

Upcoming changes to tax regulations

Changes to the tax legislation expected to come into force as from 2016 and 2017 will introduce several changes in the life both of businesses and private individuals. In this tax alert, we have summarised the most important changes submitted and adopted until 14 December 2015.

Changes in the order of taxation:

- *Special categories of tax payers set out in the Act on the rules of taxation*

As from 1 January 2016, two special categories of taxation will be introduced as accompanied by different legal implications. Reliable tax payers will be given favourable treatment while rules more stringent than general rules will apply to tax payers qualified as unreliable.

The qualification of tax payers would be carried out by the tax authority in each quarter by examining the conditions laid down in the Act. The qualification will come into effect as from the first day of the month following the month when such qualification took place, of which the tax authority will send a notification to the tax payer. If the tax payer disputes the qualification or the failure of doing so, he may lodge a complaint with the tax authority.

- *A reliable tax payer*

A tax payer would be qualified by the tax authority as a reliable tax payer if it fulfils the cumulative conditions laid down in the Act, and thus the reliable tax payer status is subject to the following criteria:

- the taxpayer has been operating (or is registered for VAT purposes) for at least 3 years continuously AND
- the taxpayer does not have an outstanding tax payment liability exceeding a net amount of HUF 500,000 AND
- the taxpayer does not qualify as an unreliable taxpayer, FURTHERMORE
- during the current tax year and the 5 previous tax years:
 - the tax authority did not assess a tax default exceeding 3% of the total taxes levied from the taxpayer in the current year;
 - the state tax authority did not initiate a legal enforcement procedure against the taxpayer;
 - the taxpayer has not been subject to bankruptcy, liquidation or cancellation procedure, or has not been placed under an enhanced tax authority supervision;
 - the taxpayer has not been subject to a tax number cancellation or suspension procedure AND
- the amount of the default penalty/penalties imposed by the tax authority and due during the 2 years prior to the current tax year shall not be in excess of 1% of the total taxes levied from the taxpayer in the current year.

Which are the benefits to which a reliable tax payer may be entitled?



- in the case of a potential tax audit performed at the taxpayer in question the audit would not exceed 180 days subject to certain conditions;
 - if the taxpayer fails to comply with a reporting, filing or data disclosure obligation, or is in default, the tax authority calls upon him to comply with his obligations or to remedy the default without imposing a default fine; if such request remains unfulfilled only then will the tax authority levy a default penalty;
 - the maximum amount of default penalty and tax penalty to be imposed on the taxpayer would be decreased by 50% compared to the generally set forth amounts (provided the taxpayer maintains its reliable taxpayer status after such default or tax default has been assessed);
 - the tax authority may allow interest free payments to be made in 12 instalments if the total amount owed does not exceed HUF 500,000. This latter benefit would be available once a year and allowed at the request of the tax payer or automatically if and when the invitation sent by the tax authority has been accepted.
- *An unreliable tax payer*

A taxpayer not under liquidation, winding up or cancellation procedure would be qualified by the tax authority as an unreliable taxpayer, if:

- the taxpayer is indicated in the public list of taxpayers as carrying forward a large amount of tax debt based on a tax authority resolution, as a result of a tax debt due or as employing unregistered employees, AND
- the taxpayer committed a default triggering a repeated closure of the business premises within a one-year period.

The taxpayer would qualify as an unreliable taxpayer during a one-year period. However, the unreliable status would be deleted in the subsequent quarterly qualification of tax payers, if the tax payer fulfils the outstanding tax debt as well as pays the related tax penalty and late payment interest.

Which are the disadvantages of being qualified as an unreliable tax payer?

- the general deadline for tax authority audits would be extended by 60 days;
- if an unreliable taxpayer reclaim VAT, the generally applicable 75-day repayment deadline would apply;
- the amount of the late payment interest to be paid by the tax payer would be five times the valid base rate quoted by the National Bank of Hungary on the date when such interest is charged;
- the minimum amount of default penalty and tax penalty to be assessed by the tax authority on unreliable taxpayers would be 50% of the maximum amount set forth by the general rules. In addition, the maximum amount levied on unreliable taxpayers would be set forth as 150% of the maximum amount of default penalty set forth by the general rules.

- ***Changes to the tax registration procedure***

The rules of the current legislation applicable to the tax registration procedure would become stricter. The tax debt thresholds related to the tax registration procedure would be reduced from HUF 15 and 30 million to HUF 5 and 10 million respectively in the case of refusal to issue a tax number. Furthermore, the scope of individuals investigated during a tax registration procedure



would broaden, and the duration of the investigation period will be extended from 180 days to 360 days.

- ***Integration of tax accounts held at the tax authority and the customs authority***

The accounts payable maintained separately so far in the records of the state tax authority and the customs authority will be recorded on a uniform consolidated tax account as from 1 January 2016. Due to the consolidated tax account, no-debt certificate may be requested uniformly in the future.

- ***Tax certificate claimed for procurement payment purposes***

If a public debt recorded by the tax authority and the customs authority is stated in the tax certificate claimed for payments for public procurement purposes, measures will be taken to seize the assets contemporaneously to the issuance of the tax certificate in accordance with the rules governing execution.

The tax payer making the payment will be released from joint and several liability after the retention and the seizure of the assets. The tax payer making the payment will pay the amount in excess of the public debts recorded by the state tax and customs authority within the deadline for payment by which he is otherwise bound prior to the execution acts of the tax authority.

Consequently, within the meaning of the new rule, the tax authority will make out the certificate even in the case of public debt but subject to the seizure of the assets.

- ***Simplified tax return and “beermat” abolished***

Simplified tax returns prepared with the help of the tax authority will be available last time for the 2015 tax year as well as the tax declaration that has become famous as “beermat”. Thereafter, two new forms of tax returns to file will be introduced. As from 2016, the tax reporting declaration and as from 2017 the draft tax return will be available. The draft tax return which will be prepared by the state tax authority for private individuals having electronic access to the Client Gate Portal who do not request their employers to prepare the tax return or their employer refused to prepare it.

- ***Payment in instalments will be available up to HUF 200,000***

Up to the present, private individuals liable to pay personal income tax contemporaneously to the filing of the tax return have been able to automatically request in their returns interest free payment to be made in 6 monthly instalments. This option has been available up to the maximum amount of HUF 150,000. However, this threshold will be increased to HUF 200,000 as from 2016. Furthermore, the possibility of paying by instalment will be available in the future not only for personal income taxes but also for healthcare contributions, if the total amount payable for the two taxes is not in excess of HUF 200,000.

- ***Waiver of penalty in case of default in filing returns***

As from 2016, if the private individual taxpayer fails to fulfil its filing, reporting or data disclosure obligation, or is in default, then no default penalty will be levied in the first instance, with certain exceptions. Rather, the tax authority will set an alternate deadline and requests the



taxpayer to fulfil its original obligations or to remedy the default. If the second deadline is unfulfilled only then will the tax authority levy a default penalty.

However, the new, favourable rule will not be applicable if the tax payer fails to fulfil his obligation to register for VAT purposes or to register his employees. Namely, in such instances the tax authority may levy a default penalty also in the first instance.

Changes in the rules governing personal income tax

- ***The rate of personal income tax will be reduced from the current 16% to 15%.***

Reduction in taxes will result in more significant savings for businesses than for private individuals. It is because for the benefits, in respect of which the payer has to pay personal income tax, the tax base will be calculated as 119% of the value of such benefits. The amount of the personal income tax must be calculated based on such amount, that is, the tax actually payable will be reduced from 35.7% to 34.51%.

- ***Tax allowance for families with two children***

In the case of families with two children, the family allowance payable for the children will be increased from the present monthly amount of HUF 10,000 to HUF 12,500 per child. It will result in an increase in the income of families with two children in the net amount of HUF 5,000 per month.

Corporate income tax

- ***Tax credit for growth***

A new legal instrument providing for the possibility to defer tax payment obligation, the tax credit for growth scheme was introduced into the legal regime of the corporate income tax effective as from 25 June 2015.

By selecting the option for tax credit for growth, the tax payer will be given the opportunity to pay the tax payable for the portion of the pre-tax profit of the current year in excess of the quintuple of the pre-tax profit of the preceding tax year (that is the tax falling on the tax credit for growth) in the ensuing two tax years instead of paying in the current year. In short, the tax credit for growth constitutes in practice delayed – in financial language – deferred payment of tax liability rather than tax advantage or tax base allowance. It means that it will not reduce the payment of tax liability; it is only postponed to a later date.

Which companies are eligible for tax credit for growth?

- The company became subject to corporate income tax prior to or in the third tax year before the current tax year. Namely, if a company desires to use the option of tax credit for growth in 2015 it must have been established at least in 2012; AND
- In the tax year and in the three tax years prior to the current tax year, the company was not part of reorganisation, merger or demerger; AND
- The portion of the pre-tax profit of the company of the current year in excess of the pre-tax profit of the preceding tax year amounts to or exceeds the quintuple of the absolute amount of the pre-tax profit of the tax payer in the preceding tax year. It is important to highlight that it is about pre-tax profit rather than sales revenues or corporate income tax base. It



results from the nature of pre-tax profit that companies with a profit close to zero are the ones which can mostly benefit from this new rule.

The tax payer selecting the payment of the corporate income tax as per tax credit for growth does not have to pay the tax falling on the tax credit for growth as early as in paying the corporate income tax top-up liability for the current year.

As a preferential rule, the amount of the tax falling on the credit for growth not yet due can be reduced, if the tax payer engages in fixed asset investment or increases the number of its employees within the two tax years after the relevant declaration for selecting this option was made.

The proposed amendment adopted on 17 November 2015 clarifies the rules governing the items designed to adjust the tax base to be considered upon calculation of the tax falling on the tax credit for growth.

Considering that the amendment was made during the course of the year, the provisions of the Corporate Income Tax Act regarding the tax credit for growth can be applied by the tax payer for the first time upon the assessment of its tax liability for the tax year of 2015. **A company desiring to use this opportunity as early as this year shall file the form 15NAHI with the Tax Authority until 21 December 2015.**

Local business tax

A new R&D tax incentive will be introduced in the local business tax regime. According to the new tax rules, the tax payer may decrease the tax payable by it calculated in accordance with the general rules laid down in legislation by 10% of its direct costs accounted for in the relevant tax year relating to basic research, applied research and experimental development. The new regulation practically results in the double deductibility of R&D costs. Firstly, as its total amount may be expensed as a tax base decreasing item of corporate income tax, and on the other hand, an additional 10% tax incentive may be used for local business tax. **The local government may, at its sole discretion, resolve in a decree on the introduction of the aforementioned incentive.**

Value Added Tax

- ***Change in the performance date for transactions with periodic settlement for every tax subject***

As a main rule, in accordance with the rules to enter into force, the performance date for transactions with periodic settlement shall be the last day of the period affected by the settlement or payment.

However, by way of exception from this main rule, the performance date shall be determined as follows:

- if the due date of the amount payable for the settlement period and the issue date of the invoice or receipt precede the last day of the settlement period, the performance date shall be the date when the invoice or receipt was issued,
- If the due date of the amount falls on a date after the last day of the settlement period, the performance date will be the due date of the amount payable for the



settlement period but not later than on the 60th day following the last day of the settlement period.

The new rules must be applied in the first place to settlement periods commencing after 31 December 2015 with a due date for payment also falling on a date after 31 December 2015.

- ***Restrictions on the deadline for exercising VAT deduction right***

In respect of tax deduction rights accruing on 1 January 2016 or thereafter, the right to deduct VAT on intra-Community acquisitions and self-assessed import VAT can only be exercised during the VAT period when such deductible VAT was charged.

In all other cases, one can only exercise the right in the current period to deduct VAT that accrued in that given VAT period or within one year prior to the year including the period when the relevant VAT tax return was filed.

Any VAT deduction right that has not yet elapsed and has not been exercised during the aforementioned VAT periods can only be exercised in the VAT period during which it accrued, and by self-revision.

- ***Decrease in the VAT rates of newly built real properties***

Within the meaning of the VAT Act, a real property is deemed to be newly built if it has not yet been occupied, or it was occupied but less than two years has passed between its occupancy and sale.

Pursuant to the submitted Bill, the relevant VAT rate will be reduced to 5 percent as from 1 January 2016 in respect of multi-household dwellings having a floor area of a maximum of 150 square meters per household and of detached houses having a floor area of a maximum of 300 square meters.

Environment protection product fee

Lump sum payment on taxable vehicle parts

It will become possible for vehicle producers and distributors to pay a lump sum product fee per piece. Entities liable to pay product fee on these taxable products (batteries, tires, oils, electrical and electronic equipment) that are parts or accessories of vehicles (first domestic distributor, user for own purposes or the entity that records the products in its stock) will be entitled to choose lump sum payment.

Invoice text

For the sake of reducing administrative burdens, it will not be mandatory to indicate the prescribed text on the invoices in all cases in which packaging materials or paper-based advertisement materials are put on the domestic market for the first time.



Individual waste management

Entities that choose to fulfil their product fee liability through operating their own waste management will no longer need to file tax returns and pay the product fee quarterly. The regulations entering into force provide for an obligation to assess advance product fee, file relevant tax returns and pay the product fee annually.

Miscellaneous:

- Entities potentially liable to pay the product fee on the packaging materials that are part of the packaging of products brought to Hungary from abroad now include the first domestic holder of the packaging waste.
- If products liable to product fee are delivered abroad directly from the first domestic seller, it will not be a condition of the exemption from the product fee that the seller has to arrange the transportation of the products abroad.
- No product fee payment obligation will arise as use for own purposes (unpacking) in case of re-usable packaging materials that are part of the packaging of products that are brought to Hungary from abroad if the re-usable packaging materials are returned abroad within 365 days as verified by documents.
- If a seller under its Hungarian tax number supplies products from abroad to a Hungarian buyer, the seller will be liable to pay product fee.