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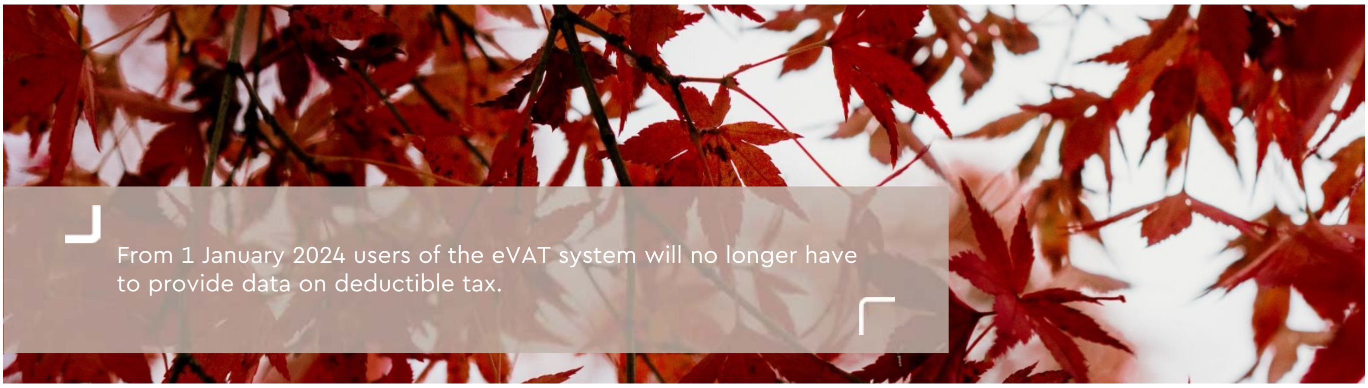
2023 autumn tax law amendments

Reduced administration, eVAT, exempt wine products and new penalty rates

On 31 October 2023, the Hungarian government submitted to Parliament its 2023 autumn tax law amendments bill, which contains the planned tax amendments that will come into force from 2024 and 2025. Below we summarise the elements of the 2023 autumn tax law amendments that are most important for decision-makers.



Personal income tax

The 2023 autumn tax law amendments include changes brought on by the termination of the US-Hungary double tax treaty, which mainly affect the following areas of personal income tax:

- A transaction may still be construed a "**controlled capital market transaction**" if entered into with the assistance of an investment service provider in the US conducting money market activity. As a result, it is still possible to apply so-called tax equalisation, which allows losses in one year to be offset against gains in later fiscal years.
- The rules on **other income** do not apply to income from securities issued by a person with a registered office in an OECD Member State, or to interest paid by a person with a registered office in an OECD Member State.
- The **offsetting of tax paid abroad (withholding tax) against Hungarian tax liabilities** is also to change under the 2023 autumn tax law amendments. Similarly to the practice in the US, an amount imposed and paid in respect of income from domestic source cannot be taken into account as tax paid abroad. Accordingly, the bill allows for the offsetting of tax paid abroad in the case of separately taxable income (e.g. capital income, especially dividends) earned by a Hungarian resident individual from foreign source, but not in the case of separately taxable income earned domestically.
- Similarly to the government decree provisions entering into force from 16 November, **in terms of non-cash benefits** bottled wine products with a protected designation of origin and bottled **wine products** with a protected geographical indication **purchased** directly from the winery licensee initiating the placement on the market in accor-

dance with Act CLXIII of 2020 on Viticulture and Oenology, for the purpose of being supplied by the donor in the context of hospitality for entertainment and non-entertainment purposes, or given as business gifts or gifts of small value, **will be exempt from tax** according to the bill.

The 2023 autumn tax law amendments change the tax reporting for fringe benefits and **other benefits** from monthly to quarterly.

To encourage participation in **traditional lotteries** (lotto, keno, putto), the bill exempts the winnings on such games from personal income tax.

Instead of the current input taxation that applies for trusts, the 2023 autumn tax law amendments introduce output taxation in cases where income is transferred to the beneficiary from the value of the initial capital of the assets under management or private foundation assets, and if, within the five years preceding this income transfer, assets were handed over to facilitate the transfer of assets under management or private foundation assets, and such transferred assets were revalued upwards (so-called asset value appreciation).

The legislator would abolish the taxation of **sole traders** as "quasi-corporations" from 1 January 2025, and instead introduce a system based on a much simpler cost-accounting method.

Tax exemption on acquiring shares in a **start-up company as an employee or senior executive** will be introduced as a new rule. A start-up is a micro or small unlisted enterprise that has been registered for five years or less, has not yet distributed profits, and has not been created by a merger or division. A stake (partnership share, share) embodying a membership right acquired free of charge or at a discount as an employee or senior executive of a start-up company does not qualify as (taxable) income if it is granted in accordance with the proper exercising of rights and, in the case of an acquired share, if it is not sold for at least three years after the acquisition or obtaining the right.

Corporate income tax

The 2023 autumn tax law amendments will increase the amount of **development tax allowance** that can be claimed without the need for European Commission authorisation. So the eligible investment value not exceeding the forint equivalent of EUR 100 million will thus rise to EUR 110 million.

The 2023 autumn tax law amendments will transform the current **tax allowance system for energy efficiency investments and renovations**. The rate of the tax allowance is also to change. Under the current rules, this can range from 30% to 65% of eligible costs (up to a maximum of EUR 15 million per project), while the bill sets a tax allowance ceiling of 15% to 35% of eligible costs, but up to a maximum forint sum the equivalent of EUR 30 million.

In connection with transposing the EU directive on the global minimum tax in Hungary, taxpayers subject to additional tax under the global minimum tax regime would have the possibility to register **as reported shares** any of their shareholdings that have not been reported so far. Until 28 February 2024, a taxpayer may subsequently declare to the tax authority any shares that did not qualify as reported shares before 31 December 2023. Shares reported in this form will be considered reported shares from the 2023 fiscal year onwards. In respect of the share and for the amount accounted to or from the tax base prior to the 2023 fiscal year, taxpayers must adjust their corporate tax base in one lump sum for 2023 as if the share had been a reported share from the acquisition date.

Also in the context of Hungary's regulations on the global minimum tax, the 2023 autumn tax law amendments introduce a **new tax allowance for research and development**. The new tax allowance is not available in addition to the R&D tax base allowance already found in corporate tax and local business tax, but instead of them, if the taxpayer so chooses. As a general rule, the new R&D tax allowance is 10% of the eligible costs, with the proviso that the tax allowance may not exceed the HUF equivalent of EUR 55/35/25 million per taxpayer and per project, depending on whether the research is basic research, applied (industrial) research or experimental development. In the case of basic research, applied research or experimental development conducted based on a written contract between the taxpayer and a higher education institution, the Hungarian Academy of Sciences, research institutes operating as central budgetary institutions, furthermore research institutes or research centres established by or jointly by any of them, as well as research institutes operating as companies under direct or indirect majority state-ownership, the tax allowance is 30% of the eligible costs up to an amount not exceeding HUF 20 million. One of the detailed rules for the new R&D tax allowance ensures that a taxpayer is entitled to a refund by transfer for any tax allowance unused as a tax deduction in the fiscal year in which the eligible costs arise and in the three subsequent fiscal years.

Value added tax

The introduction of the eVAT system from 1 January 2024 will allow taxpayers to submit their tax returns via the e-filing platform too, in addition to traditional VAT returns. This platform enables draft returns to be approved, supplemented and modified, either using data compiled by the NAV or data transmitted via the automated interface. Under the rules, the first return filed counts as the taxpayer's return (if multiple returns are filed). Self-revisions can then be submitted either on a form or via the electronic interface. The electronic platform will be accessible via the familiar electronic identification service, and it will also be able to share secondary user rights known from other similar platforms. One important change is that users of the eVAT system will no longer have to provide data on deductible tax.

The procedure for submitting a declaration for the reverse charge treatment of **construction/assembly services** is also to change and become more practical. From 1 January 2024, if the authorisation is linked to the activity of the service provider, they will now declare this to the client.

With a view to suppressing tax evasion, the number of cases where the **indirect customs representative** will be entitled to deduct VAT on imported goods instead of the client will be reduced.

The classifications of special foodstuffs and infant formulae subject to the **5% VAT rate** have been clarified.

From 1 January 2025, VAT taxable persons based in the EU can opt for **VAT exempt status** (e.g. for their permanent establishment), but this does not apply for the domestic permanent establishments of taxable persons based in a third country. This would also be an option for Hungarian taxpayers with regard to their intra-EU transactions in other Member States.

From 1 January 2024, dessert cheese products according to the Codex Alimentarius Hungaricus will be subject to a uniform VAT rate of 18% (e.g. Túró Rudi).

Small business tax

In certain cases, it will be possible to retain the tax status of a small business in the event of **a merger or division**, which is not possible under the current provisions.

Excise tax

Under the 2023 autumn tax law amendments, the amount of **tax refund related to commercial purchases of diesel** will increase from HUF 3.5 to HUF 10 per litre and from HUF 13.5 to HUF 20 per litre (the so-called transport-related tax refund).

Tax on public utility lines

The 2023 autumn tax law amendments will remove telecommunication lines from the scope of the **tax on public utility lines** from 1 January 2024, repealing the rules on telecommunication lines. The bill also repeals the entire Act CLXVIII of 2012 on the Tax on Public Utility Lines as of 1 January 2025.

Advertising tax

The 2023 autumn tax law amendments extend the **0% tax rate** currently in force until 31 December 2024.

Retail tax

The 2023 autumn tax law amendments will enact the **proportionality rule** defined in Government Decree 197/2022 (VI.4), according to which, if the fiscal year is shorter than 12 months, the taxpayer's tax base for the shorter fiscal year must be annualised, and the amount of tax applied must be calculated on this tax base using the scale of rates. The tax payable is the annual tax amount proportionate to the calendar days of the fiscal year.

Social contribution tax

The 2023 autumn tax law amendments also change the rules on the social contribution tax as part of overhauling the taxation of sole traders. These essentially **enter into force on 1 January 2025.**

- The administrative burdens for sole traders will be simplified significantly by making social contribution tax an **annual** tax, in the same way as personal income tax, and by making the assessment base for social contribution tax advances the same as that for personal income tax advances. During the year the tax advance must be assessed quarterly, and then paid by the 12th of the month following the quarter, but the obligation to file a quarterly return will no longer apply.

- As part of restructuring the taxation of sole traders, **entrepreneurial withdrawals will be phased out,** so the social contribution tax base for sole traders opting for entrepreneurial taxation will be their entrepreneurial income subject to personal income tax, while the contribution base for sole traders subject to the flat-rate tax will remain their flat-rate income.

- The **minimum tax liability will remain**, but the distinction between the guaranteed wage minimum and the minimum wage will be abolished along with the 112.5% multiplier. All sole traders in full-time employment must pay social contribution tax on at least the minimum wage.

- The 2023 autumn tax law amendments introduce **an allowance to encourage individuals to become self-employed as sole traders.** The tax allowance is available to sole traders starting their activity at the amount of the 13% social contribution tax calculated based on the minimum wage and in the year of starting the activity and in the following year. In the second year after starting the activity the allowance amounts to half the social contribution tax calculated based on the minimum wage.

Social security contribution

Due to the abolition of the entrepreneurial withdrawals and the commitments to simplify contribution rules, the **rules on contribution payments for sole traders will change significantly from 1 January 2025**. A dictated contribution base will be introduced instead of the current method of calculating contributions based on income earned by the entrepreneur (entrepreneurial withdrawals or flat-rate income). The dictated contribution base for both sole traders applying entrepreneurial income tax and those applying the flat-rate tax is the minimum wage for the given month. Similarly to farmers, sole traders working full-time can now choose their contribution base: a sole trader working full-time can choose a higher contribution base in order to receive higher social security benefits.

Introducing a dictated (or chosen) contribution base for sole traders hugely simplifies the current system of assessing contributions, and allows for the **introduction of monthly (quarterly) contribution returns by the tax authority from 1 January 2025, similar to annual personal income tax returns**. Based on the data it has available, the tax authority prepares the draft quarterly return by the first day of the month following the given quarter, which the sole trader has the opportunity to add to or correct by the 12th day of the month following the given quarter. The draft return contains the social security contribution liability broken down by month. Sole traders also have the option to prepare their own return by the deadline. If a taxpayer does not correct, supplement or submit a return by the 12th day of the month following the given quarter, this is construed as agreement with the information contained in the draft return, and the draft return is deemed to be a return accepted by the taxpayer, based on which the National Tax and Customs Administration prescribes the social security contribution payable.

Household work

The 2023 autumn tax law amendments abolish the HUF 1,000 registration fee for household workers.

New default penalty

A new item is that the NAV may impose a default penalty of

- HUF 5 million for failure to comply with, or late compliance with, the obligation to notify, and

- HUF 10 million for failure to comply with, or late, incomplete, incorrect compliance or untrue data regarding the obligation to submit a return

under the Act on Additional Taxes ensuring the Global Minimum Tax level and Amending Certain Tax Laws in this context.

Tax consulting

In this article, we have tried to provide a thorough summary of the most important parts of the 2023 autumn tax law amendments as proposed on 6 June. If you have any questions about the rule changes detailed here, please contact the tax consulting team of WTS Klient Hungary who are always at your disposal.

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Should you have any questions regarding the above or any other professional issues, please do not hesitate to get in touch with your WTS adviser or use any of the contact details below.

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