

wts newsletter

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highlights

On 17 November 2015 the Parliament adopted the package of tax laws for 2016. In our newsletter we will look at the major changes, taking into account the amendments previously adopted this summer. The amendments include the personal income tax returns to be filled in by the tax authority, the growth tax credit, corporate tax allowances and the new, generally applicable rules on the VAT-accounting related to transactions settled periodically. Furthermore, we will explore the simplification of administration for local business tax returns, and the new rules on eligibility for transfer tax exemption.

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Package of tax laws for 2016

On 17 November 2015 the Parliament adopted the package of tax laws for 2016. In our newsletter we will look at the major changes, taking into account the amendments previously adopted this summer. The amendments include the personal income tax returns to be filled in by the tax authority, the growth tax credit, corporate tax allowances and the new, generally applicable rules on the VAT-accounting related to transactions settled periodically. Furthermore, we will explore the simplification of administration for local business tax returns, and the new rules on eligibility for transfer tax exemption.

Act on the Rules of Taxation

- » **Integrated tax and customs account.** Current account integration will be implemented from next year. Instead of the records kept separately by the tax authority and the customs authority, payment obligations shall be integrated into a single, joint system of current accounts. There is no need to modify the currently valid authorisations for administering tax-related matters.
- » **Reliable and risky taxpayers.** The "good taxpayer/bad taxpayer" concept advocated by our company for a long time shall be enshrined in the Act. In line with the new system that supports the rating of taxpayers, those meeting their tax obligations in a regular, lawful manner and proving to be reliable shall be eligible for preferential treatment, more positive than under general rules. For reliable taxpayers, default penalties and the ceiling on tax penalties that can be imposed on them are 50% lower than the rates determined pursuant to general rules. Another advantage is that from 1 January 2017 the tax authority will meet applications for the remittance of value added tax to good taxpayers within 45 days, and within 30 days from 1 January 2018. A further positive feature is that reliable taxpayers shall have the opportunity to automatically apply once a year for their outstanding debt between HUF 10,000 and HUF 500,000 to be paid over 12 months in interest-free instalments. By default, the tax inspection of reliable taxpayers cannot exceed 180 days (provided the taxpayer cooperates with the tax authority and makes all the documentation available for inspection).

By contrast, taxpayers who have accumulated tax shortfalls and high tax debts, or do not meet their obligations in a law-abiding manner, shall be rated as risky taxpayers. In order to make the inspections of such taxpayers more efficient, the duration of tax inspections in their case shall be extended by 60 days. The tax authority will meet applications for the remittance of value added tax within 75 days, and they are subject to more stringent conditions as regards default charges, tax penalties and default penalties too (the ceiling of the default penalty is 150% of the ceiling determined pursuant to general rules). The Tax and Customs Authority (NAV) shall rate taxpayers on a quarterly basis first after the end of the first quarter of 2016.

- » **Definition of taxpayers registered for VAT purposes (VAT-registered entities).** From a tax history perspective, it is significant that the definition of entities registered for VAT-purposes but not residing in Hungary, referred to as "VAT-registered", is finally included in the explanatory part of the Act on the Rules of Taxation.

Personal income tax

- » **15% tax rate.** Perhaps one of the changes from June affecting the highest number of private individuals is the reduction in the current 16% rate of personal income tax to 15% from 1 January 2016.
- » **Tax statement for 2015 tax payable.** Private individuals can meet their obligation to submit a tax return by means of a tax statement submitted through their employers. The statement on incomes in 2015 can be submitted until 31 January 2016. The precondition for making such a tax statement is that the only source of the private individual's domestic taxable income in the fiscal year is their employer who deducts tax advances, they do not have itemised cost-accounting, or apply tax base allowances or tax allowances, they do not wish to allocate their tax for any purpose (not including the 1% tax donations), and they are not obliged for any other purpose to submit a tax return without the involvement of the tax authority. Based on the monthly, so-called 08 tax return forms, the state tax authority shall prepare the personal income tax returns by 20 May of the year following the fiscal year.
- » **Draft returns.** From 2017 – i.e. covering the fiscal year 2016 in the first instance – the tax authority shall draw up a draft return for private individuals meeting the criteria set forth in the Act on the Rules of Taxation, which makes it possible for such individuals to meet their obligation to submit personal income tax returns by approving the draft. This opportunity is provided for private individuals who did not ask their employers to handle their tax assessments, or whose employers did not undertake such tax assessments; for them the state tax authority shall draw up and send the draft tax returns electronically from 15 March of the year following the fiscal year.

Pursuant to the amendment, the provisions of the Act on Personal Income Tax pertaining to the tax statement and the involvement of the tax authority in the simplified tax return shall be repealed. The last opportunity to submit a tax statement or a simplified tax return is for the year 2015. However, it remains possible for employees to have their tax returns done by their employers, if all legal requirements are met (this is the "employer tax assessment").

Corporate tax

- » **Growth tax credit.** The growth tax credit was introduced and included in the Act on Corporate Tax as of 25 June 2015. This allowance essentially improves the liquidity of enterprises by enabling the taxpayer to pay the tax on the amount of the reporting year pre-tax profit exceeding the pre-tax profit of the previous fiscal year, during the two subsequent fiscal years, instead of in the reporting year. The package of adopted amendments now makes the provisions of the growth tax credit more precise at various points.
- » **Exemption for foreign incomes with progression.** A further amendment also effective from 25 July 2015 is the progressive exemption provided for incomes taxable abroad. When assessing the domestic corporate tax base of a tax resident, the income taxable abroad shall be taken into account with progressive exemption, if relevant international agreements make this possible (as do the majority of agreements on the avoidance of double taxation).

Let us assume that the tax base of the taxpayer in the fiscal year is HUF 2,000 million including the income taxable abroad, and the income taxable abroad amounts to HUF 1,600 million. Given that the foreign income is first taxed at the lower tax rate, the domestic tax base of HUF 400 million is taxed at 19%, while the amount of domestic tax will be HUF 76 million. The same tax base of HUF 400 million in the case of a taxpayer with no income of HUF 1,600 million taxable abroad, shall be taxed at 10% (up to HUF 500 million), resulting in HUF 40 million tax to be paid. The objective of the amendment is clear: to impose a higher tax burden on taxpayers with a higher tax-paying capacity, regardless of the place where the income is generated.

Value added tax

- » **Deductible tax.** Deductible tax rules shall be tighter from 2016. Currently, the taxpayer can take deductible tax into account during any tax assessment period within the period of limitation, i.e. there is not necessarily any need to carry out a self-revision due to an invoice received late. However, from 2016 only deductible tax incurred in the same calendar year or in the preceding calendar year can be taken into account in the given tax assessment period as a deductible item for tax payable. As regards the deductibility of taxes incurred earlier, a self-revision shall be submitted for the period when the right to deduction arose. In practical terms, only the VAT on incoming invoices dated in 2018 or 2017 shall be deductible in tax returns for 2018. The new rule shall not be applied if the right to deduction arose up to and including 31 December 2015.
- » **Exemption from invoicing obligation.** If issuing an accounting document, international passenger airlines shall be exempt from their invoicing obligation except when the customer implicitly requires an invoice to be issued. Taxable entities not resident in Hungary providing broadcasting, electronic or telecommunication services for resident non-taxable entities, and meeting their tax obligations through the one-stop-shop system can also be exempt from the invoicing obligation.
- » **VAT grouping.** The legislative amendment makes it possible for related undertakings owned by the state and municipalities to establish a VAT grouping.
- » **VAT rate on pork.** An important change already adopted in the June tax package is that the tax rate on pork meat sales will be reduced from 27% to 5% from 1 January 2016.
- » **Performance date of periodical settlements.** The VAT rules on periodically settled transactions related to tax advisory, accounting and auditing services changed as of 1 July 2015. As of 1 January 2016 the changes shall be applied to all periodically settled transactions. Whereas earlier the performance date of periodically settled transactions was adjusted to the due date (of payment), from 2016 onwards, the general rule is that the last day of the settlement or payment period shall be considered the performance date for each such transaction.
- » **Derogations.** If the due payment date of the amount for the period affected by the settlement or payment and the issue date of the invoice/receipt precede the last day of the settlement or payment period, this is an exception. In this case the performance date shall be the date of the invoice/receipt. If, for example, the rent for the month of November is payable by 10 November (i.e. before 30 November) based on the invoice issued on 20 October, then the performance date of the invoice shall be the issue date, i.e. 20 October.

If the due payment date of the amount comes after the last day of the period affected by the settlement or payment, the performance date shall be the due payment date of the amount, but no later than the sixtieth day after the last day of the given period. According to the legislative text previously adopted but which will ultimately not take effect, the performance date would have been the 30th day after the last day of the given period. If, for example, the rent for the month of September is due by 15 October, then 15 October shall be the performance date. If, for example, the rent is due by 5 December, then 29 November shall be the performance date, as the 60th day after the last day of the given period.

- » A **transitional rule** ensures that the new performance date rules must be applied for settlement periods beginning after 31 December 2015 where the payment deadline and the issue date of the invoice/receipt fall after 31 December 2015.

Local taxes

- » **10% of research costs deductible from local business tax.** The municipality can set forth in a decree applicable to all entrepreneurs that entrepreneurs may reduce their local business tax by 10% of the direct costs of basic research, applied research or experimental development accounted for by them in the fiscal year.
- » **Deductibility of tolls charged abroad.** As of 2016, not only 7.5% of domestic e-tolls shall be deductible from local business tax. Pursuant to the amendment, 7.5% of tolls paid abroad and accounted for as cost, and 7.5% of the fees paid for the use of motorways, highways and main roads may be deducted from local tax.
- » **Exemption from submitting a tax return.** As of next year, taxable persons exempted from paying taxes for a given fiscal year by virtue of derogations or preferences granted by the municipality decree on taxation shall have reduced administrative burdens. These taxable persons shall not have to submit tax returns on local business tax to the local tax authority.
- » **Uniform tax return.** At long last, the much-awaited solution that local business tax returns can also be submitted to the state tax authority instead of to local authorities shall be applicable, by using the general application provided for filling them in. Afterwards, the state authority (acting essentially as the postman) shall forward the incoming tax returns to the municipalities. Tax returns submitted to the state tax authority by the deadline shall be considered by the municipality as delivered.

Transfer tax

- » **Exemption from duty on onerous transfer of property.** The purchase of buses, trailers and lorries by a business organisation shall become exempt from transfer tax. Furthermore, the same exemption shall be granted to electric and other environmentally friendly vehicles.
- » **Exemption from transfer tax** shall also be granted to private persons or their heirs buying their previously owned and afterwards rented apartment. Furthermore, if the building was erected by the person acquiring the property, and this is clearly reflected in the agreement concluded with the owner of the plot of land or in other documents, the sales value of the building shall be exempt from transfer tax.

The transfer tax exemption shall also be applicable to those buyers of apartments who grant the sellers to rent the real estate for a defined time, but for at least 5 years, with the provision that the annual rent shall not exceed 7% of the purchase price of the flat and simultaneously provide the seller or their (private individual) heirs with the right to repurchase. The transfer tax shall be imposed in this case too, but if the former owner of the apartment or their heirs repurchase a share of property corresponding to their previous share of ownership at a price not exceeding 105% of the former purchasing price within 5 years of the sales contract taking effect, the duty shall be annulled.

Other changes

- » **Vehicle tax.** In addition to electric vehicles, other types of environmentally friendly vehicles shall also be exempt from vehicle tax.
- » **Excise tax.** As of 2016, excise stamps at HUF 700/litre of distillate (spirit) shall be purchased from the customs authority before private distillation. This can be applied for with a form or electronically. Only private distillers having registered their distillery equipment at the municipality shall be entitled to apply for spirit excise stamps. Private distillers shall be entitled to buy a minimum of 5 and a maximum of 86 spirit excise stamps per year, and produce the corresponding volume of spirits.
- » **Changes in amount of food-chain supervision fee.** The former tiered system for food-chain supervision fees related to sales of everyday consumer goods shall be replaced by a flat supervision fee of 0.1%. The change is necessitated because the former system violates Community law, which stipulates that competition cannot be distorted through providing preferential treatment for the production of certain goods. Taxpayers being subject to this liability due to these changes should submit a tax return no later than 30 December 2015 (while supervision fee as lump-sum amount has to be paid by 31 January 2016).
- » Rules on the **Employee Stock Ownership Program** shall also be modified in several ways, affecting several types of 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.

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