

# Expected changes for 2016 to the tax legislation



The expected changes for 2016 to the tax law were submitted to the Parliament on 13 October 2015.

## Personal income tax and contributions

- According to the bill, the regulations related to the options governing how the individual taxpayers are able to fulfil the annual Hungarian personal income tax return filing obligation would significantly change. The self-assessment option and the employer tax assessment would remain in place. The tax declaration and the simplified tax return filing method (prepared by the Hungarian tax authority) would not be applicable as of the 2016 tax year. The draft legislation would introduce two new tax reporting methods, the "tax return declaration" ("bevallási nyilatkozat") and the "tax return proposal" ("bevallás ajánlattételi eljárásban").
- The "Tax return declaration" option would be available for individual taxpayers in relation to their income earned in 2015, provided that certain conditions are met. The declaration should be filed with the employer of the individual. According to the bill, the filing deadline of this tax return declaration would be January 31st of the year following the tax year in question. For individuals who are entitled to make such a declaration based on circumstances, the tax authority would assess the personal income tax by 20th May of the year following the tax year in question. The base of the tax assessment of the tax authority would be the data reported by the individual's employer(s). The tax authority would send information to the individual about the tax return only if the balance indicates overpayment or underpayment of tax.
- According to the bill, an individual taxpayer would be entitled to file "a Tax return declaration" if he/she earned employment income taxable solely in Hungary and paid by a Hungarian employer(s), does not claim any tax credit or tax base deductions, and if he/she does not wish to make a declaration about his/her tax (excluding the 1+1% tax donation right). Consequently, the individual's right to make a tax return declaration would be limited, just as with the current regulations.
- According to the bill, the tax authority would prepare a so-called "Tax return proposal" for those individuals who are registered users of the electronic government gateway and/or who have electronic access to the Hungarian authority's system. This option would be available in relation to income derived in 2016. Consequently, the first "Tax return proposals" would be prepared by the tax authority in 2017. The tax authority would prepare and provide the taxpayer with the "Tax return proposals" electronically after 15th March of the year following the respective tax year. The taxpayer would have the right to modify or amend the tax return (if necessary) or accept it electronically by 20th May of the year following the respective tax year. If the taxpayer accepts the proposal, the tax return filing obligation is considered as fulfilled. If the taxpayer does not accept the "Tax return proposal", the taxpayer should file a self-assessment tax return.

- In accordance with the above modifications, the employers'/disbursers' reporting obligation would also change. According to the bill, the respective monthly reporting should include further data regarding the Hungarian tax base allowances (family tax allowance, and allowance for young couples in a first marriage). For example, these reports should also include information on whether the tax allowance is claimed jointly, name of (beneficiary) dependents, relevant tax ID numbers, or in the absence of a tax ID number, their personal identification data, address, etc.).
- Based on the bill, a new item would be added to tax free expenses. In cases of individuals who are working as drivers or cargo attendants and who earn income during domestic assignments, a certain amount of per diem provided for meals (that is determined by a government regulation) could be treated as tax free income without any substantiation, if certain conditions are met. This per diem benefit cannot be granted tax free if the length of the assignment is less than 6 hours or if the employer covers the meal cost of the individual during the assignment.
- According to the bill, the regulation related to default penalties would change in a favorable way for taxpayers (including individuals) as of 2016. If such a taxpayer misses or inappropriately fulfills any registration/reporting/data provision obligation, the tax authority would firstly issue a reminder to the taxpayer (without assessing any default penalty), in which the authority should set an extended deadline. The tax authority may then have the right to assess a default penalty only if this extended deadline is missed by the taxpayer in question.
- According to the draft, as of 1 January 2017 the Tax Authority would fulfill the VAT reclaims of reliable taxpayers within 45 days, while as of 1 January 2018 it would be within 30 days. In the case of risky taxpayers, the deadline would be 75 days as a general rule.
- The draft would both tighten and clarify the legal provisions related to the tax registration procedure.
- As mentioned above, the draft would introduce the concept of the so called "Tax return proposal", which means that the Tax Authority would prepare and electronically send the personal income tax return proposal to the private individuals who made a statement to their employer on the fulfillment of certain conditions.
- The draft would handle the related penalty consequences as well. Accordingly, if the Tax Authority assessed tax difference in the course of the tax audit of a private individual due to a mistake in or insufficiency of the employer's return (tax, contribution), then the Tax Authority would impose the respective tax penalty and late payment interest against the employer.
- The amendment contains some provisions in connection with the integration of the tax and customs current account.
- According to the draft, a mandatory tax audit in the course of liquidation procedures would take place only at 'risky taxpayers' (see above).
- The late payment interest could be triggered by the overdue payment of any payment obligation which is registered by the Tax and Customs Authority (except for customs and those non-Community taxes which are levied with customs). A further change is that late payment interests below HUF 2,000 would not be levied.

## Act on procedural rules

- The general 30-day deadline for administrative procedures may be extended by 30 days only once, in defined proceedings and well-reasoned cases.
- Definitions of the so called "reliable taxpayer" and "risky taxpayer" would be introduced. A taxpayer would be considered reliable if jointly met 10 different requirements mainly related to ongoing operational issues, limited outstanding tax liability and law-abiding practices. The period of any tax audit conducted by the Tax and Customs Authority at reliable taxpayers must not exceed 180 days and the upper limit of default and tax penalties levied on them must not exceed 50% of the penalty rates imposed under the general rules.
- All taxpayers who are either listed in the database of taxpayers with large sums of tax shortage or with significant outstanding tax liability or who employ unregistered employees, or who have been subject to the closure of their place of business by the Tax and Customs Authority repeatedly within a one year period would be deemed to be risky. In the case of such taxpayers, the period of a tax audit conducted by the Tax and Customs Authority would by default be extended by 60 days and the late payment interest would be increased to five times the central bank base rate. The Tax and Customs Authority must not ignore imposing default and tax penalties, furthermore higher penalty rates may be applied.

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## Special tax on financial institutions and credit institutions

- According to the draft, in respect of the property which appears in 2014 balance sheets, after a termination with legal succession tax would be due only based on the balance sheet total of 2014, while the tax obligation of the predecessor would not be inherited.

## Value added tax

- The changes to the Value Added Tax Act cover both those items which were voted into Law in 2014 and which have been effective as of 1 January 2016 and those proposed in the draft law submitted to the Parliament this year.
- Earlier changes voted in 2014 modify the tax point date rules of periodic settlements and the invoicing of such transactions (as of 1 January 2016). We detailed these changes in our earlier newsletter.
- The most important modification of this year's draft law is that from 2016, state-owned companies in which the state or the local government has majority control according to the Civil Code will not have to be treated as related parties from a VAT grouping perspective solely by reason of the majority control of the state. The current legislation made it practically unfeasible for state owned companies to create a VAT group, since in such a situation, every individual state-owned company would have had joint and several

liability for VAT liability of the VAT group, even if they had stayed out of the group.

Next year's draft law abolishes this rule. According to the new rules, state-owned status will not automatically mean that all such companies will qualify as related parties from a VAT grouping perspective, only in cases where the related party status exists for other reasons.

- The draft law also contains an invoicing simplification for companies engaged in air passenger transport, according to which an accounting document is sufficient to be issued by such a company, if the customer does not specifically request an invoice.

## Green tax

- The rules contained in Act LXXXV (2011) on Environmental Product Fees will be considerably rewritten on the basis of the practical experience gained through tax inspections in and after 2012 i.e. after Act LXXXV came into force. Besides this, the draft law introduces significant administrative simplifications for taxpayers opting for individual recycling schemes and for those active in the automotive industry.
- Taxpayers opting for individual recycling schemes will not need to submit quarterly tax returns; they will only have to submit one advance tax return and a year-end closing tax return.
- The previous system entailed significant administrative burdens on manufacturers and dealers in the automotive industry, as the payable product fee had to be determined on the basis of each and every type of product and material built into the vehicles marketed. The draft law aims to decrease this burden by permitting manufacturers and dealers to pay a flat rate product fee. The flat rate will be determined according to CN codes and motor types.
- The proposal also extends the application of the penalty system of the Act on the Rules of Taxation to cases not otherwise regulated by the Act on Environmental Product Fees.
- For export chain-supplies, such supplies will be exempt from product fees irrespective of who is responsible for the transport of the goods, if the actual transport is backed up by correct and official documentation.
- Furthermore, to enable uniform interpretations of the applicable rules, the terminology of the law will be harmonized with the above mentioned changes and with EU legislation.

## Local Business Tax

- According to the draft, the concept of determining the amount and levels of the road toll, applicable as a reducing item when calculating the local business tax payable (not exceeding the amount of tax payable), will be extended; regardless of the proportional calculation of the distance travelled, both domestic and foreign road tolls can be taken into account.
- The taxpayer's local business tax filing obligation may be performed through a general application form-filling regime and then submitted directly to the national tax authority.

- The deadline of 1 January 2016 to register the relevant records in the computer portal set up by the State Treasury regarding taxes and similar public debts that are within the scope of the tax authority would be prolonged to 1 October 2017.

## Building tax

- In the case of building tax, a supplement is now added to the determination of the date of the tax liability and, besides the date, the moment when occupancy or the continuation permit become effective; the very first day of the year following the acknowledgment of usage would also trigger tax liability.

## Stamp Duty

- It is proposed that coming into effect on 1 January 2016, not only acquisition of ownership or property rights of vehicles equipped with electric-only propulsion engines, but also the same, relative to environmentally friendly vehicles (as defined by the Act on Car Tax) would all lead to transfer tax exemption. The exemption qualifies as de minimis aid.
- As a further new element, the acquisition of the property rights of buses, trailers and trucks (as defined by the Act on Car Tax) by a corporation would also be exempt from transfer tax; such exemption qualifying as de minimis aid in cases where it does not exceed the limit defined by the corresponding EU regulation.
- Any already paid property transfer tax and inheritance tax may – at the taxpayer's request – be reimbursable if the conservation authority certifies that the reconstruction of the building, protected under a separate act as a listed building, or under the local government act as a locally listed building, was commenced within one year following the declaration of the inheritance tax liability and was completed within 5 years.
- From 1 January 2016, in cases of an acquisition of bus and truck property rights, the stamp duty would have to be determined based on the real performance of buses and trucks with a propulsion engine exceeding 120kW power.
- In public administration proceedings the fee would no longer have to be paid by way of using duty stamps adhered to the original document when a copy is handed over.
- In the event of import authorization proceedings related to the trade of goods, services and rights of material value the authorization duty should not be paid using duty stamps at the time of the initial proceedings.

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