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Tax amendments for 2023 in Hungary

Local business tax cap of 1% to be abolished, e-receipt on the way

On the evening of 18 October 2022, in a 104-page document, the Hungarian Deputy Prime Minister submitted to the National Assembly the latest proposals regarding the tax amendments for 2023. Bill T/1614 amending certain tax laws does not contain any significant conceptual changes: the main tax rates are left unchanged, and the rates of contributions and social contribution tax are also the same. However, there are some tax amendments for 2023 – whether related to local business tax, value added tax or duties – that could affect many taxpayers in Hungary. Flat-rate taxpayers can also expect a number of changes to reduce administration in the context of the low tax scheme changes. We should not forget that, in addition to the current package of amendments, the tax amendments for 2023 include a number of changes already adopted by Parliament, such as the increased [company car tax](#), the [tighter transfer pricing rules](#), or even the obligation for branches and permanent establishments [to pay the innovation contribution](#).

Key new elements of the tax amendments for 2023

- **Advertising tax:** The bill extends the deadline for applying the current rules by a further year, so the tax rate will be 0% of the tax base until 31 December 2023.
- **Tax allowance for the under 25s:** The extension of the allowance to the age of 30 – subject to certain conditions – is not included in the amendments, but regardless of whether the beneficiary has used the tax base allowance during the fiscal year, the tax authority will include the information available to it on use of the benefit in the draft return.
- **Local business tax:** A significant change to the tax base and tax calculation method has been introduced into the local business tax law. The local business tax rate capped at 1% will not apply in 2023.
- **VAT:** The possibility to apply the 5% VAT rate on the construction of new housing is to be extended by two years.
- **E-receipt:** It is planned to extend the data reporting to include receipt information. The details will be regulated in a decree.

Below we explain in more detail some of the latest tax amendments for 2023.

Personal income tax

The most important points of the tax amendments for 2023 regarding personal income tax affect flat-rate taxation in the context of the low tax scheme changes.

- If a self-employed person using the flat-rate system wishes to claim family contribution relief, they **must declare** the tax advance on their flat-rate income **on a quarterly basis**.

- The bill abolishes the obligation to consider the **income threshold** for the income earned in the fiscal year before choosing this tax, both for those engaged in retail and for those engaged in other entrepreneurial activities. Thus from 2023, flat-rate taxation can be chosen regardless of the amount of income earned in the fiscal year preceding the year in question.
- After the year in which the **flat-rate taxation** is dropped, the **period** that must elapse before such taxation **can be chosen again** is reduced from four years to 12 months. So if a self-employed person drops the flat-rate taxation or loses entitlement to it (due to exceeding the income threshold for example), they cannot opt for flat-rate taxation again for the year it was dropped (entitlement was lost) or for the following 12 months.

The bill also includes new rules on the KMRP (Special Employee Co-Ownership Programme) and on fiduciary trusts.

Changes to social security / social contribution tax

Income earned from Hungary by **foreign performing artists** insured in a state covered by a social security convention and opting for the taxation method under Section 1/B of the Personal Income Tax Act is exempt from the obligation to pay social contribution tax.

The tax amendments for 2023 will also affect **those insured abroad**. Under the rules in force, taxpayers who are insured abroad must apply for the cancellation of their contribution obligation at specific intervals, and at the same time they must repeatedly provide proof of their foreign insurance status. If the taxpayer can prove they have been insured abroad from the date indicated in the application, the Hungarian Tax and Customs Administration (NAV) will retroactively cancel the obligation to pay health service contributions. The NAV notifies the health insurance body about this cancellation electronically. The supple-

mented provision allows the health insurance body to close the obligation to pay health service contributions in its own records, and to cancel the social security number of the person concerned in view of their foreign insurance. Registration in the certified public register ensures that after the period covered by the contribution waiver, the person abroad is not required by the authorities to pay the health service contribution again.

Corporate tax

In the case of the **tax base allowance for electric charging stations**, the *de minimis* legal basis applies to tax returns filed after 31 January 2022. If a taxpayer has claimed the tax base allowance for the electric charging station in their tax return submitted after 31 January 2022, they must submit a self-revision to amend the tax base.

A new transitional provision sets out the coherent application of the rules limiting interest deductions and [loss carry-forward rules](#) to **losses** incurred before 2015 and not yet used.

Given the **impairment** recognised on the shares acquired based on a preferential exchange of shares, the tax base must be increased in the year in which the impairment is recognised, rather than in the year of derecognition. The definition of the minimum income (profit) threshold will be amended accordingly.

The bill also contains rules on **fiduciary activities**.

Value added tax

From 1 January 2023, the **scope of cases qualifying as legal succession** for VAT purposes shall be extended. The new scope covers farm transfers under the new rules on the transfer of agricultural holdings that will enter into force from 1 January 2023.

The bill brings into law the provision of the emergency decree (Government Decree 267/2022 (VII.29) on the application of the reduced rate of VAT on new residential buildings), which [extends by two years](#) the applicability of the **reduced 5% rate of VAT on the sale of new residential properties**, and also includes transitional arrangements to deal with delayed constructions. The transitional rule stipulates that the reduced tax rate may also be applied after 31 December 2024 (until 31 December 2028) if the building permit is finalised by no later than 31 December 2024, or if the construction has been notified by that date in accordance with the simple notification rules.

The bill also resolves the application of law issues stemming from the practical implementation of the **e-commerce rules** that [entered into force on 1 July 2021](#), in accordance with the relevant provisions of the directive, in particular as regards distance import selling by taxable persons exempt from VAT, and intra-Community distance selling. Council Directive 2006/112/EC originally allowed Member States to apply the reverse charge mechanism for certain goods and services until 1 July 2022, then Council Directive (EU) 2022/890 extended this option until 31 December 2026. In line with Council Directive (EU) 2022/890, the bill thus allows the application of the reverse charge mechanism until 31 December 2026 for the goods and services specified therein (e.g. certain agricultural and steel products).

Taking into account that the VAT Act contains references to certain **building rules** and legal institutions at several points, the bill follows the changes in the building rules on use of buildings to ensure clarity regarding application of the law. Changes in building regulations also justify modifications to the reverse charge rules on the construction and conversion of properties. The amendment means that all construction/installation and other assembly work for the construction, conversion, and change of use, etc. of real estate that requires a permit or having to notify a public authority (e.g. work subject to a heritage protection permit or notification, a change of use permit, or a town planning notification procedure) is subject to the reverse charge mechanism.

The tax amendments for 2023 also include the fact that upon **invoicing in a foreign currency**, the amount of output tax must only be indicated in Hungarian forints on the invoice if the supply of goods or services covered by the invoice is taxable in Hungary.

E-receipt

It is also planned to **report data on receipts**. Parallel to the data reporting requirement, the cash register system would be revisited in the future – taking technological advances into account – which could also encourage the spread of electronic receipts in the spirit of environmental awareness. As a first step towards achieving these objectives, the bill authorises legislation at ministerial level to lay down detailed rules regarding the general reporting of data on receipts and on the devices and techniques other than cash registers that can be used to issue receipts.

Local business tax

Transfer pricing adjustments

The current legislation only allows business owners to reduce the local business tax base via a [transfer pricing adjustment](#) if it has a statement from the related company involved in the transaction that it has increased the local business tax base by the same amount in respect of the same transaction. However, if the related company is not subject to local business tax, it can also declare that it has claimed the adjustment **in corporate tax or in the corresponding foreign tax**. It is also appropriate to provide the same opportunity in cases where the related company is subject to local business tax, but records the value of the transaction affected by the transfer pricing adjustment – applying accounting rules correctly – on grounds that do not need to be taken into account when assessing the local business tax base (e.g. as a service used).

Simplified local business tax assessment

As part of the tax amendments for 2023, the **simplified method for assessing local business tax** will be renewed, replacing the three current methods with a single tax base assessment method.

Accordingly, all businesses whose annual income for the fiscal year – calculated on an annual basis, i.e. annualised based on calendar days of operation for fiscal years shorter than 12 months – does not exceed HUF 25 million (HUF 120 million for traders opting for the flat-rate tax under the Personal Income Tax Act) will be entitled to a simplified assessment of their local business tax base.

According to the main rule of the simplified tax base assessment, small enterprises do not have to assess their local business tax base, or file a tax return, and because the tax base is a lump sum, they do not have to share the tax base between municipalities.

Small enterprises only have to pay a tax advance once a year, and if their income does not exceed the ceiling of the relevant income bracket in the fiscal year, they do not have to pay any further tax on the advance paid for the fiscal year.

The **local business tax base rises in bands** according to the size of revenue in the fiscal year, and the lump sum is the same for each local government (as per the company's registered office and permanent establishment). The bill defines three revenue bands and the corresponding tax bases.

Small enterprises must **declare their choice of tax base assessment method** by the last day of the fifth month of the fiscal year in which they intend to apply this method for the first time (i.e. in 2023, for fiscal years starting in 2023, by 31 May 2023). The declaration can be made on the tax return form for the previous fiscal year (i.e. in 2023, in the tax return for the 2022 fiscal year). A small enterprise carrying out a taxable activity without a legal predecessor may also choose the tax base assessment method for the first fiscal year by indicating this fact on their return for the first fiscal year. So an enterprise starting out in 2023 without a legal predecessor can still apply the simplified tax base assessment method for the 2023 fiscal year, which is duly indicated on its tax return to be submitted in 2024.

Duties

The tax amendments for 2023 also affect the law on duties. This means that the possibility of paying procedural duties with a **stamp duty** will be abolished, the [duty exemption on home buying](#) with family housing support (CSOK) will be extended, while the rules regarding the exemption from duty for onerous real estate acquisitions between related companies will be tightened.

Duty exemption for onerous acquisitions of real estate

The **transfer of real estate between related companies** is exempt from the duty on the onerous transfer of property. Under the rules in force, the exemption is subject to the main activity of the acquiring party being the rental or operation of own or rented real estate, or the sale of own real estate. This requirement only has to apply at the time the duty liability arises, so the rule can be circumvented by a formal act of the court of registration (registering a change in the core business). To prevent this, under the bill, the exemption is subject to having 50% of the sales revenue from the above-mentioned activities, or from one of them, representing 50% of the total sales revenue, instead of just being the core activity of the acquiring party on a certain date. The acquiring party must provide a declaration on the distribution of net sales revenue (or the expected distribution of the net sales revenue if the tax liability arises before the first day of the sixth month of the fiscal year). An acquiring party starting their activity in the fiscal year in which the declaration is made must undertake to comply with the exemption requirement based on net sales revenue in the first fiscal year. If this declaration or undertaking are not complied with, the acquiring party must report this to the state tax

authority, which will compel the acquiring party to pay the unpaid duty plus an additional 50%. If they fail to comply with this obligation and the state tax authority finds in the course of a tax audit that the declaration or undertaking were not complied with, the acquiring party will be charged twice the amount of the unpaid duty.

CSOK and duty

The family housing support (CSOK) can be claimed not only for the purchase of a home, but also for home extensions. While no duty is payable on the extension of your own home, joint property is created upon extending property owned by another party (e.g. attic conversion), and the person carrying out the investment is liable for duty. Given that the duty exemption on home buying using the CSOK is only available for purchases under the current rules, the bill clarifies the legal grounds to allow the exemption to be granted **for extensions of homes owned by third parties too**.

Financial transaction duty

The proposal introduces financial transaction duty exemption for **student loans**.

Tax administration

When creating a tax group or joining such a group, the exceptional **deadline for declaring** the VAT is calculated from the date of creating or joining the group.

Companies, other organisations and the self-employed in the process of being wound up without legal succession often fail to **end the insurance status of their employees**. The amendment allows the NAV to take the place of the terminated employer and submit the T1041 forms to end the insurance status as of the date of the employer's termination. However, this date would only be a presumed termination date, and is subject to rebuttal, given that the NAV does not know the facts and circumstances of the employment relationship underlying the insurance. The presumed date of the end of the employment relationship would be the date on which the body registering the employer removes the employer from the register.

For fixed-term contracts, it is justified to prescribe by law that the final (end) date of the contractual relationship should be communicated at the time of declaring the insured status. This would reduce the taxpayer's administrative burden and the number of statuses not ended because the taxpayer forgot. If the duration of the fixed-term contract changes, the ability to report the change still applies.

One important aspect of the tax amendments for 2023 is that the **scope of the decision regarding the advance pricing agreements** can cover full fiscal years, and the earliest start date can be the first day of the fiscal year in which the application is submitted. The amendment follows the "roll-back" rule often used by OECD member states, i.e. that in bilateral or multilateral proceedings, the decision may also cover earlier periods based on agreement between the foreign tax authority and the minister responsible for tax policy.

In **bilateral and multilateral procedures**, there is currently no **deadline** for consultations, which can make the procedure long-winded and unreasonably protracted. The OECD expects mutual agreement procedures to be completed within two years on average. The amendment sets forth such a two-year time limit, and specifies the deadline for consultations with the competent authority of the foreign state in bilateral and multilateral procedures to determine arm's length prices.

Country-by-Country Reporting (CbCR)

On 1 December 2021, Directive (EU) 2021/2101 of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches was published. Under this accounting directive, **multinational companies with revenues of more than EUR 750 million** must disclose information on corporate income tax in a **separate report**. The bill contains the rules for this disclosure obligation. The provisions on the new disclosure requirements must be transposed by 22 June 2023, and apply for the first time for financial years beginning on or after 22 June 2024.

Act on Accounting

Calculation of thresholds applicable in case of spin-offs

The Act on Accounting provides, in general terms, for how to take the type of reporting and the thresholds determining the audit requirement into account for a new enterprise without a legal predecessor. However, the provisions do not address how to proceed with regard to the entity created by the spin-off. As part of the tax amendments for 2023, the proposal specifies that in this case the **provisions applicable to an enterprise established without a legal predecessor must be applied** accordingly.

Presentation of finance lease liabilities in the balance sheet

The repayment instalment of a finance lease liability recognised as a non-current liability in the financial year following the reporting date is recognised in the balance sheet as a **current liability** in accordance with the general rules for liabilities.

Supplemented provision for retained earnings in a transformation balance sheet

In the case of a **transformation**, legislation in force covers which items in the transformation balance sheet may change the amount of retained earnings recognised at the legal predecessor

in the case of legal succession. These provisions should be supplemented **by the legislative changes made in the meantime for retained earnings** (reserve to be allocated for tax due to the transformation, and recognition in retained earnings of the previous additional payment forgiven).

Clarifying the concept of headcount (accounting)

Standardised "average headcount" shall be taken to mean "average **statistical** headcount".

DAC7 data reporting

In addition to the above-mentioned tax amendments for 2023, another tax-related bill (T/1305) is also in the process of being adopted, which aims to transpose into Hungarian law the amendment of Directive 2011/16/EU on the **reporting obligations of digital platforms** (DAC7 Directive). The DAC7 data reporting imposes data reporting obligations on companies operating digital platforms, covering the "active sellers" and their so-called relevant activities. The activities covered by the data reporting are real estate rental, personal services, the supply of goods and the hiring of means of transport. The law enters into force from 1 January 2023. The data reporting period is one calendar year; the first DAC7 reporting must be made to the tax authority by 31 January 2024.

TAX CONSULTING

In this article, we have tried to provide a thorough summary of the most important elements of the tax amendments for 2023 in Hungary as proposed on 18 October. However, if you have any questions about the rule changes detailed here, or are missing any information, please contact the [tax consulting team of WTS Klient Hungary](#) who are always at your disposal.

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