



## PS NEWSLETTER

3 December 2018

### CHANGES IN TAXATION— THE 'AUTUMN TAX PACKAGE' — HUNGARY 2019

As expected, after the „Summer Tax Package“, the Parliament also accepted the „Autumn Tax Package“, which includes **considerable changes, but on the other hand specifies the previously defined rules.**

In our current newsletter we highlight the most important elements from the autumn tax package.

#### I PERSONAL INCOME TAX

The new tax package also maintains the intention indicated in the summer tax package that only the SZÉP card benefits would be regarded as fringe benefits, maximizing the amount that can be provided at HUF 450,000 per annum.

The amendment accepted in the summer tax package remains unchanged which says the membership fee taken over by the employer and paid to mutual insurance funds (health, pension and self-care funds) as well as the employer donation would be regarded

as taxable employment income. The current changes declare that the 20% tax credit (maximized at HUF 150,000 per year) can be taken into consideration in relation to the payments made by employer and not only after the donation. Payments made to targeted health fund services are taxed as “certain specific benefits” as of 2019. Income, not mentioned previously, credited on the self-care funds accounts would be regarded as other income.

Housing purpose employer support would be regarded as taxable income according to the changes specified in the summer tax package.

The employer could still provide loan for housing purposes – also without interest – given the stipulation that the amounts of the benefits do not exceed HUF 10 million in the year and the four preceding years together (for this purpose all employer loan and donation should be taken into consideration). Up to this



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amount the employer need no assess any taxable income for the “discounted interest”. In the accepted changes of the law the definitions of the “reasonable housing requirement” and the concept of the “family moving together” were not considered. According to the summer tax package, benefits for distribution of tickets to sport events and culture vouchers were regarded as taxable income from employment. Based on the currently accepted changes in taxation, benefits for distribution of tickets to sport and culture events would be non-taxable up to an annual value equal to the minimum wage. This exemption would not be applicable for vouchers.

## II SOCIAL INSURANCE

The rate of social contribution taxes would not decrease and would remain 19.5%. Further decrease in social contribution taxes may only be expected later.

Two further tax benefits are introduced in relation to social contribution:

- 50% of the employer’s liability after the wages of employees working in the area of research and development
- The employer could claim 100% tax benefit after the paid salary of civil servants who were discharged in a protected age. Available up to fourth times the minimal wage.

As of 2019 for new hires the employer is not obliged to submit data on the employee’s education and qualification including data in certificates.

## III CORPORATE INCOME TAX

### Group Taxation Arrangement

Related party companies may together enter into a “Group Taxation Arrangement” if they meet the relevant conditions.

The advantage of Group Taxation Arrangement is that the result of the profitable Group Members can be

reduced by the loss of the Group Members which made negative profit. Reduction applies up to 50% of the positive result. Moreover, tax base modifications would not be used between the Group Members regarding their intercompany transactions. Therefore, it would not be necessary to prepare transfer pricing documentation for the transactions inside the Group.

The appointed “Group Representative” prepares the corporate income tax return on “group-level” based on the data provided by the Group Members. The group-level tax return includes data at member-level too. The Group Representative also prepares the transfer pricing documentation of the Group. The Group Members are obliged to calculate their own tax bases too which they should report to the Tax Authority and to the Group Representative as well.

For the first time, Group Taxation Arrangement can be chosen for the 2019 tax year if the potential Members announce their decision between the 1st of January 2019 and 15th of January 2019. Later, this announcement can be made until the 20th of the Month preceding the end of the tax year.

Establishing a group is subject to the permission of the Tax Authority and beforehand the following conditions should be fulfilled:

- The functional currency in their accounting and the Balance Sheet date of the Members should be the same.
- Neither of the Group Members has chosen accounting in accordance with IFRS, or all the Group Members have chosen accounting in accordance with IFRS.
- The Members in each other, or a third party in each Member have at least 75% voting right. In case of “indirect majority control” the 75% voting right criterion should be met in the “intermediate member” too.

Following the foundation of the Group new Members can enter or former Members can leave the Group if at least two Group Members remain.

### General rule for avoiding Tax Evasion

Based on the modification, not just “transactions” but “chain of transactions” can be qualified as tax evasion if the main purpose, or one of the main purposes of a transaction, or chain of transactions, is to achieve tax advantage without actual economic and trading causes. The costs and expenditures charged on the basis of such transactions or chain of transactions should not be treated as ordinary business expenses and cannot not be considered for the basis of tax deduction.

### Controlled foreign company

In the future the controlled foreign company status would be determined on the basis of whether the foreign company or the foreign business establishment has income from real transactions (or chain of transactions) or not. In the application of these provisions a transaction would not be considered as real if it is performed primarily for tax advantage and the foreign company or establishment cannot fulfil the personnel requirements for its activity without the contribution of a Hungarian resident company.

Additionally, a foreign company or foreign business establishment should not be considered as CFC if

- its profit before tax does not exceed HUF 243,952,000 (~EUR 750,000) and its income from „non-commercial activities” does not exceed HUF 23,495,250 (~EUR 75,000)
- or its profit does not exceed the 10% of its operating costs.

Income from „non-commercial activities” are the followings:

- interest income and income from financial assets,
- income from intellectual property rights,
- income arising from the holding and disposal of shares,
- income from finance leasing, insurance operations, banking and other financial activity and



- income received from transactions with related parties and the activity of the foreign company represents minor economic added value.

However, this modification exempts foreign business establishments from CFC status if they are located in a country outside of the EU or EEC which Hungary entered into an agreement that exempts the profit of foreign business establishment from the Hungarian Corporate Income Tax.

### Limitations on interest deduction

According to the new rules, the currently valid thin capitalization rule which is based on interest liability would be replaced by new one which would be based on EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization). It is the so-called "interest deduction limitation" rule which would function as a tax base increasing item. The amount of it would be the part of the net financing costs exceeding the greater of the 30% of the EBITDA or HUF 939,810,000 (~EUR 3,000,000). There is also a carry forward mechanism which enables, with certain limitations, the deduction from the current year's tax base the unused interest deduction capacity accumulated in the previous tax years.

This new tax base protecting measure would be implemented step by step. In case of agreements that were made before 17th of June 2016 the rule is only applicable if there were changes in their duration period or in the amount of the debt itself.

Sponsorship of Popular Team Sports and sponsorship of Associations for the Protection of Performers' Rights According to the modification from 2019 the tax allowance that could be gained on supporting Associations for the Protection of Performers' Rights would be ceased.

At the same time the term of the possible sport-aimed donations would be extended. From now on donations can be given for the operation of sport-aimed real estate.

## IV VALUE ADDED TAX

### VAT on leased car

According to the present legislation, VAT on car rental can only be deducted in the ratio of the rented vehicle's usage for taxable activity (business purpose usage). The business purpose usage has to be documented (mileage record).

Based on previous legislation 50% of the VAT on supplies of services in connection with the operation or maintenance of the car can be deducted even in case of assorted usage (both for business and private purpose). As of 2019, 50% of the VAT on the vehicle's rental fee may also be deducted under the same principle. By choosing this kind of deduction ratio, there should be no need for keeping a mileage record.

The adaptation of this rule may not be mandatory, which means that by adequate record keeping, the enterprise would be able to deduct the VAT in the ratio

of the rented vehicle's usage for taxable activity, if this is more favourable for the taxpayer.

### Threshold of tax-exempt status

According to the proposal from January 1 2019, the threshold of opting for tax-exempt status would increase to HUF 12 million.

Individual exemption would be available if the value of all supplies of goods and services that the taxable person provides for consideration, due or paid in 2018 is below the above limit. For 2019 the same applies for the reasonably expected amount.

Individual exemption may be chosen by those tax payers also whose individual exemption had been terminated earlier because of exceeding the HUF 8 million upper limit, and the second calendar year following the year when it was terminated is not yet run out.

Owing to the increase of the threshold, the tax-exempt status' and the KATA's income threshold would be equal again.



## V OTHER CHANGES

### Special tax on financial institutions

The tax rate decreases to 0.2% from 0.21% on that part of the tax base which exceeds 50 billion HUF as of 1 January, 2019.

### Energy suppliers' income tax

The modification enables the taxpayers of „Robin-Hood-tax“ to decrease their tax base by the income realized in previous tax years due to reversal of extraordinary depreciation. This applies already for 2018.

### Tax administration

As of 2019, the listing of administrative deadline extensions would be itemized, instead of the current exemplary listing.

In accordance with the modification, the time spent on supplying missing documents, clarifying facts and trial procedures would not be considered in the determination of administrative deadline.

The maximum rate of default penalty related to the failure of fulfilling the tax top-up obligation would decrease to 10 % from the previous 20% rate. This modification affects all those taxes where top-up is required such as the corporate income tax, local business tax, innovation contribution, or the energy suppliers' income tax.

## VI ACCOUNTING

### Business unit transfer

The already known definition of business unit transfer as stipulated in the Act on VAT would be applied in the Act on Accounting too. Income generated upon a business unit transfer need to be recorded as other income. Realized loss (if any) would be shown as other expense. Companies would need to document the book value of derecognized assets and liabilities by balance sheet items in the supplementary notes.

### Small business tax (KATA/KIVA) changeover

Liability for small business tax (KATA, KIVA) should commence as of the first day of the month following the date of notification of entering the small business tax system. On the date of entering the small business tax system a new financial year begins.

The taxpayer leaving small business tax status should trigger the start of a new financial year in accordance with the Act on Accounting



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