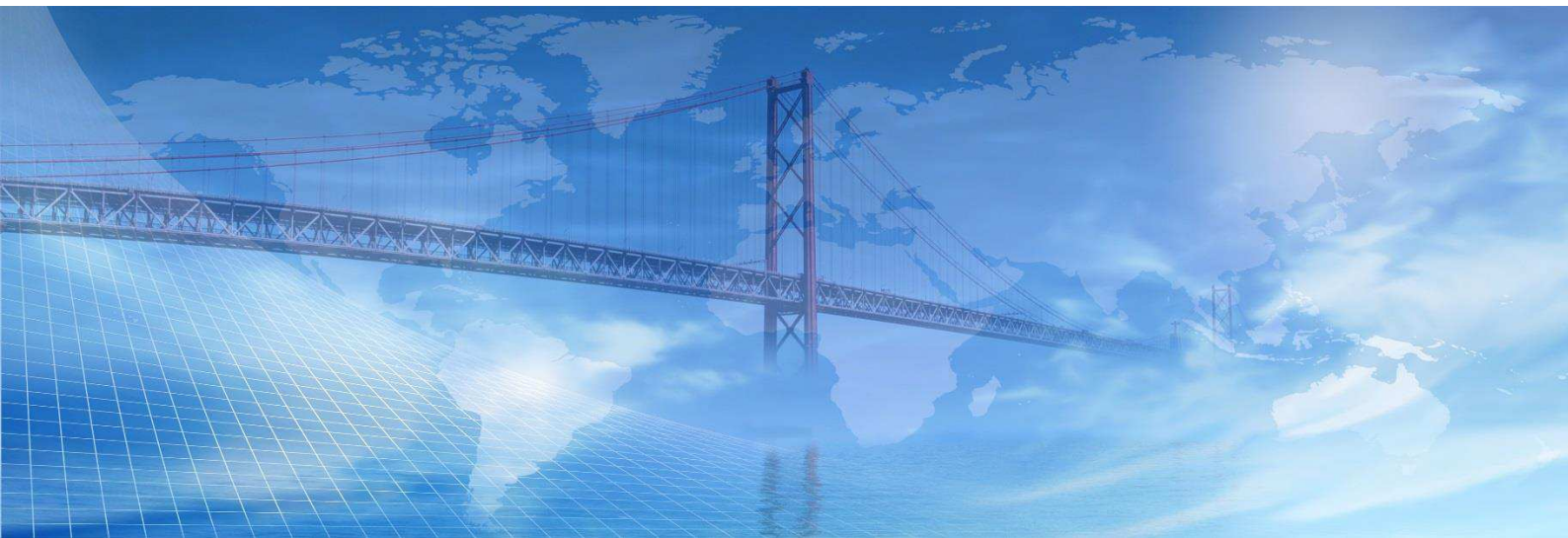


# **WTS** newsletter #10.2014

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## **2015 tax law amendment proposals**

On 21 October 2014 the Minister of National Economy submitted Bill T/1705 on year-end tax amendments, and below we have summarised the main points. Given that Parliament has yet to adopt the current proposals and they are not considered final, further decisions may still be made on tax changes in the near future.

## Personal income tax

- Based on the proposal, the family tax allowance 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 allowance is to be introduced from 2015, called “newlywed allowance” for people getting married for the first time, based on which the spouses can claim a collective monthly tax base 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 tax allowance. Once in possession of the allowance statement, spouses can claim the allowance when deducting tax advances.
- Under the law amendment, whole life insurance with a repurchase value (WL) and other savings-type life insurance products will be subject to the same tax law 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 Bill 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 Act on Social Security, 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 mediated.
- The Bill provides for a substantial increase in the tax burdens on fringe benefits in the future, while the distinction between fringe benefits and specific defined benefits will cease. The health-care contribution previously charged on fringe benefits will rise from 14% to 27%, which is the same as the previous tax burden on specific defined benefits. Another stricter rule is that in the case of benefits provided by employers to all employees based on a documented policy, and in the case of fringe benefits exceeding the threshold for each benefit, or if the value of the total fringe benefits exceeding HUF 450,000 (previously HUF

500,000) 16% personal income tax and 27% health care contribution must be paid on 1.53 times of the value of the benefit. The changes are presented by means of the following example.

Changes to tax burdens on benefits, 2014-2015				
Type of benefit	2014		2015	
	Fringe benefit	Specific defined benefit	Fringe benefit or specific defined benefit	Benefits provided to all employees or benefits exceeding the individual and combined threshold
Net benefit	100	100	100	100
Tax base	119	119	119	153
Personal income tax	19.04	19.04	19.04	24.48
Health-care contribution	16.66	32.13	32.13	41.31
Total payer tax burden above net benefit amount	35.7	51.17	51.17	65.79

## Corporate tax

- The Bill introduces a corporate tax base allowance in the event of contract-based support provided to higher education institutions for at least 5 years. The allowance that can be claimed in the tax year of the benefit amounts to 50% of the support paid.
- The assessment of the minimum income (profit) is to change: cost of goods sold and the value of services mediated will be deleted from the list of deductible items.
- The R&D allowances defined in the law may only be applied from 2015 based on a preliminary qualification from the Hungarian Intellectual Property Office (SZTNH) (the qualification is fee-based service).
- The rules on using 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 used in the tax base may be written off by the taxpayer according to the rules prevailing when the losses were sustained – or the rules as of 31 December 2014 for taxpayers with a financial year other than the calendar year in respect of losses carried forward in the tax

year starting in 2014 – with the provision 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 income from the continued activity relative to the average sales revenue and income in the preceding three years.

- The related company concept is to be broadened, whereby parties shall also qualify as related companies if there is controlling influence over business and financial policy between the companies based on overlaps in the respective managements. 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 Bill states that the tax base only needs to be increased if the taxpayer is jointly found not to have acted with the required due diligence and did not make satisfactory effort to mitigate the loss.

### Special tax on investment funds

- The Bill introduces a special tax on investment funds. The taxpayers here are collective investment vehicles that engage Hungarian-registered distributors to sell their investment units. The tax amounts to 25%, and must be assessed and paid monthly based on the distribution fee charged to the investment fund.

## Value added tax

Regarding the performance date for transactions with periodic settlements, as a general rule the Bill 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 issuance 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 treatment on portfolio management is to change. According to the Bill, VAT exemption shall not apply to portfolio management from 1 January 2015 if such services are offered to private clients.
- The Bill 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. As mandatory condition, the operator of the tax warehouse should comply the tax liabilities connected to the intra-EU tax-free supplies instead of the foreign taxpayer – based on an agreement.
- According to the Bill, the 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 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 underlying the act is to change, whereby the differing legal interpretations in different countries of legal relationships affecting international agreements and promulgated by law or decree cannot result in the given legal relationship avoiding tax in the countries.
- To suppress tax fraud, the Bill prescribes more frequent VAT return obligations for newly formed companies and those enterprises generating sales revenue in excess of HUF 50 million. Thus newly-formed companies are subject to monthly VAT returns, while companies generating sales revenue in excess of HUF 50 million shall 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 that no tax is paid in either country.
- There is a new notification rule to combat VAT fraud: taxpayers have to notify the tax authority in the EKAER system of any product purchases or other imports transported to Hungary from European Union member states, 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 by road using a vehicle subject to the road toll. 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 (NAV) to impose default penalties of up to 40% of the 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.

## 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. These tax advances must be topped up not to 90% of the

total expected tax amount but to 100%, thus tightening the existing rule.

### Excise tax

- The Bill 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.

### Local taxes

- Under the Bill, 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 provides some relief on assessing the local business tax base in the case of related companies, based on which only the sales revenue and cost of goods sold over the period of the related company relationship – prorated to the day – must be taken into account.

### Advertising tax

- The Bill provides some relief on assessing the tax base in the case of related companies, based on which only the tax base over the period of the related company relationship – prorated to the day – must be taken into account.

### Accounting

- The Bill makes it 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 allocating 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 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.

### 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 allowance on them up to the full gross amount of HUF 100,000.

### Environmental product fee

- The Bill extends the scope of the law to other plastic products, other chemical products and office paper products.
- According to the Bill, 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 the environmental product fee liability.



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