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## 2021 tax law amendments in Hungary

## What to look out for

With the submission of bill no. T/13258, the 2021 tax law amendments were presented to the Hungarian Parliament on 13 October. Some of the changes ensure compliance with EU regulations, and we see several legislative amendments aiming to decrease tax administration. When examining the important elements of the bill, please bear in mind that [the summer tax law amendments](#) include several components that have already been accepted and thus will enter into force from 2021. For example, the favourable changes to the [EKAER rules](#), the extended [DAC6 reporting deadlines](#) or the [third step of online invoice data reporting](#) when we will have to deal with invoices issued to private individuals as well as intra-Community sales invoices. Below we summarise the elements of the 2021 tax law amendments that are most important for decision-makers.

## Personal income tax

- **Fringe benefits:** From 1 January 2021, for each employer the portion of any benefit granted in excess of HUF 450,000 (roughly EUR 1,200) will qualify as an "other benefit". In the case of employees working at non-state budgetary organisations, the current limit of HUF 800,000 (roughly EUR 2,200) can be applied until the end of the year.
- **Tax-free benefits:** From the in-kind benefits received, the vaccination provided by the payer is already tax exempt, and this tax-exempt status will be extended to the pandemic screening examinations.

## Corporate tax

- **Tighter rules on permanent establishments:** Services provided create a permanent establishment if, for lack of a place linked to a tangible thing, the Hungarian presence is only embodied by the employees or natural persons who render the services, provided that the term of the service exceeds 183 days. Related projects must be considered collectively. A permanent establishment is created every time, provided that the tax treaty definition of permanent establishment is fulfilled. Consequently, the tax treaty takes precedence over the Act on Corporate Income Tax even if no permanent establishment would be created based on the latter.
- **Dividends:** In light of the amendment to the Act on Accounting, the 2021 tax law amendments repeal the special provision prescribing a corporate tax base decrease when assessed but unpaid dividends are forgiven. And, the exemption from the tax base increase relevant for the member of the company determining the dividends will cease.
- **Investments serving energy-efficiency purposes:** Based on the bill, when buying a passenger car and an electric passenger car, the tax allowance for an investment/renovation serving energy-efficiency purposes generally cannot be used.

- The definition of **controlled foreign companies** is also changing. In this context, corporate tax base modifying items relevant for dividends and capital withdrawal will be supplemented so that the portion related to the real legal transactions can gain exemption from taxation.
- **Irrecoverable debts:** According to the 2021 tax law amendments, taxpayers can decrease their pre-tax profits with regard to the irrecoverable portion of the cost of receivables from related companies if they keep separate records on the related company concerned and on the real economic reasons justifying the transaction.
- The deductible reducing the corporate tax base based on the **development reserve** may be claimed from 1 January 2021 up to the amount of the pre-tax profit of the given fiscal year. The HUF 10 billion (roughly EUR 27.5 million) limit will no longer apply.

## VAT

- **eVAT:** The 2021 tax law amendments will enable the Hungarian tax authority to prepare draft VAT returns for businesses based on the invoice data it receives, thus further decreasing the administrative burden of companies. As opposed to the ePIT (e-personal income tax return), the eVAT can only qualify as a tax return with the active participation of the taxpayers affected (they have to decide on the deductible tax for each invoice). If the taxpayer supplements, accepts and then submits the draft return, it is considered that he has also fulfilled the invoice data reporting obligation required in respect of invoices received. The State Tax and Customs Authority will make the draft tax returns accessible for taxpayers from the 12<sup>th</sup> day after the end of the tax assessment period. The National Tax and Customs Administration will first prepare the drafts based on July 2021 data. Use of these drafts is optional for companies.

- The **amendments ensuring compliance with EU regulations** cover four large areas: the change in rules on intra-Community distance selling, the cancellation of the VAT-exempt status of low-value imported packages, the mandatory use of electronic platforms promoting electronic trade to pay taxes, and the keeping of records, as well as the adaptation of the "one-stop-shop" administration system for fulfilling the new types of tax payment obligation. Accordingly, the 2021 tax law amendments define, in terms of VAT rules, what qualifies as an intra-Community distance sale or the distance sale of products imported from a third country or an area falling into the same category as the area of a third country. Furthermore, in defined cases when the risk of tax evasion is particularly high, taxpayer electronic interfaces that facilitate the sales of products by other taxpayers (sellers) through use of said electronic interfaces are now subject to paying taxes.
- To be able to control the tax payment obligation on product and service supplies in **electronic trade**, the 2021 tax law amendments require taxpayer electronic interfaces to keep records in respect of the transactions that they did not perform for taxpayers in the area of the Community. Accordingly, if a taxpayer electronic interface facilitates the supply of products or services for non-taxpayers within the territory of the Community, particularly through a market, platform, portal or other similar tool, the taxpayer facilitating the supply of products or services must keep records of these product or service supplies.
- **Irrecoverable debts**: From 1 January 2021, ex-post tax base reductions on the grounds of [irrecoverable debts](#) will be possible even if the buyer of the transaction underlying the bad debt does not qualify as a VAT taxpayer.
- **Sale of passenger cars**: Under current regulations, sales of passenger cars are tax-exempt if, upon the acquisition, the input VAT could not have been deducted due to the deduction ban, or if such a ban would have applied to the input VAT had the acquisition been subject to tax. The 2021 tax law amendments make it clear that if the deduction ban on the acquisition of passenger cars would otherwise have been relieved by the acquisition that took place for reselling purposes, the exemption cannot be applied.
- **Issuing invoices**: The current regulation makes the exemption from invoicing in the case of transactions performed for non-taxpayers partly conditional upon the payment method (by listing the payment methods that assume the simultaneous presence of sellers and buyers). Given that there has been significant development in the area of payment and invoicing methods since the acceptance of this rule, it is not justified to tie the invoicing exemption to the payment method. Thus the 2021 tax law amendments abolish this condition. According to the legal regulations on VAT, invoices must be issued if the taxpayer performs distance selling within the Community. The bill states that if the taxpayer fulfils its tax payment and tax return filing obligations on its distance selling within the Community through the "one-stop-shop" administration system, then in order to simplify the use of this system and in light of the record-keeping obligation required to use it, no invoice has to be issued. However, if the customer requests an invoice, the seller shall issue an invoice.

The 2021 tax law amendments also modify the VAT group's "membership rules" and extend the application of the "one-stop-shop" administration system to all services provided for parties who are not taxpayers in EU Member States as well as to all tax return filing and tax payment obligations on distance selling within the Community.

### Online data reporting, invoice issuing

- From 1 January 2021 the data reporting obligation shall cover invoices issued to non-taxpayers, as well as invoices issued on intra-Community tax-exempt supplies to taxpayers. However, data does not have to be provided on invoices issued to non-taxpayers regarding transactions having a place of performance in other Member States, and where the taxpayer satisfies its tax payment obligation within the "one-stop-shop" administration system. The data reporting on invoices issued to individuals not paying tax does not include the name and address of the customer or user.
- If a taxpayer receives an advance, data also has to be reported on the difference derived from taking the advance into account.
- If a taxpayer supplies goods or provides services outside its home country, it must provide data on the fact that the transaction is beyond the territorial scope of the law.
- The changes to online invoice data reporting will enter into force on the first working day of 2021.

### Small business tax (KIVA)

The KIVA rate will fall to 11%, its sales revenue limit and total assets threshold will [increase](#) to HUF 3 billion (roughly EUR 8.2 million) from 2021. In line with this, the sales revenue threshold for the termination of small business taxpayer status will rise to HUF 6 billion (roughly EUR 16.5 million). The limit on the number of staff remains at 50 people, and the data of related companies also has to be taken into account when calculating the sales revenue limit and number of staff.

### Local taxes

- The system for filing local business tax returns is modified and simplified for taxpayers, since they only have to submit their local business tax returns directly to the state tax authority now, instead of to local governments. A standard tax return submitted to the state tax authority and including data for the registered office and all the permanent establishments may bring significant relief from administration for both taxpayers and local tax authorities.
- According to the reasoning of the bill, it follows from the current rules of the Act on Rules of Taxation that upon calculating the individual local business tax base components, related companies must take into account if the amount of the local business tax base component is derived from a transaction in which the contractual price differs from the arm's length price. The bill stipulates that related companies must apply the arm's length price for their transactions if the transaction affects either net sales revenue or the costs and expenses reducing net sales revenue. According to the bill, adjustments due to

the arm's length price apply to the related companies subject to this obligation under the Act on Corporate Income Tax.

- Pursuant to the 2021 tax law amendments, temporary business activities will not be subject to taxation anymore (the construction industry is currently subject to temporary local business tax where work at a municipality for more than 180 days results in the creation of a permanent establishment and its registration at that municipality). In light of this, the bill will cancel the current rules on temporary local business tax liabilities in respect of construction work lasting for more than 30 days.
- The 2021 tax law amendments stipulate that if an entrepreneur performs a self-revision because of any [significant or non-significant errors](#) as per the Act on Accounting, or if the Hungarian tax authority conducts an inspection and the error impacted on the local business tax base in the year when it was discovered, i.e. the correction of the error would have to be considered for the tax base elements of the fiscal year when the error was detected (and not only for self-revisions relevant for previous years) because it is registered in the general ledger, then the tax base elements have to be calculated accordingly. It can thus be ruled out that the entrepreneur might consider certain items in two fiscal years when assessing local business tax, i.e. that it increases or decreases the tax base twice.

### Vehicle tax

According to the current regulations, local government tax authorities carry out the tax authority's tasks in respect of vehicle tax. From 1 January 2021, the state tax authority will perform such tasks in respect of the vehicle tax on domestic vehicles.

### Tax administration

- **Increasing threshold for automatic payment relief:** From the beginning of next year, instead of the current threshold of HUF 1.5 million (roughly EUR 4,000), reliable taxpayers will automatically be able to pay a tax debt of up to HUF 3 million (roughly EUR 8,200) over 12 months in interest-free instalments. Instead of a tax debt of HUF 500,000 (roughly EUR 1,400), private individuals will be able to pay a debt of HUF 1 million (roughly EUR 2,700) over 12 months in interest-free instalments once a year.
- **Mentoring of start-up companies:** The 2021 tax law amendments increase the mentoring period from six months to 12 months to promote the launching of businesses.

### Tax consulting

The expected amendments outlined above will affect most taxpayers. We particularly want to draw your attention to the changes affecting Hungarian corporate tax (e.g. the creation of a permanent establishment) and local business tax. If you have any questions regarding the elements of the 2021 tax law amendments in Hungary, or their impact, then [our tax specialists](#) will gladly help with the answers.

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