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TaxAlert

Amendments to the tax legislation and re-codification of procedural rules

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The Hungarian Parliament adopted the so-called "Autumn Tax Package" on 14 November 2017. In connection with this, the procedural rules of taxation in Hungary are being completely reshaped, and changes are made on certain direct and indirect taxes, too. This bulletin summarizes the most important changes to Hungarian tax legislation.

Procedural rules

On 1 January 2018, the new Act on the Rules of Taxation ("ART") and the new Act on the Rules of Tax Administration ("ARTA") will enter into force. ARTA will specify the rules of tax audit, while ART – which has undergone a significant structural reform – will prescribe the procedural rules for tax liabilities.

In addition to the forthcoming changes outlined above, new government and ministerial decrees will enter into force whose purpose is to implement additional minor regulations – making for a complicated state of affairs regarding taxation. Tax execution rules will also be excluded from ART and will be specified in a separate act. The rules of court proceedings will also be re-codified, and the Act on Public Procedures will enter into force on 1 January 2018.

Significant changes in ART and ARTA:

- *Final decision:* A tax authority decision becomes final in the lack of or following an appeal. According to the new regulations a decision only becomes legally binding in the case of a court decision; in public administration the concept of "a decision becoming final" will be used in the future.
- *Two types of tax audit:* Instead of the former eight different types of audit, ARTA will only outline two—the default being the regular tax audit, plus a review of certain tax liabilities, which shall be called a compliance review. However, in practice, only one review type ceases to exist as all the others will either be part of a compliance review or they will be specified in ART or in the Act on Duties.
- *Time limit on tax audits:* The duration of a review is capped at 365 days. This duration remains 180 days for reliable taxpayers and for those entities that are not obliged to undergo the company registration procedure.
- *Stricter rules of appeals:* One of the most significant amendments is that in future appeal proceedings it will not be possible to allege any new fact or proof that the appellant already knew when a decision was made by the Tax Authority, but did not disclose at the request of the authority.
- *Initiation of a supervisory measure:* This will be limited to one year after the decision becomes final, and the concept of a repeated supervision measure will cease to exist.
- *Self-revision:* Prior notification will be possible. If the Tax Authority has not yet initiated a tax audit, the taxpayer will have the option to indicate its intention to carry out a self-revision and will be granted a 15-day delay in the initiation of the review. This option will only be available once for each tax type and period.
- *Sanctions:* Contrary to preliminary information, there will be no modification regarding sanctions. The concept of conditional tax penalty will be introduced, exempting taxpayers from paying a 50% tax penalty if they renounce the

right to appeal against the decision and pay their liabilities by the due date. In this case, neither an appeal nor a request for a supervisory procedure can be filed.

- *Mentoring:* In the case of startup companies, the Tax Authority provides assistance for six months. The rules and process of mentoring are currently under development, and for the time being, the tax authority offers lectures and personal consultations.
- *Disclosure:* Two new disclosure obligations will be introduced on the website of the National Tax Authority: reliable tax payer status and the tax liability of sole proprietorships.
- *Entry into force:* The new rules are applicable for procedures begun and/or repeated on/after 1 January 2018. Existing procedures will be carried out according to the rules currently in force.

Corporate income tax

- *The development tax allowance can be claimed on two new grounds:* In the case of an investment in tangible assets whose present value is at least HUF 8 billion or an investment in job creation with a value of at least HUF 3 billion, if it qualifies as a development resulting in product diversification or in a new process innovation that is carried out by a large-sized company with the prior authorization of the European Commission in a central area of Hungary specified in a government decree.
- *Tax donation:* If a delayed payment of (advance) tax is the only obstacle to transfer a tax donation, and the delay is no longer than 15 calendar days, the transfer can be allowed to go through upon the request of the taxpayer, given that the delayed sum has been paid in its full amount.

Local business tax

- *The definition of sales revenue will change:* Revenues earned by sports clubs in connection with any sport-related activities (e.g. revenues resulting from selling admission tickets, advertising, sponsorship) do not have to be included in a company's local business tax base. The tax effect of the decreased net sales revenues qualifies as state aid that can be utilized by the taxpayer in accordance with the regulation on de minimis aid or the regulation on block exemption.

Small entrepreneurs' tax

- *Law firms* will now have the option to opt to pay taxes in accordance with the rules of the Act on Small Entrepreneurs' Tax.

Value Added Tax

- *Decreasing VAT rates:* Based on the tax law changes accepted during summer 2017, the VAT rate applicable to the following goods and services will be decreased as of 1 January 2018:
  - VAT will be reduced from 18% to 5% related to internet access services as well as food and non-alcoholic beverages supplied in the course of restaurant services;
  - VAT will be reduced from 27% to 5% related to fish for human consumption and some special pork products.

  The new regulation specifies the definition of internet access services.
- *Real-time data provision to the Tax Authority:* As of 1 July 2018, taxpayers will be obliged to supply real-time invoicing information to the Tax Authority related to domestic sales invoices (along with credit notes and cancellation invoices) issued via an invoicing software where the VAT in HUF is equal to or exceeds an amount of HUF 100,000 (approx. EUR 320).

  Invoices issued from a pre-printed block of invoices should be reported through a website operated by the Hungarian Tax Authority. The deadline for the reporting is as follows:
  - within five calendar days after issuance, if the VAT in HUF equals to or exceeds an amount of HUF 100,000 but does not reach HUF 500,000;
  - within one calendar day after issuance, if the VAT in HUF indicated in the invoice equals to or exceeds an amount of HUF 500,000.
- *Domestic Sales and Purchase Listings:* The threshold for reporting purchase invoices/ suppliers in Purchase Listings will decrease to HUF 100,000 as of 1 July 2018. The reporting obligation for sales invoices will be replaced by the real-time reporting obligation mentioned above.

Personal income tax

- *Tax free benefit:* A new tax free benefit will be introduced from 1 January 2018. According to the modified legislation, the benefit provided by an employer to its employee(s) for supporting tuition loan pay-offs could be regarded (partially) as a tax-free payment from 2018 up to the amount of the obligatory monthly instalment – but the benefit should not exceed 20% of the Hungarian mandatory minimum wage.
- *One percent (1%) donation of the personal income tax payment:* According to the new rules, the statement regarding the 1% personal income tax liability donation to a Hungarian church shall be filed by the individual with the Hungarian authority only one time and this statement would also be applicable for future

tax years. The statement can be amended or withdrawn once in a year. If a given church is no longer entitled to the donation (due to unfulfilled requirements), the authority will notify the individual accordingly.

Social security

- *Social tax:* The rate for the social tax is currently 22%. According to the latest law amendments, the rate of the social tax will be 19.5% as of 1 January 2018 (instead of the previously planned 20%). At the same time, the rates of the social tax allowances have also been modified.

  In case the social tax is payable by the individual, 84% of the income shall be considered as the individual's personal income tax base and the social tax base as of 2018.

- *Health care charge:* Besides the social tax rate, the rate of the health care charge will also be changed based on the new legislation. The rate of the health care charge will be decreased from 22% to 19.5% as well from 1 January 2018 (instead of the previously planned 20%). When the health care charge is payable by the individual, 84% of the income shall be qualified as the individual's personal income tax base and the health care charge base from 1 January 2018.

  The modification of this health care charge rate will affect the effective tax rate of certain defined benefits in kind, which will be 40.71% as of 2018. Consequently, it is recommended that companies consider these changes when determining their cafeteria system for 2018.

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