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Here are the adopted 2021 tax amendments in Hungary!

New amendments will enter into force for corporate tax

The Hungarian National Assembly has accepted next year's tax amendments submitted in October under the title of 2021 tax amendments. The majority of the proposals described in our earlier article and the additional modifications submitted to Parliament on 12 November were voted for at the plenary session on 17 November.

When planning for next year, in addition to the most important elements of the 2021 tax amendments, we should not forget about the tax amendments voted for in the summer, which even affect year-end tasks. It suffices to think about the cancellation of the top-up obligation for local business tax, which was requested from the legislators several times, also by WTS Klient Hungary. Decision makers should note that in the turbulent environment both the scope of the individual rules (date of entry into force and date when rules are discontinued) and the temporary tax-amending effects of decree rules should be taken into consideration. These rules are described from time to time in the "coronavirus section" of our website.

Material changes

From the most important 2021 tax amendments listed in our earlier article, we would like to draw the attention of decision makers to the following material amendments:

- The corporate tax base deductible based on the **development reserve** may be claimed up to the amount of the pre-tax profit of the given fiscal year. The HUF 10 billion (roughly EUR 28 million) limit will no longer apply.
- The **definition of permanent establishment** is also changing in terms of corporate tax. The structure of foreign companies employing Hungarian employees in Hungary must be reviewed again.
- **DAC6**: The reporting deadline for transactions realised between 25 June 2018 and 30 June 2020 is to move from 31 August 2020 to 28 February 2021; while for arrangements made available as of 1 July and for transactions where the first steps are taken after 1 July 2020, the (first) data reporting deadline has changed from 31 July 2020 to 31 January 2021.
- **Vaccinations** provided by the payer are already tax exempt, and this tax-exemption will be extended to **pandemic screening** examinations too. (In our opinion, the screening examination provided during the state of emergency is also tax exempt based on the Stability Act.)
- The **top-up obligation for local business tax** has been cancelled.
- A **standard local business tax return** including data for the registered office and all permanent establishments only has to be submitted to the state tax authority, not to the local tax authorities.
- For **local business tax**, the obligation to apply arm's length prices and this impact on either net sales revenue or costs and expenses reducing net sales revenue should both be noted.
- **Temporary business (construction) activities** will not be subject to taxation anymore.
- From 2021, the range of online invoice data reporting will expand to include **invoices issued to private individuals**. This obligation will start from 4 January and we can count on a sanction-free period until the end of March. From this date, taxpayers essentially have to report each invoice.
- **System 3.0** is expected to replace the current version 2.0 of online invoice data reporting from 4 January. It is worth paying attention to ensure the change is implemented through your systems, and you can decide on perhaps introducing electronic invoicing that you have put off until now.
- **eVAT tax returns** are on their way. The National Tax and Customs Authority (NAV) will make the draft tax returns accessible for taxpayers from the 12th day after the end of the tax assessment period. The NAV will first prepare the drafts based on July 2021 data. Use of these drafts is optional for companies.
- Change to **EKAER** regulations. The system will only be mandatory in the case of risky products and the rules on penalties will also be amended.
- The general reverse charge will be discontinued for **temporary labour**, but the reverse charge can still be applied for temporary construction labour in the case of all construction/assembly work (not just work subject to a construction permit).

Scope: if the derogation authorisation given in Council Implementing Decision (EU) 2018/486 is not prolonged, despite Hungary's request, the minister responsible for taxation policy will publish the relevant resolution in the Hungarian Gazette. The restriction will enter into force on the 30th day following its publication.

- The rules on the preferential 5% **VAT on homes** will be reintroduced together with the related duty exemption rules. (These rules were incorporated in a separate bill, not as part of the 2021 tax amendments.)
- It is possible to give higher amounts through the **SZÉP card** until 30 June 2021 (and all this is exempt from the social contribution tax).
- The reporting rule on the **ownership acquisitions** by foreigners in Hungarian companies was prolonged until the end of June 2021.
- During the state of emergency in Hungary, special rules shall apply to **free supplies** and services.
- **Industries affected** most by COVID-19 will receive tax allowances (e.g. in terms of social contribution tax, vocational training and rehabilitation contribution), or even direct support.
- In line with EU legislation, companies involved in or mediating **distance selling** as well as those providing services for foreign private individuals should expect significant changes.
- The **KIVA** rate will drop to 11%, and its sales revenue limit and total assets **threshold** will increase to HUF 3 billion (roughly EUR 8 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 17 million). So it is worth considering a switch to KIVA again.
- **KATA**: The Hungarian 2021 tax amendments introduce an equaliser for revenues from foreign legal entities which are related companies of a low tax bracket entity and revenues from foreign payers in excess of HUF 3 million (roughly EUR 8,300), given that in this case the 40% tax rate will not be charged to the payer but to the low tax bracket entity: the basis of the tax is not all of the revenue exceeding HUF 3 million (roughly EUR 8,300), but only 71.42% thereof.

Additionally, based on the summary amendment proposal submitted in connection with Bill No. T/13258 and containing the details of the 2021 tax amendments, among other things the Corporate and Dividend Tax Act (CDT) was supplemented with some important changes. The most significant ones are that corporate tax funding can be used for protection measures against the pandemic with respect to sports and CDT allocations as well as the tax calculation of foreign permanent establishments.

Corporate tax funding used for protection against the pandemic

In connection with the Hungarian tax allowance on spectator team sports, taxpayers may now provide support directly from their corporate tax to facilitate protection against the coronavirus as well as for the 100% reimbursement of costs arising in respect of the safety measures required by national sports associations. Accordingly, all the corporate tax funding may be used to purchase thermometers, masks, rubber gloves, coronavirus tests, hand sanitisers, disinfecting wipes or liquids, protective healthcare attire, or to pay for health examinations.

Changes to the tax calculation of foreign permanent establishments

The approved Hungarian 2021 tax amendments clarify the provisions of the CDT Act regarding the simultaneous application of double taxation and transfer pricing modification rules. Accordingly, if a domestic resident taxpayer is not entitled to apply tax base deductibles under transfer pricing rules for a transaction between itself and its foreign permanent establishment because it does not have the statutory tax base increasing statement, then, in line with the rules currently in place, it has to modify its tax base so it does not contain the income taxable abroad, if so provided for by an international agreement. Then, the domestic resident taxpayer may decrease its tax base with the amount of costs and expenses that can be allocated to the foreign permanent establishment. The decrease may not exceed 90% of the disallowed item calculated based on the transfer pricing rules applied when the income of the foreign permanent establishment is determined, or the amount of the costs or expenses allocatable to the foreign permanent establishment that exceeds the revenue of the foreign permanent establishment, whichever is lower.

5% VAT on the delivery or take-away of restaurant food

In addition to the 2021 tax amendments, Hungarian restaurants closed in the state of emergency due to the coronavirus are significantly affected by a tax law amendment promulgated in a decree. Based on Hungarian Government Decree No. 498/2020 (XI.13) on the economic rules applicable during the state of emergency, food and beverages sold for take-away or home delivery, which would be subject to 5% VAT if sold with on-site catering anyway, will also be subject to VAT equalling 5% of their tax base. This tax rate is not applicable to the delivery fee for the transaction.

TAX CONSULTING

The 2021 tax amendments bring about significant tax changes which will affect most taxpayers. We draw your attention in particular to the changes affecting online invoice data reporting and e-commerce. If you have any questions regarding the 2021 tax amendments, or their impact, then our tax specialists will gladly help you.

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