Tax & Legal Alert

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Key amendments to tax laws adopted by Parliament in December 2016

Content

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On 12 and 13 December 2016 Parliament adopted Act T/13159 on the amendment of certain acts pertaining to economic and financial affairs and Act T/13268 on the amendment of certain acts pertaining to contributions to public revenues and the duties of public authorities. This newsletter summarises the most important changes introduced by the new legislation.

Changes concerning corporate tax

Change in the corporate income tax rate

Effective from 1 January 2017, the corporate income tax rate will be reduced to 9%. As a result, progressive exemption will no longer be applicable. The introduction of a flat corporate income tax rate will affect not only payable, but deferred tax calculations as well.

Transitional provisions concerning the tax rate change

Due to the introduction of the new tax rate, transitional provisions will apply to calculating corporate income tax advances payable in the first half of 2017, as well as from July 2017. Concerning the first half of the 2017 tax year, taxable persons that established their tax liabilities for 2015 using the 19% tax rate will have to pay a tax advance of 50% of the sum of 10/19 of their tax established for 2015 and HUF 20 million, but not more than 50% of the tax paid for the 2015 tax year. The tax authority will issue a decree on adjusted tax advances by 15 January 2017. Tax advances payable in the second half of 2017 and the first half of 2018 will have to be calculated by applying the 9% tax rate.

Changes concerning the development tax incentive

According to the amendment, the period for applying the development tax incentive will be extended for requests and declarations submitted after 31 December 2016. The tax incentive may be applied in the tax year in which the investment project is put into operation (or, at the taxpayer's discretion, in the following tax year) and in the following twelve tax years (currently, nine tax years), but no later than during the sixteenth tax year (currently, the fourteenth tax year) following the tax year in which the notification or the application was submitted.

Changes concerning the tax incentive for supporting sports and culture

Effective from 1 January 2017, the period for applying the tax incentive for providing financial support to film productions, performing arts organisations and sports organisations for popular team sports will be extended to include the eighth calendar year (currently, the sixth tax year) following the year in which the support was provided.

Under the amendment, taxpayers will have to pay as supplementary support and as supplementary sports development support an amount equal to at least 75% of 9% of the primary support. At the same time, additional supplementary support and additional supplementary sports development support will be eliminated.

Corporate tax incentive for business startups

According to the amendment, the pre-tax profit decreasing item for investing in business startups will be raised to 300% (currently, 150% or 250%) of the cost of the investment.
Definition of controlled foreign company

As a first step of implementing the relevant EU regulation, the definition of controlled foreign company will change. The new definition and related items adjusting the pre-tax profit/loss rely significantly on the Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market (Anti-Tax Avoidance Directive, ATAD), but also show some differences. As a general rule, companies that have permanent establishments with a low effective tax rate, further companies that have direct or indirect subsidiaries with a low effective tax rate can expect adverse tax consequences. Nevertheless, the wording of the legislation raises several interpretation issues. Therefore, companies that have direct or indirect subsidiaries, or permanent establishments with a low tax burden are recommended to consult their advisors until these issues are clarified.

Changes affecting personal income tax and social security contributions

Social tax

Under the amendment, the social tax rate will be reduced to 22% from 1 January 2017, and to 20% a year later. In line with the above amendment, there are also several changes that affect the rate of social tax allowances. Instead of the currently available

allowances of 27%, 13.5% or 14.5%, the rate of the social tax allowance will be equal to the tax rate or 50% thereof. This will reduce employers' payroll expenses by 3.9%.

Healthcare tax

The rate of healthcare tax (currently 27%) will be reduced to 22% from 1 January 2017, and to 20% from 1 January 2018, in line with the reduction of the social tax rate. As a result, public dues payable for business meals, corporate events and certain fringe benefits will be reduced from 49.98% to 43.66% in total.

Personal income tax

The amendment extends the scope of the five-year phased tax base reduction to include all types of real estate (currently this only applies to residential property or intangible asset rights related to residential property). This means that, from 1 January 2017, income from the sale of all types of real estate will be tax exempt from the fifth year following the year of acquisition. Along with the reduction of the corporate income tax rate, the rate of income tax payable by individual entrepreneurs will be reduced to 9%.

In accordance with the amended definition, the rules concerning controlled foreign companies will no longer be included in the Personal Income Tax Act. Consequently, dividend paid in 2017 by companies that no longer qualify as controlled foreign companies as of 2017, will qualify as dividend income (rather than as other income), which will result in a significantly reduced tax liability.

Amendments to the act on the economic stability of Hungary

Effective from the thirtieth day following their promulgation, the amendments will repeal the provisions pertaining to the Stability Savings Account. On the other hand, private individuals will be able to opt to pay the 10% personal income tax on certain types of income earned before 30 June 2016 from sources other than payers of taxable income. In addition to personal income tax, a self-revision fee will also have to be paid on such income. The tax can only be paid through a bank designated for this purpose by the national tax authority; additional rules on the fulfilment of this tax liability will be laid down in an implementing regulation. Private individuals will be able to choose this new option in respect of tax liabilities incurred in any prior year as well. The procedure is anonymous, as the designated bank will not disclose information on the private individual or the income. During a tax audit, the respective individuals will be able to prove that they have fulfilled their tax obligations by a certificate issued by the bank.

The acquisition of shares or other members' equity issued by a legal person or other organisation will not give rise to any tax, contribution or duty liability if the shares or members' equity are acquired between 1 January and 30 June 2017 under transparent conditions. The exemptions can only be applied if the party acquiring the shares free of charge reports the acquisition to the national tax authority, or if the purchase price of the shares is paid through a bank based in an EEA Member State (the detailed rules will be laid down in an implementing regulation). The rules on reported shareholding will not apply to shares acquired as described above.

Changes related to building tax

According to the amendment, from 1 January 2018, outdoor advertising structures placed on real property in the area of jurisdiction of a local government will be subject to building tax. The tax liability will arise on the first day of the year following the date the permit authorising the placement of the advertising structure is issued, or in the absence of such permit, on the first day of the year following the the date on which the structure is placed. The owner of the advertising structure will be obliged to pay the tax, which will be calculated based on the display area expressed in square meters to two decimal places. The maximum tax payable will be HUF 12,000 per square metre.

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