November 2013

TAX LEGAL CONSULTING

wts newsletter # 9.2013

WTS Klient.
The Bridge.

highlights

Tax changes planned for 2014 (T/12792) – On 18 October, the government presented its draft act T/12792 on amendments to the taxation act in 2014. Its most important provisions on the main tax types are presented below.

contents

Tax changes planned for 2014 (T/12792)

On 18 October, the government presented its draft act T/12792 on amendments to the taxation act in 2014. Its most important provisions on the main tax types are presented below.

Personal income tax

- Rules on **converting income** earned in foreign currency **into HUF** have been simplified: the exchange rate applicable on a single day must be used, depending on the frequency of the tax and advance tax assessment (exchange rate applicable on the 15th of the previous month, 15th of the last month of the quarter, 15th of the last month of the reporting year). If earning capital income, the income and expenditure must be converted into HUF using the exchange rate applicable on 15 December of the reporting year.
- **Insurance**: Insurance where the extent of the insurance company's payment is limited by the premium paid (and the yield generated by it) will no longer qualify as risk insurance. According to the draft act, in the case of whole life insurance, a tax liability does not have to be determined for material amendments to the insurance contract or if the insured person changes; thus tax must be paid on other income solely in the case of actual money withdrawals. The provision amends the upper limit of dispositions that can be given in the **voluntary mutual fund statement**, which will be a standard HUF 150,000 on aggregate for the two titles.
- Pursuant to the Draft, a recognised **employee stock ownership programme** does not need to be reported in advance to the tax administration (this provision would enter into force on the 30th day after the promulgation of the act).
- **Fringe benefits**: Pursuant to the Draft, vouchers qualify as fringe benefits or other income if they cannot be redeemed and converted into cash and can be used solely to obtain a given product or service.
- **Income allocated by foreign parent company**: the Draft requires that the Hungarian company whose foreign parent company participates in allocating income to employees must act as a payer, if it has the data necessary to fulfil the tax liability.
- Debt from loans forgiven by a financial institution will be exempt from tax (even if this takes place under an agreement), provided that the debt was forgiven in line with the financial institution's internal rules between unrelated parties, observing the principle of equal treatment of people in the same situation.
- Similarly to debt released by credit institutions, investment service providers, and financial enterprises, debt of no more than HUF 10,000 forgiven by insurance businesses would also be exempt from tax, if, thereby, the insurance company's claims against the natural person expire definitively.
- The Draft would amend the opening text of Article 8 (8.14) of Appendix 1, given that benefits for business policy reasons can be granted tax-free to natural persons by foreign persons who do not qualify as payers under Hungarian rules.

Corporate tax

» Pursuant to the draft act, rules of **reported business interests** will be loosened further: the interest acquisition ratio entitling reporting will be reduced from 30 percent to 10 percent, and the time limit for reporting an interest acquisition will be increased from 60 days to 75 days.
» **Self-revision**: Pursuant to the amendment of the corporate tax act, immaterial errors can be taken into account when determining the corporate tax base in the reporting year, thus the tax for previous years does not have to be adjusted in a self-revision.
» **Research and development activity**: It will be possible for taxpayers to decrease their earnings before tax with deductible items which are determined based on the direct cost of research and development activity performed within the scope of its related business's own activity. This requires that the activity be related to the income-generating activity of the taxpayer and its related company, and that the taxpayer possesses its related company's statement on the amount of the direct costs of research and development performed within the scope of its own activity.
» **SME credit agreements**: Taxpayers qualifying as small and medium-sized enterprises may claim tax relief of up to 60% (instead of the former 40%) of the interest paid in the tax year for credit agreements signed after 31 December 2013 on investments in tangible assets.
» **Entertainment**: The amendment of the corporate tax act means that costs and expenditures reported in connection with restaurant services paid by bankcard or credit card for business purposes can qualify as eligible costs for corporate tax purposes even if the payer only has the receipt printed during the transaction.

VAT

» **Transactions settled periodically**: Pursuant to the Draft, the performance date of transactions settled periodically will be the end of the settlement period in line with provisions of the Directive. As an exception, if the transaction settled periodically involves a transaction where the price payable is determined as a lump sum, or subsequently based on consumption (public utility contracts), the performance date is still the due date for payment of the consideration (first applicable for the settlement period following 14 March 2014).
» **Subsequent decrease of tax base**: For value-added tax, the Draft clarifies and generalises the cases of subsequent tax base decreases, widens the scope of cases where the taxpayer does not have to perform a self-revision in connection with subsequent tax base decreases, and also clarifies the VAT handling of settlements with coupons.
» **Export exemption**: In the case of product exports, if the only reason a product supply was not tax-exempt was because the time limit stipulated for exporting was exceeded, but the product is still exported outside the European Union within 360 days of the supply, said supply can be given tax exemption (the taxpayer may reduce its tax payable by the amount of tax paid/declared earlier, after modifying the relevant invoice).
» **Reverse taxation**: Pursuant to the Draft, reverse taxation implemented in the grain sector would be extended until 31 December 2018 (current regulation only authorises reverse taxation in this sector until 31 July 2014). Furthermore, for property-related building, assembly and demolition work, reverse taxation would also apply to work subject to acknowledgement by the authorities, besides work subject to permits.
» **Adjustment of rights and concessions**: Taxpayers are obliged to adjust input VAT on rights and concessions in their business (similarly to tangible assets) during the monitoring period, if the utilisation ratio of such changes (mandatory for rights acquired after the effective date, optional for assets acquired before the effective date).
» **Electronic receipt**: Pursuant to the Draft, receipts can be issued electronically too.

Duty

» The Draft provides new rules for the concept of **companies with domestic real estate property**; thus, the property ratio of assets reported in the company's financial statements will be decisive for qualifying capital contributions, and so the acquired company's main activity will not be relevant in the future.
» As a new element, the **duty-exemption of gifts** will be extended to gratuitous property transfers between spouses, property acquisitions without consideration realised by terminating marital property and gratuitous property acquisitions related to the release of dividend debt.
» **According to the Draft, exemption from the duty on onerous property transfers** will be given to onerous property transfers between direct descendants or spouses.
» **Transactions between economic entities**: The Draft tightens the duty exemption conditions for acquisitions of movable assets not subject to duty on onerous property transfer by economic entities within uncompensated transfers of assets, or free transfers of receivables between economic entities. The property acquirer must be seated or have residency based on the place of business in a state in which the corporate tax to tax base ratio reaches 10% (or the lowest tax rate is at least 10%, for zero or negative earnings and tax base), or income from the sale of business interests or capital contributions is subject to tax similar to corporate tax of at least 10%.
» When **acquiring property for the first time**, all natural persons may be granted the possibility of paying in instalments without any penalty for 12 months.
» Thanks to a clarifying provision which facilitates the application of the law, there is no question that property acquisition duty must also be paid on vehicles and trailers which at the time of transfer are not registered, or are registered abroad but purchased for domestic registration.

Local tax

In practice, start-up companies would be exempt from tax advance payments, so in their case, exemption from assessing advance tax would refer to the first advance payment period instead of the start-up tax year.

Rules of taxation

» **Representation before tax administration**: In procedures for enforcing tax refund rights under the VAT Act, non-resident taxpayers may be represented before the tax administration by foreign natural persons, legal entities or other organisations too.
» **Electronic delivery of engagement letters**: In the future, engagement letters can be delivered electronically too.
» **Conducting tax inspections**: Pursuant to the draft act, the tax administration can conduct tax inspections by examining the taxpayer's software, IT systems, calculations and other facts, data and circumstances, in addition to the papers, documents, books, records (including data stored electronically) necessary for assessing the tax base and amount (the tax administration will verify the logical chain of document processing).
» **Conditional tax assessment**: Tax assessment rules would be simplified, the time limit for decisions would be extended slightly, and a preliminary (chargeable) consultation before the proceeding would be possible. According to the plans, the procedure for the conditional assessment of tax would be a one-phase procedure open for a court review.
» **Self-revision**: According to the draft, tax returns already filed can be subjected to a self-revision even before the due date.
» **Supplementing advance taxes (top-up)**: In satisfying the top-up obligation, the taxpayer shall not be at fault if it fails to legally satisfy its top-up obligation because of exchange rate differences; differences from exchange rates applicable on the date of advance tax top-up returns and those applicable on the balance sheet date shall not be subjected to default penalties.

- **Statute of limitations**: Pursuant to the Draft, in all cases where fraud, fiscal fraud, etc. has been committed in connection with taxes, contributions and budget grants, the tax consequences (penalties) of such acts may be determined even if the statute of limitations has passed, but culpability for the given crime has not been prescribed.
- **Taxpayer registration**: According to the Draft, non-resident taxpayers or taxpayers not subject to domestic residence under the VAT Act shall be exempt from the obligation to register as taxpayers if their domestic activity is limited to selling products subject to fiscal warehousing procedures in such a way that the product remains subject to the fiscal warehousing procedure or the customs authority exports the product outside the Community.

Social security

- **Family contribution relief**: The amendment to Act LXXX of 1997 on people eligible for social security payments and private pensions as well as coverage for these services stipulates new rules for claiming the family tax base relief from the contributions. Insured people eligible for family contribution relief may deduct the amount corresponding to the personal income tax element of the unused family relief from the 7% health insurance contribution and the 10% pension contribution (in this order). The family contribution relief used does not reduce the insured person's entitlement to social security benefit.
- **Contribution obligations of employees posted from third countries**: Until the enactment of bilateral social security agreements which have been signed, but not yet enacted, the period during which posted employees can be employed contribution-free in Hungary is extended with regard to foreign employees posted to Hungary. As part of this, there is no insurance obligation for employees posted from third countries until 1 January 2015.
- The rule on third-country posted employees is supplemented with a stipulation which **grants exemption from individual contribution payments** in the case of postings longer than 2 years, but only if the prolongation in the posting in excess of 2 years occurs for unforeseeable reasons. Another requirement is that this circumstance must occur after 1 year, and the employee reports it to the tax administration within 8 days.
- The amount of the **health service contribution** for uninsured people will increase to HUF 6810/month (HUF 227 per day) starting from 1 January 2014.

Health contribution

According to regulations in force, interest income from collective investment securities (e.g. investment units) shall be exempt from the health contribution payable for interest income if at least 80% of the saving is held in HUF-denominated securities of EEA countries. The amendment extends exemption to interest income from insurance, if its insurance reserve or premium reserve satisfies the aforementioned requirement.

Social contribution tax

Regarding the social contribution tax relief of **businesses operating in free enterprise zones**, the domicile requirement for the beneficiary's employees can also be satisfied if the employee lives in a free business zone situated 20 km from the free business zone of the employer's registered office, or in the same micro-region where the employer does business.

Public health product tax

Except for extract-based syrups, syrups with added sugar and syrups with at least 8% sugar content – but low (less than 25%) fruit content – shall also be subject to the **public health product tax**.

Accounting

- The accounting regulation amendment which **allows bookkeeping** and reporting **in USD without special conditions** and the application of the European Central Bank's official exchange rates for the conversion of currency items into HUF is designed to improve the competitiveness of domestic businesses.
- **In-kind dividends**: The Draft clarifies that if the company satisfies its obligations arising from the settlement of dividends by transferring non-monetary assets, the rules of sale must be applied to accounting the assets derecognised for this purpose.
- **Transfer pricing adjustment (clarification of interpretation)**: The amendment of the Accounting Act implemented on 30 June 2013 allows enterprises falling under Section 18 of Act LXXXI of 1996 on Corporate Tax and Dividend Tax to enter the differences between the consideration used and the arm's length price – in connection with their non-arm's length transactions – in the accounting records instead of as a corporate tax base adjustment, for the same accounting item where the consideration initially used was recorded. As this stipulation replaces the transfer price adjustment, any document which satisfies the legal provisions of accounting documents is acceptable for documentation purposes.

Environmental product tax

Pursuant to the Draft, the legal institution of a product tax warehouse will be introduced. Products subject to product tax can be stored or manufactured in the product tax warehouse without payment of the product tax, and the party subject to the tax only has to pay it at the time of end use or domestic sale. The product tax warehouse legal institution is designed to allow participants in the manufacturing or sales process not to pay product tax as long as the manufacturing or resale process lasts.

Income tax of energy suppliers

Pursuant to the Draft, payers of energy supplier income tax are obliged to pay advance income tax for the first time starting from the 2014 tax year. The frequency of the advance income tax payment depends on the amount of tax payable for the previous tax year: if the previous tax year's tax payable exceeds HUF 5 million, then tax is payable on a monthly basis, while if the tax is less than HUF 5 million, it is payable on a quarterly basis in equal instalments.

Financial transaction duty

While rumours suggested that bankcard payments would be exempt from the financial transaction duty, the draft act includes no such modification at this time.

Solidarity tax payable by financial organisations and credit institution contribution

The solidarity tax payable by financial organisations must be paid in 2014 too; furthermore, credit institutions incur a one-off 19-percent tax liability based on the amount of the decrease in the general risk provision in the 2013 tax year, which must be reported and paid by 10 March 2014.

» » »

Other amendments presented in the Draft refer to registration tax, Kata, Kiva, excise tax, customs duty and energy tax.

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
» Legal consulting
» Accounting
» Payroll
» Other consulting

WTS Klient Group • Tamás Gyányi, Director, Tax Consulting
1143 Budapest • Stefánia út 101-103. • Hungary
Telephone: +36 1 887 3736 • Fax: +36 1 887 3799
tamas.gyanyi@klient.hu • www.klient.hu