night from 1 January 2017; if the price of the accommodation is the basis for the tax, the upper tax limit shall rise from 4% to 4.6%.

R&D expenses

According to the effective provisions of the Act on Local Taxes, the concept of direct costs of basic research, applied research and experimental development – as items decreasing net sales revenue – is broader than the definition used by the corporate tax and dividend tax act. The modification would give identical meaning to the concept of direct R&D costs in local business tax and the concept of deductible items from the corporate tax base.

Company car tax

One loophole closed!

For long-term car leasing, the long-term lessee (operator) will be the taxable person, rather than the owner according to the main rule. Pursuant to the effective regulation, there will be no company car tax levied on vehicles rented out long-term by a non-private individual owner to a private individual, the private individual cannot recognise any costs, and the owner can only recognise depreciation.

Practical experience shows that in many cases, non-natural person owners registered in the vehicle register wiggle out of their status of taxable person and from paying taxes by establishing a long-term lease (operating right) for the benefit of the managing director in his/her capacity as a private individual, who does not recognise any costs related to the vehicle use.

In order to combat fraud, the adopted law repeals the special rules governing long-term leases.

Duties

Lower procedural duties

Certificates on the fulfilment of tax, customs, duty and social security obligations are not subject to any duties.

Social security

Secondments – third-country citizens

According to Hungarian legislation, third-country citizens qualifying as foreigners employed in Hungary by an unregistered foreign employer may be exempt from the insurance obligation in Hungary if the work is performed in the context of posting, secondments or temporary labour. Another condition for the exemption is that the work may not exceed two years, and that **three years have elapsed from the conclusion of the previous work performed in Hungary**. There is no change in that if the posting is expected to exceed two years, the insurance and contribution payment obligation applies from the first day of the posting (excluding cases where postings are extended).

Postings may be extended if a circumstance occurs that was unforeseeable at the beginning of the posting, secondment or temporary labour, based on which the work performed in Hungary foreseeably or actually exceeds two years, and this circumstance materialises at least one year after the start of work in Hungary, which the employer reports to the tax authority within eight days.

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.

Services of the WTS Klient Group:

- » Tax consulting
- » Consulting
- » Legal consulting
- » Accounting
- » Payroll

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

wts