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## Spring tax law amendments in Hungarian parliament

## A special section of the PIT law will deal with the taxation of crypto assets

*The 2022 bill, which was submitted by the Hungarian Minister of Finance to the National Assembly on 11 May, summarises the tax amendment plans of the Hungarian government. Bill No. T/16208 on the amendment of certain tax laws, i.e. the spring tax law amendments, will bring about changes in almost all tax types.*

## Income taxes

## Personal income tax

The Hungarian spring tax law amendments simplify the **rules for the flat-rate taxation of sole traders**. A rule tracking changes in the minimum wage that ensures regular valorisation will be introduced to determine the income threshold for the choice of taxation method. Also, the system of flat-rate cost ratios necessary for determining income will be simplified, and flat-rate income of less than half the annual minimum wage will be exempted from personal income tax.

There will be **no need to make a new annual declaration** to the employer, the payer of the regular income, **in respect of data that definitely cannot change**. Such cases include when children have grown up or the mother has been entitled to family allowance for at least 12 years in Hungary. There is a transitional provision connected to the amendment, based on which, if the mother entitled to the allowance makes a declaration in 2021 and fulfils the conditions, she does not have to make a new declaration in 2022.

## Taxation of crypto assets in Hungary

The spring tax law amendments define new taxation rules for the tax liability of income from crypto asset transactions. Based on the current rules, and for lack of any legal regulations otherwise, the income generated upon the transfer of a crypto currency is subject to tax, i.e. 15% personal income tax and a 15.5% social contribution tax. If the private individual receives such income from a non-Hungarian resident company or business (which is quite frequent in the case of trading with crypto currencies), the social contribution tax must be paid by the private individual, so the basis for the personal income tax and the social contribution tax is 87% of the income otherwise assessed.

Based on the new Hungarian rules, the **income from the sale of the crypto asset** no longer forms part of the aggregate tax base, **it qualifies as separately taxed income** and no social contribution tax has to be paid on it.

Based on a transitional provision, private individuals who did not assess income before 2022 in respect of the transfer or assignment of crypto assets may assess income under the new rules and take this into account as transaction income for 2022.

In Hungary, the method for determining the income from a transaction in crypto assets follows logic similar to that for determining income from a controlled capital market transaction. **Income is generated when the aggregate amount of the transactional profits for the fiscal year exceeds the aggregate amount of the transactional losses realised in the reporting year and the fees and commissions related to the conclusion of the transactions.** The latter include the verified expenses for the reporting year not connected to the specific transaction but related to the holding of crypto assets. Transactional profit is generated when the obtained revenue exceeds the verified expenses spent on the fees and commissions related to the acquisition of the crypto asset and the transaction. However, no transactional revenue has to (can) be established if the revenue from the transaction does not exceed 10% of the minimum wage in Hungary. The latter provision can be applied if, as of the date the income is acquired, the private individual does not earn income from other transactions regarding the same subject, and the sum of such income does not exceed the minimum wage in the fiscal year.

Upon determining the transaction's result, the ordinary market value of the crypto asset at the time of the transfer or assignment (when the right is exercised) should be taken into account as income. Costs incurred during the acquisition of the crypto asset in the reporting year under the titles specified by the law may be taken into account as costs (e.g. when purchasing a crypto asset,

the expenses incurred in its acquisition, and in the case of its mining, the costs incurred in performing this activity).

If the total transactional loss in the fiscal year exceeds the sum of the total transactional profit, the private individual incurring the loss may opt for tax equalisation. In the **tax equalisation** process the private individual can claim the "tax content" of their losses from crypto asset transactions in the fiscal year and the two preceding years as tax paid in their annual tax return.

### Social contribution tax

From 1 July 2022, the plan is for the social contribution tax rate in Hungary to **fall** by half a percentage point to **15%**.

### Vocational training contribution

The employer's tax burden on wages in Hungary will be further reduced by two percentage points from 1 July 2022. As part of this change and to decrease the administrative burden, the vocational training contribution (1,5%) **will be discontinued**.

### Corporate tax

One important element of the spring tax law amendments is the **transposition** into corporate tax of **the part of the EU directive** containing anti-tax evasion measures that deals with so-called **reverse hybrid entities**. This completes the implementation of the directive.

According to the amendment, **a hybrid entity registered in Hungary or with a registered office in Hungary will qualify as a resident taxpayer if it is majority-owned by foreign taxpayers whose country considers the hybrid entity as a taxpayer**. Domestic taxpayers specified this way exclude investment funds and forms which have a broad circle of owners, a diversified securities portfolio, and are subject to investor protection regulation in Hungary. The income of the hybrid entity is subject to taxes to the extent that this income is not taxable by the tax laws of Hungary or another country.

Additionally, provisions for public trust foundations in the public interest will also be introduced based on the spring tax law amendments.

## Sectoral taxes

### Income tax on energy suppliers

To facilitate the restart of the economy, the spring tax law amendments **introduce loss carry forwards to the income tax of energy providers** along with provisions on grants to public trust foundations in the public interest.

### Financial organisations' special tax

The tax liability of venture capital fund managers and stock exchanges in the category of special tax on financial institutions will be cancelled.

## Indirect taxes

### Value added tax

The proposal set out as part of the spring tax law amendments creates a **record-keeping and data reporting obligation for payment service providers** with a view to legal harmonisation. The dynamic growth of cross-border **e-commerce** and the [new VAT rules for e-commerce](#) that will enter into force from 1 July 2021 require the introduction of a **new control tool**. In the case of sales within the framework of cross-border e-commerce to a non-taxable person, the seller can fulfil its tax liability in a Member State other than the one in which it is established by using a system that does not require registration in that Member State. Similarly, **the payment of VAT on imports of less than EUR 150 will be simplified**. These rules will bring about simplification for businesses, but for control purposes they will present a more difficult situation for the tax authorities. By forwarding payment data of cross-border payments, the proposal aims to provide a tool for the tax authorities to check the fulfilment of VAT payment obligations on cross-border e-commerce transactions.

For the purposes of legal harmonisation, the spring tax law amendments create the same conditions for VAT and excise duties for the procurement of goods, imports and services by the armed forces of Member States under the EU's common security and defence policy as for procurements by the armed forces under the NATO's common defence effort.

A VAT taxable person **may apply** to the tax authority by means of a separate **written request to claim the VAT of an amount already accounted on an irrecoverable debt**, if the limitation period calculated with reference to the original transaction on which the debt was based has expired by the time the debt is deemed irrecoverable. Such request may be lodged within a limitation period of one year from the date the debt is declared irrecoverable, and its submission is subject to the statutory conditions for reducing the tax base on the basis of an [irrecoverable debt](#) otherwise being met. The amendment also regulates the procedure to be followed in cases where, following a tax refund based on a request, the supplier of the goods or services is reimbursed for all or part of the consideration that was accounted for as an irrecoverable debt. The tax authority will make a decision on the request within six months.

The spring tax law amendments **repeal the following conditions** for a debtor to be **excluded from a reduction of the tax base** on the basis of a bad debt:

- the customer was under insolvency proceedings as of the performance date of the original transaction;
- their tax number was cancelled as of the same date;
- the customer was listed in the database for taxpayers with a considerable tax shortfall or large tax debt at the time of the original transaction and in the year before that;
- by the performance date of the original transaction the seller received a notice letter from the tax authority regarding abusive activity of the customer.

According to the Hungarian spring tax law amendments, taxpayers settled in the United Kingdom are entitled to a refund of domestically charged VAT on a reciprocal basis in the case of transactions completed after 31 December 2020. Prior to this date, the refund of VAT was granted based on EU law in respect of these taxpayers. The **possibility to refund VAT** shall exist as long as the two states provide this opportunity on a reciprocal basis.

## Excise tax

The excise amendments are mainly aimed at implementing the tasks related to the transposition of the new horizontal excise directive (2020/262 (EU)) into domestic law. The changes primarily concern the inclusion of the transportation of taxed goods between Member States under the electronic document system and the harmonisation of customs and excise rules for the export and import of excise goods. The deadline for completing the **implementation tasks resulting from the legal harmonisation obligation** is 31 December 2021, with the entry into force on 13 February 2023.

The provisions on the territorial scope of the excise rules are amended in line with the Brexit Treaty.

The obligation to appoint a tax representative when carrying out domestic **mail-order parcel services** from another Member State will be cancelled, and the mail-order parcel services can be carried out even if the mail-order trader is registered with the State Tax and Customs Authority.

## Duties

The purpose of the amendment to the Hungarian law on duties is to prevent abusive tax avoidance transactions. Therefore, the **amendment of the law on duties** as set out in the spring tax law amendments affects the duty-exempt status of home purchases claiming the CSOK and the notion of a company with domestic real estate assets.

Through this amendment, apart from the cases regulated so far, the Hungarian state tax authority will still **subsequently have to levy the duty even if, for any reason, the party acquiring the asset pays back or has to pay back the full amount of the CSOK** (e.g. if the party acquiring the property disposes of the home while the restraint on alienation and encumbrance registered in favour of the state still applies, or uses it for a purpose other than housing, or establishes a right of use or usufruct on it and for this reason they have to repay the support). For constitutional and tax considerations, the above applies to transactions where the obligation to pay duty (typically the signing of a contract for the purchase of a home with the CSOK) comes after the entry into force of the amending provision (i.e. the 31<sup>st</sup> day after the promulgation of the law).

In the case of a **company with domestic real estate assets**, the book value of property acquired between two balance sheet preparation dates (up to the date of the duty liability, i.e. the

acquisition date of a 75% stake) must be added to the value of the properties and all assets of the previous (approved) balance sheet, if the company's quotas/shares are sold. According to the previous rules, a newly formed company could not qualify as a company with real estate assets despite property obtained in the meantime, although such was already included in the general ledger (the property was not yet included in closed financial statements).

## Tax administration

Based on Hungarian Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing, **only service providers that have reported their activities to the supervisory authority may provide registered office services**. The State Tax and Customs Authority only accepts the use of a registered office service provider which complies with the above conditions. If the taxpayer does not fulfil this condition despite the warning of the State Tax and Customs Authority, their tax number will be cancelled.

In light of the uncertainties in applying the law, the spring tax law amendments **clarify the rules on the calculation of late payment interest**, specifying the rounding methodology. As for the amendment, it should be noted that these **rounding rules** will also apply to default interest, and that the rounding will be applied in the same way for both the tax authority and the taxpayer in the event of late payment.

## Accounting

To **enforce the principle of matching**, the Hungarian spring tax law amendments allow the accrual of grant income in the accounting of development grants, similar to the accounting of operating grants.

In certain cases the **new rules on contract accounting units** (may) affect contracts where their application is either not justified or causes difficulties. To avoid this, the proposal exempts series production from the mandatory application of the rules on contract accounting units.

The spring tax law amendments **add to the content of the independent auditor's report** regarding compliance with the requirements of European Commission Delegated Regulation (EU) 2019/815, and provides for the withdrawal of audit reports issued and disclosed unlawfully in relation to the financial statements.

Additionally, the proposal contains several clarifications and supplementary provisions to assist with implementation in practice. These may include proposals for:

- the content of cost (purchase value),
- the reclassification of know-how within intellectual property,
- the clarification of requirements for correction accounting documents, and
- clarifying the capitalisation rule for option fees.

## Audit

In view of the efforts aimed at widening the use of digital procedures in Hungary, the spring tax law amendments provide for the **possibility of signing independent audit reports electronically** by law.

The provisions in force regulate (almost limit) the possibility of electronic communication in official procedures conducted by the Chamber of Auditors with unjustified constraints. The proposal aims to **expand the use of electronic administration** similar to the rules for electronic administration previously prescribed for the procedures of the public oversight authority. Additionally, it also provides for the possibility to conduct the chamber's general assembly and elections electronically.

## International tax cooperation

In the law on certain rules of international administrative cooperation in the field of tax and other public charges, the EU **dispute settlement procedure was regulated** on the basis of the relevant EU directive. The rules of the directive have been transposed

accordingly, but minor **technical clarifications** are needed for full compliance. Other amendments include the further transposition of the OECD International Standards for the Automatic Exchange of Financial Account Information and clarifications to the text.

## Tax consulting

The spring tax law amendments bring about significant tax changes which will affect most taxpayers. We particularly want to draw your attention to the changes affecting the taxation of crypto assets and the VAT refund of irrecoverable debts. If you have any questions regarding the spring tax law amendments, or their impact, then [our tax specialists](#) will gladly help you.

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