



## PS HUNGARY NEWSLETTER

15 December 2015

Although a tax amendment package to the 2016 tax rules had already been accepted this year surprisingly early – back in June – further changes were adopted by the Parliament on 17 November 2015. In this newsletter we are going to review the more significant modifications made recently to the Act on the Rules of Taxation and to the Personal Income Tax.

### I CHANGES TO THE RULES OF TAXATION

#### Tax Office to blacklist and whitelist taxpayers

The amendments introduce the concept of reliable and risky taxpayers both subject to a separate set of regulations. In the future, law abiding taxpayers who will be identified as reliable will be rewarded with preferential treatment by the Tax Office while risky taxpayers will be treated adversely in comparison to the general rules pertaining to normal (unclassified) taxpayers as a baseline.

Only VAT registered taxpayers listed in the trade register are going to be rated by the Tax Office. The ratings will be assigned automatically on a quarterly basis with Q1 2016 being the first in the line. Taxpayers will be advised of their rating electronically.

The advantages of a reliable taxpayer status will manifest themselves in lenient sanctions and shorter tax audits while risky taxpayers shall reckon with higher fines and prolonged tax audits.

#### Which entity will be identified as 'reliable taxpayer'?

A company will qualify as reliable if

- it has been operating continuously for at least three years or has been VAT registered for at least three years;
- the amount of tax arrears imposed on the company by the Tax Office in the current tax year or in any of the five preceding years does not exceed 3% of total taxes due from the company;

## YE2015 CHANGES IN TAX LAWS (PART 1)



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- no collection procedures were initiated against the company by the Tax Office in the current year or in any of the five preceding years;
- it was not subject to winding up, bankruptcy or cancellation procedure in the current year and in any of the five preceding years;
- the net balances due on its tax obligations do not exceed HUF 500,000 on the first day of the quarter;
- its tax number was not suspended in the current year and in any of the five preceding years;
- it was not subject to the procedure of tax number cancellation in the current year and in any of the five preceding years;
- the amount of default penalty that become due in the two years preceding the current year did not exceed 1% of total taxes due for the current year;
- it was not placed under enhanced regulatory supervision in the current year and in any of the five preceding years;
- it is not blacklisted as risky taxpayer.

Taxpayers have to meet all the above conditions in order to obtain a 'reliable' rating.

#### **Which entity will be blacklisted as 'risky taxpayer'?**

Companies

- included in the public list of taxpayers with large amount of tax arrears or tax debt;
- included in the public list of taxpayers employing unregistered employee;
- whose business premises were closed down by the Tax Office more than once within the interval of one year

will be classified as 'risky taxpayers'.

Fulfilling just one single condition of the above is already sufficient to bring about a 'risky' classification. The 'risky taxpayer' status persists for one year from the fulfilment of the condition except when it is due to tax arrears or tax debt as in these latter cases the Tax Office will cancel the classification in the quarter following the financial settlement. Taxpayers under liquidation, winding-up or cancellation procedures will not be rated and will not face the legal consequences either.

#### **Tax registration procedure to become more strict**

Since 2012, instead of being granted automatically, tax numbers are only issued upon a risk assessment process performed by the Tax Office beforehand. During this so-called tax registration procedure the Tax Office shall refuse to issue a tax number if the taxpayer's shareholder or executive officer currently holds or previously held executive position or shares in an already existing company with delinquent tax liabilities in excess of HUF 15M (or HUF 30M in case of larger taxpayers).

As of 2016 the above thresholds will be lowered to HUF 5M and HUF 10M respectively meaning that the Tax Office will be able to reject to issue a tax number also on lesser grounds.

Moreover, in the future managers (in addition to executive officers, to members entitled to represent the company, and to majority owners) will also be screened during the risk assessment process of the tax registration procedure.

#### **Good Standing Status database**

It is still possible to apply for registration in the good standing status database. The law clarifies that the Tax Office will accept the application if the taxpayer is suited for all prescribed conditions on the last day of month in which the application is submitted.

In the event of incidental cancellation from the database the taxpayer will be given a window of 8 days to comment on the action of the Tax Office, which in turn will also have 8 days to reconsider.

#### **Non-compliance, mistake**

In the future, failure to comply with notification, filing or reporting obligations will only trigger a reminder from the Tax Office for taxpayers not obliged to be listed in the trade register, merely setting a deadline to fulfil the obligation or to remedy the mistake. Taxpayers will only be penalized upon repeated non-compliance.

#### **Surcharge-free instalments**

The maximum amount of income tax liability that will be possible to pay in instalments without any surcharge will be increased from HUF 150,000 to HUF 200,000 for individuals. In addition, the instalment payment facility will also be made available to settle health care contribution liability.

#### **Integration of current accounts**

As of 1 January 2016 tax and customs liabilities will be tracked on a single current account (balances are currently being captured on separate accounts). Pursuant to a last minute amendment on 17 November 2015, this change will not entail new administrative burden for taxpayers: unless revoked, the existing proxies granting access to the tax accounts will extend also to the customs accounts.

Good standing certificates will still have to be requested from the Tax Office, and will come with an extended data content to include public dues under collection or retention status.

## **II CHANGES TO PERSONAL INCOME TAX**

#### **Facilitated return filing**

Of all the adjustments made to the personal income tax regime the simplifications introduced to tax return filing shall deserve our first highlight.

The 'tax return statement' and the 'draft tax return' (to be introduced from 1 January 2016 and 1 January 2017 respectively) will replace the currently existing legal instruments of 'tax declaration statement' and 'simplified tax return'. However, these latter filing methods can still be employed to declare earnings for 2015.

The tax return statement can already be submitted for income earned in 2015. However, only a well-defined circle of employees – with relatively simple income structure – will be allowed to fulfil their return filing obligation by submitting a tax return statement to their employers (or to the Tax Office, if they do not have employers at the date of declaration) on condition that

- their income originates exclusively from such employers who had withheld tax advance from their salary (excluding interest income, dividends, exchange gains, income withdrawn from business, income earned from real estate rental exceeding HUF 1M and donations credited for the private individual by a voluntary mutual insurance fund);
- they do not claim any cost deduction against their income (except for the 10% flat rate cost ratio), nor do they claim any tax benefits or allowances (family allowance, tax base benefit for married couples, severe disability tax benefit);
- they do not make any account statement for the transfer of their taxes in connection with their voluntary mutual

insurance fund, individual retirement saving and pension insurance schemes;

- and there are no other reasons compelling them to submit their tax returns without the assistance of the Tax Office.

The tax return statement will also be available to individuals liable to pay tax under the Act on Simplified Contribution to Public Revenues (EKHO), employed under simplified employment or who obtained severance payment subject to special tax.

In accordance with the applicable procedural rules the individual can make the irrevocable statement to his employer until 31 January following the end of the tax year (limitation period!). In terms of legal consequences the tax return statement is considered as tax return.

Individuals who choose to submit their statement will be reported to the Tax Office via the January 08 tax returns (to be filed until 12 February) by the employers.

In case the records of Tax the Office indicate that the individual would not have been eligible to submit the tax return statement, the Tax Office shall notify him accordingly.

If, however, the tax return declaration is made in conformity with the prerequisites, the Tax Office will simply determine the tax payable for the individual who will receive a dedicated notification about it only if it turns out that previously the amount of his tax advance was miscalculated by his employer. The Tax Office will levy the corresponding tax arrears on the individual while the legal consequences (tax penalty, late payment penalty) will be charged on the employer. Aforementioned notifications do not affect the individual's right to self-revision, nor will they render the relevant tax period audited. Should the individual realize subsequently that he was not eligible to make a tax return statement, he can adjust the Tax Office's tax assessment by the way of self-revision. In the absence of such self-revision the Tax Office may later reveal the tax arrears and impose the corresponding sanctions.

The 'draft tax return' will be introduced from 1 January 2017 only. For that purpose, the Tax Office will compile a draft tax return for private individuals – with the exception of private entrepreneurs or small-scale agricultural producers –, who have access to the Citizen Portal and send these returns to the individuals concerned electronically. This facility shall only be available for individuals who did not make a tax return statement, did not request tax assessment from the employer or the employer denied such request. The taxpayers will be able

to correct, adjust and finally accept the draft tax return until 20 May following the end of the tax year. With the acceptance of draft tax returns via electronic way the taxpayers will fulfil their tax filing obligations. If the draft tax return will not be accepted by the individual until the specified date, the taxpayer shall fulfil his filing obligation by himself.

### Administration of tax allowances

Data required for the application of family allowance and of the allowance for young couples in their first marriage will have to be reported by the employer in the '08 tax returns. This relieves the administrative burden on private individuals at the expense of the employers.

### Daily allowance for drivers, cargo attendants

The amount of the domestic daily allowance for truck drivers and cargo attendants as set in the government decree on per diem food allowances will be tax deductible without particular documentation provided that the individual only accounts for cost directly related to the inland operation of the vehicle. The employee will still not be entitled to daily allowance if the duration of the secondment is less than six hours or the employer provides meal to the employee at the place of the secondment.

### Amendments related to Employee Stock Ownership Plan Organisations

From 2016 Employee Stock Ownership Plans (ESOP) can be set up in order to manage also those financial assets which the employees are given as remuneration with the aim to secure their involvement in improving the efficiency of their employer. The new type of Employee Stock Ownership Plans can also be established at credit institutions and insurance companies.

With the introduction of the above new type of ESOPs the provisions of the Act on Personal Income Tax have been amended to ensure that the security acquired by the employee with a discount or on a no-cost basis shall not be taxed at the time of acquisition, but only at a later date when the security is sold.

The purpose of our newsletter is to provide general information and to draw the attention to the current changes in law which we believe to be important for the business operation of our clients. It is not a replacement for careful review of the acts and rules and the consultation with your tax advisor.

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