

## SME INFO

### TAX CHANGES DUE IN 2022 – HUNGARY



The purpose of SME INFO 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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During Autumn 2021 the usual big tax package – which would have included changes due next year – was missed. The reason is that there were several tax law modifications during the Spring and Summer, see also our newsletter [SME INFO 2021-07](#) about this topic. Since part of the changes that were accepted earlier this year are due from 2022 (or even later), in the current newsletter we

would like to summarise these ones once more and you will find also a few new changes that were accepted during the Autumn and mid-December 2021. Please note that this newsletter contains those changes that we consider important and is not intended to be exhaustive.

The SME Team

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#### Arrived after closing....

Retail Tax

## I. CHANGES IN THE ACT ON ACCOUNTING

Considering the changes effective from 2022, we would highlight two, also modifying the accounting rules, while other changes rather complement and clarify the existing rules.

### 1.1. Changes affecting accounting rules

#### Exception to the application of project accounting: series production <sup>(1)</sup>

Given that the rules on the unit of account of a contract effective from 1 January 2020 may also cover contracts for which its application is not justified or causes serious difficulties, a facilitation option is added to the existing rules.

According to the amendment, if the subject of the contract is for the serial production of a product with the same workflow, in large quantities, (i.e. in the case of series production), the application of project accounting rules is not mandatory.



Such decision of the company should be included in the accounting policy!

*Effective from 01.01.2022, but it can be applied to financial years starting in 2021*

#### New option: create accrual for the development subsidies related to intangible and tangible assets <sup>(2)</sup>

Given the increasing number of advance-based financing and ex-post – after several years – settlement of EU and domestic development subsidies, the possibility of accruing for the revenue from received subsidies has been expanded with a new case.

According to the amendment, similar to grants received to offset costs, the company may accrue the amount of expected subsidy when carrying out a development if it can prove that it will comply with the conditions attached to the subsidy and is likely to receive that.

Thus, in accordance with the principle of matching, the depreciation accounted for the assets and the related subsidy income can be recognized in the income statement in the same period.



(1) Act C of 2000, 32.§ (9), 44.§ (8)

(2) Act C. of 2000. 33.§ (7)





Such decision of the company should be included in the accounting policy!

*Effective from 01.01.2022, but it can be applied to financial years starting in 2021*

## 1.2. Other amendments and clarifications

### Supplementing the audit report of companies listed on EU stock exchange <sup>(3)</sup>

According to the amendment, the independent auditor's report must include the auditor's opinion that the financial statements of the company whose securities are traded on a regulated market in any EEA State comply with the requirements of Commission Delegated Regulation 2018/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format.

The Directive shall apply to annual financial statements containing financial statements for financial years beginning on or after 1 January 2020.

*Effective from 01.01.2022, but can be applied to financial years starting in 2021*



Regulation 2018/815 requires issuers to prepare their annual financial statements in Extensible HyperText Markup Language (XHTML). XHTML allows the use of "inline" XBRL (iXBRL), so that consolidated data in accordance with IFRS rules will also be available in machine-readable format.

### Provisions clarifying practical implementation <sup>(4)</sup>

- Within intellectual property, know-how has been reclassified from industrial property rights to intellectual assets without legal protection but monopolized through secrecy.
- It has been clarified in several places that it is not only the invoice that qualifies as an accounting document in case of a correction.

§ (3) Act C. of 2000. 156.§(5) o

(4) Act C. of 2000. 25.§(7) a), c); 50.§(6), 73.§ (1)-(2), 47.§ (2)

- The activation rule of the fee of purchasing an option has been clarified by stating that the option fee may not be fully activated in all cases.

*Effective from 01.01.2022, but it can be applied to financial years starting in 2021.*

### Repeals affecting the original cost of an asset <sup>(5)</sup>

The original cost of an asset may, in principle, consist of items that are individually attributable to the asset or some items listed by the Act on Accounting and are closely related to the acquisition of the asset, such as non-deductible VAT.

However, if VAT is to be divided between taxable and non-taxable activities, direct attributability is not ensured, so it is justified that the non-deductible part of VAT divided by any method according to the Act on VAT (e.g. in proportion to natural units) should not be part of the cost of an asset.

According to the previous regulations, only the non-deductible part of the VAT divided in proportion to the consideration could not be the part of the original cost, but by deleting the reference to division in "proportion of consideration" it became clear that even in case of division by other methods, the divided non-deductible portion of VAT may not be part of the original cost.

*Effective from 01.01.2022, but it can be applied to financial years starting in 2021*



§ (5) Act C. of 2000. 47.§ (3)

## II. TAXATION

### 2.1. Corporate income Tax

#### Hybrid entity <sup>(6)</sup>

In line with EU harmonisation regulations, corporate income tax law may classify a hybrid entity as a resident taxpayer. Accordingly, a hybrid entity registered or established in Hungary is considered a resident taxpayer if it is owned by a non-resident company subject to a tax jurisdiction that treats a hybrid entity registered or established in Hungary as subject to corporate tax or its equivalent (this is the so-called reverse hybrid structure). Investment funds and other collective investment vehicles subject to investor protection legislation in Hungary would be exempted from being treated as resident taxpayers.

 The income of hybrid entity that newly became taxpayer is taxed to the extent that such income is not taxed under the tax laws of Hungary or another country.

*Effective from 01.01.2022*

#### Allowance for bicycles <sup>(7)</sup>

In line with the amendment of Act on Personal Income Tax, costs incurred in relation to the purchase, supply, use, maintenance and operation of bicycles propelled solely by human power or assisted by an electric motor of a power not exceeding 300 W are included as new elements in the costs and expenses incurred in the interests of business if it is provided to the private individual employed by the company, to its executive officer, to member who participates in person in their operation, to a retired person previously employed by the taxpayer according to Act on Social Contribution Tax 4.§ 17. or to a close relative of these mentioned individuals.

*Effective from 01.01.2022*

 <sup>(6)</sup> Act LXXXI. of 1996. 2.§ (7) and 16/B.§ (7) <sup>(7)</sup> Act LXXXI. of 1996. Supplement 3, B) 9.

### 2.2. Value added tax

#### Obligations on payment service providers <sup>(8)</sup>

The amendment imposes registration and reporting obligations on payment service providers (credit institutions, electronic money issuers, Postal Clearing House operators and payment institutions) in relation to cross-border payments for payment services they provide.



A cross-border payment is a payment where the payer is located in a Member State of the Community and the payee is located in another Member State of the Community, in a third country or in a territory treated as a third country.

The data in the register shall be reported electronically by the payment service provider to the Tax Authorities every calendar quarter if the number of cross-border payments in that calendar quarter reaches a certain threshold. As a main rule, the payee's payment service provider is obliged to provide the data.

If none of the payee's payment service providers is located in the Community, the payer's payment service provider is obliged to provide the information. The amendment also specifies the level of detail required for the record keeping, which must be done on an electronic form.

*Effective from 01.01.2024*

#### The disappearance of the e-VAT declaration <sup>(9)</sup>

Parliament has already twice postponed the starting date of the e-VAT declaration that would be drafted and provided to the tax payers by the Hungarian Tax Authority (NAV). However, the latest legislation no longer delays the starting date, but repeals the relevant paragraphs before they enter into force.

Neither the tax authority nor the Ministry of Finance has commented on this decision so far, so we have no further information on the reason for this decision.

 <sup>(8)</sup> Act CXXVII. of 2007. 183/B-D.§ <sup>(9)</sup> Act CXXVII of 2007. 184§ (2)-(10)

## Reverse VAT on cereals to remain in place after 2022 <sup>(10)</sup>

The European Commission has extended the authorisation granted to the Hungarian government to apply reverse charge to certain products. This means that certain cereal and steel products will continue to be subject to reverse charge after 1 July 2022.

*Effective from 01.07.2022.*

## 2.3. Personal income tax

### Allowance granted to mothers with four or more children <sup>(11)</sup>

With a view to claiming allowance granted to mothers with four or more children, private individuals do not have to make a tax advance statement for the payer in each year. If the private individuals have already provided a statement, the payer has to continue granting the tax allowance based on the previous tax advance statement.

*Effective from 01.01.2022*

### Income from cryptographic assets transaction <sup>(12)</sup>

In relation to cryptocurrencies, there will be added to the personal income tax system a new item called „Income from cryptographic assets transaction“.



A transaction executed with a cryptographic asset is a transaction in which a private individual obtains valuable consideration in the form of a non-cryptographic asset (e.g. cash) by transferring cryptographic assets in a transaction available to anyone.

### Calculation of tax base

The taxable income is the sum of income obtained throughout the year (considering the arm's length price of the cryptographic assets at the time of its transfer or at the time of starting date of exercising the right to them) reducing by the certified expenses of the current year spent on the acquisition of cryptographic assets and fees and commissions related to the transactions. (e.g. certified expenditure on purchases, assets mining, market price – at the time of transfer – of other assets transferred).



<sup>(10)</sup> Government Decree 613/2021. (XI. 8) 5.§

<sup>(11)</sup> Act CXVII. of 1995. 48.§ (3b)

<sup>(12)</sup> Act CXVII. of 1995. 67/C.§ and 102.§ (3)



If the income from a cryptographic asset transaction does not exceed 10% of the minimum wage, the private individual does not have to declare income from this transaction providing that there is no income from other similar transactions on the very same day and the sum of income earned during the year from such transactions does not exceed the minimum wage.

If the private individual in the current tax year or in the previous one or two tax years realised losses from the transaction executed with cryptographic assets and this is stated in his income statement in the relevant tax year(s), the current year(s)'s profit may be decreased with the previous year's losses.

### Tax returns

The draft tax return prepared by the Tax Authorities does not include the income from the transaction with cryptographic assets, therefore the private individual shall complement the draft tax return or may submit an income tax return prepared by himself.

### Payable tax

This new item is included under the incomes which are taxed separately, therefore no social contribution tax or other contribution are linked to, only the 15% personal income tax has to pay on it.

Noting that previously no such income was defined in the Law on Personal Income Tax, having no better choice it was mostly handled as other income and as such 15% personal income tax and 15,5% social security contribution were paid on that.



Although this change comes into force as of 1 January 2022, the regulation above may be applied also for the income earned in 2021. If before the tax year of 2021 the private individual did not declare income from cryptographic assets at all, he may choose to apply the new regulations for all his such income!

*Effective from 01.01.2022.*

## Allowance for bicycles <sup>(13)</sup>

In line with the changes of the Corporate Tax Law the private usage of bicycles – propelled solely by human power or assisted by an electric motor of a power not exceeding 300W – provided by the payer appears as a new element among the non-cash tax-exempt benefits.

*Effective from 01.01.2022*

## Allowance for young people under age 25 <sup>(14)</sup>

The allowance is available for the following types of income:

- income from employment
- income from non-self-employed activities
- entrepreneurial withdrawal for sole proprietors, flat-rate income in the case of flat-rate taxation
- income from primary agricultural production
- the income of a Member of the European Parliament from this activity
- income of a local government representative from this activity
- the income of the selected auditor from this activity
- income from an engagement contract

The allowance is calculated by multiplying the months of entitlement and the national level average gross earnings, the latter is determined by the Statistical Office for the month of July preceding the reference year. The months in which the young person did not reach the age of 25 plus the last month in which he or she reached the age of 25, may be taken into account as the month of entitlement.

The allowance, similarly to the other PIT allowances, will reduce the income included in the consolidated tax base, so the order of the allowances will change as follows:

1. Allowance for mothers with four or more children
2. Allowance for young people under age 25
3. Personal allowance
4. Allowance for first married couples
5. Family allowance

§ (13) Act CXVII. of 1995. Supplement 1, 8.44

(14) Act CXVII. of 1995. 29/F.5



Tax advance declaration: the payer who provides income to a young person under the age of 25 determines the basis of the tax advance taking into account the allowance, unless the young person requests in the declaration not to apply the allowance in whole or in part. <sup>(15)</sup>

*Effective from 01.01.2022*

## Determination of the consolidated tax base <sup>(16)</sup>

As the social contribution tax decreases, the rules for determining the consolidated tax base will change. If, after a given income, the individual is required to pay for the social contribution tax (unless the amount is eligible as an expense or reimbursed to the individual), 89% (currently 87%) of the determined income should be considered income starting from next year.

*Effective from 01.01.2022*

## Széchenyi Holiday Card (SZÉP Card) – Interchangeability between “pockets” <sup>(17)</sup>

The possibility of interchangeability between the pockets of the SZÉP Card was extended until 30 September 2022, according to which the service provider can accept the balance on any sub-account or the cardholder can use any of them to pay.

*Effective from 09.11.2021*



§ (15) Act CXVII. of 1995. 48.§ (3d)

(16) Act CXVII. of 1995. 29.§ és 47.§ (5)

(17) Government Decree of 76/2018. (IV. 20.) 22.§

## Teleworking <sup>(18)</sup>

The rules applied on teleworking during the Covid-19 emergency situation have been transposed into the normal legal system. As a result, instead of 478/2020 Government Decree the Law on PIT includes the rule that costs paid as compensation for the Labour Code defined teleworking is eligible without certification up to a monthly amount equal to 10 per cent of the monthly minimum wage. The condition for this is that, in respect of teleworking, the individual does not account for internet and overhead costs in accordance with Law on PIT Annex I, Chapter I, points 24 (c) and (d).

*Effective from 01.01.2022*

## 2.4. Social contribution tax

### Rate <sup>(19)</sup>

An amendment to the law passed in December brought forward the reduction of the social contribution tax rate by January 2022, and the new rate is 13% instead of the previously announced 15%, which would have come into force from July 2022.

*Effective from 01.01.2022*

### Changes related to the allowances <sup>(20)</sup>

Because of abolishing the vocational training contribution, the allowances after students can be claimed from the social contribution tax.



If the allowance is higher than the amount of tax payable or the employer is not obliged to pay social security contribution, the allowance can be claimed as a tax refund

*Effective from 01.07.2022*

### Effect of abolishing the vocational training contribution <sup>(21)</sup>

The December amendment to the law, in line with the social contribution tax change, also brought forward the abolishing of the vocational training contribution by January 2022. From 1 February 2022,



<sup>(18)</sup> Act CXVII. of 1995. Appendix 3, II subtitle, point 11.

<sup>(19)</sup> Act LII. of 2018. 2.§ (1)

<sup>(20)</sup> Act LII. of 2018. 17/A.§

<sup>(21)</sup> Act LII. of 2018. 36/E.§

the payment obligation regarding the vocational training contribution, in case of self-audit, shall be settled to the social contribution tax account. If payment is made to the vocational training contribution account, it will be transferred to the social contribution tax account.

*Effective from 01.01.2022*

## 2.5. Special tax on financial institutions <sup>(22)</sup>

From 2022 venture capital fund management companies, exchange market operators and commodity dealers are exempted from the special tax liability of financial institutions. The special tax has to be paid only by credit institutions and other financial enterprises.

*Effective from 01.01.2022*

## 2.6. Local taxes

### Local business tax (LBT) <sup>(23)</sup>

#### Rate of LBT

In December the prolongation of max 1% LBT for micro, small and medium size enterprises (MSMEs) was accepted for the tax year 2022. The regulation is very similar to the 2021 rules i.e. those enterprises qualifying as MSMEs – based on Act XXXIV of 2004 - with a turnover or balance sheet total not exceeding HUF 4 billion the maximum payable LBT is 1% in the tax year ending in 2022 (the conditions must also be met in the tax year ending in 2022).

#### Tax advance

In 2022, there is also the possibility of a 50% reduction in the tax advances to be paid during the year, which is automatic for those who have already made the declaration required for the 2021 tax advance reduction. An entrepreneur who has not made such a declaration in 2021 has the option to do so by 25 February 2022, in respect of the tax year ending in 2022. In this, the entrepreneur declares that he has been classified as a MSMEs in 2021 or is expected to qualify in 2022 and must undertake to report its headquarter or site address(es) to the state tax authority. The declaration must be submitted to the NAV, which will forward it to the competent local authorities.



<sup>(22)</sup> Act LIX. of 2006. 4/A.§ (4) 2.(b-c)

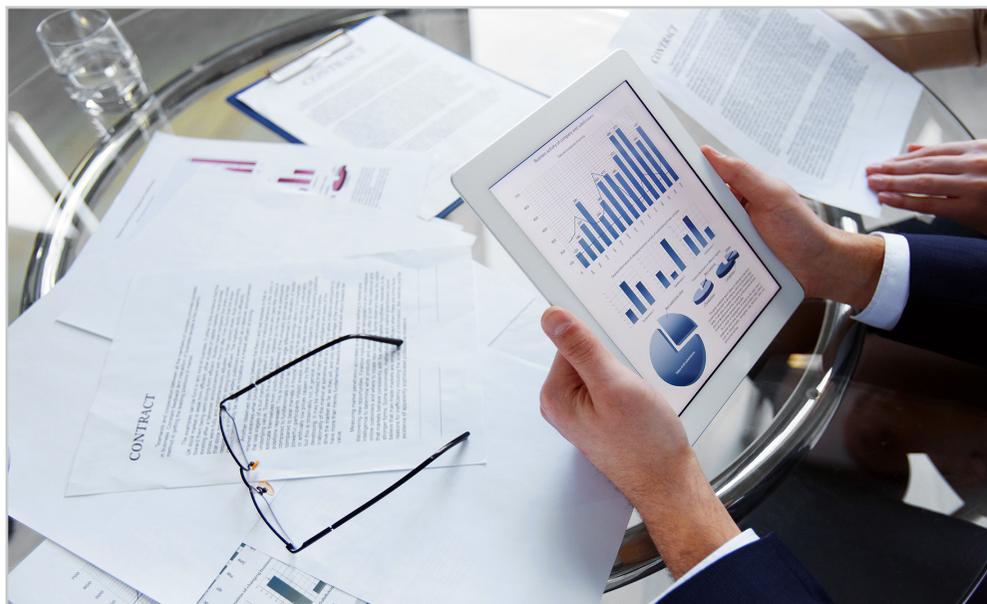
<sup>(23)</sup> Act C of 1990. 51/L-51/P.§

**!** It is important to ensure that all headquarters and sites are reported in order for NAV can forward the declaration to the relevant local municipalities, and whoever has established a new headquarter or site since its declaration made in 2021 has to make a new declaration.

### Form of support

A significant difference from the 2021 rules is, that in 2022 the company can decide whether the benefit thus obtained – which constitutes State aid under EU rules – will be treated by it as temporary aid (2020/C 91 I/01 of 19 March 2020. Section 3.1 of the EU Commission Communication) or as *de minimis* aid. If the company wants to treat it as a temporary aid, it must this choice declare by 25 February 2022, no declaration is required for treatment as a *de minimis* aid.

The amount of the temporary aid in 2022 is the tax base of the tax year ending in 2021 multiplied by the part of the LBT tax rate above 1%. If the tax base for the tax year ending in 2022 is higher than for the tax year ending in 2021, the excess tax base shall be considered as a *de minimis* aid.



### Entrepreneurs founded in 2021 and 2022 applying a business year different from calendar year

**!** Special attention should be paid to MSMEs applying business year different from the calendar year and were established in 2021 and 2022 because they are subject to different regulations in certain respects, such as e.g. which of their business year should be taken into account and what type of aid (temporary or *de minimis*) they can consider the reduction of LBT.

### Special rules for temporary aid

There are a few things to look out for if the entrepreneur wants to take advantage of this benefit as a temporary aid, such as:

- a company considered to be in a difficult situation as of 31 December 2019 based on Government decree of 37/2011. (III. 22.) is not in each case entitled to this
- the amount of support is maximized (in the general case EUR 2.3m)
- there is an obligation to keep records for 10 years for all documents related to the temporary aid.

*Effective from 01.01.2022*

### Other changes in local taxes <sup>(24)</sup>

The following changes were adopted and entered into force in November 2021:

The local governments are not entitled to introduce a new local or municipal tax for 2022.

In the tax year ending in 2022:

- the rates of the local tax and the municipal tax may not be higher than the tax rates in force on 2 December 2020, and
- the tax benefits and exemptions in force on 2 December 2020 must be maintained.

*Effective from 26.11.2021*

**§** (24) 535/2020 Government Decree 1.§

## 2.7. KATA (fixed-rate tax of low tax-bracket enterprises) and KIVA (small business tax) <sup>(25)</sup>

In line with the reduction of social contribution tax:

- in case of KATA entrepreneurs the tax component corresponding to individual contributions increases, so a higher amount needs to be taken into account as the basis for benefits i.e. HUF 108 000 and 179 000 per month (previously HUF 102 000 and 170 000 per month).
- KIVA tax rate goes down to 10% from 11%.

*Effective from 01.01.2022*

## 2.8. Excise duty

There will be technical amendments and modifications in line with changes in EU legislation in certain definitions. We cover only one of these topics:

### Retail sale via mail order <sup>(26)</sup>

For the pursuit of retail sale via mail order from other Member States to the domestic territory the obligation to appoint a tax representative ceases to exist, it is enough if the mail order vendor is registered by the Tax Authorities.

*Effective from 13.02.2023.*

## 2.9. Measures to prevent money laundering and terrorist financing <sup>(27)</sup>

In order to determine the customer's risk level during the customer due diligence, the service provider takes into account the data published by the NAV regarding the customer, if NAV classifies the given customer as having unreliable ownership data.

The previous section refers to the Act on the Introduction of the Ultimate Beneficiary Ownership Register, which was passed in May 2021 and about which we wrote in detail in [SME INFO 2021-08](#).

*Effective from 01.07.2022*

§ (25) Act of CXLVII 2012 10§ and 21.§ (1), 23.§ (2) (26) Act LXVIII. of 2016. 35.§ (2)-(3)

(27) Act LIII. of 2017. 10/E.§ (6)

## III. TAXATION REGIME

### 3.1. Rules of taxation

#### Extending the content of the monthly tax and contribution declaration <sup>(28)</sup>

According to the amendment, the content of the monthly tax and contribution declaration is extended to include information on the yield of securities listed on a stock exchange operating in any EEA Member State and classified as a regulated market under the Capital Markets Act, which are deemed to be dividends or dividend advances under the law of that Member State.

According to the legislative justification, the Tax Authority will then have the information whether the amount of dividends declared by the paying agent is a dividend on a listed security in an EEA State, so that taxpayers with such income will not have to amend the income tax base for social contribution tax in the draft tax return.

*Effective from 01.01.2022*

#### Extended reporting obligations to NAV <sup>(29)</sup>

The Hungarian State Treasury must provide data on a monthly basis electronically to the NAV by the 5<sup>th</sup> day of the month following the month in which the payment was received, on the data of individuals to whom family allowances were paid.

*Effective from 01.01.2022*

§ (28) Act CL. of 2017. 50.§ (2) 22a (29) Act CL. of 2017. 112/A.§



## ARRIVED AFTER CLOSING...

### Retail Tax (*before publication*) <sup>(30)</sup>

As a result of the amendment to the Law on Retail Tax submitted on 13 December and adopted on 14 December, the tax rate applicable to tax base (i.e. net sales from retail activities) above HUF 100 billion shall increase to 2.7% from 2.5% starting from 1 February next year. The amendment affects companies engaged in retail activities whose tax base exceeds HUF 100 billion in the tax year in which the amendment enters into force.

For the tax year including 1 February 2022, the companies concerned shall apply two tax rates, 2.5% for the period before 1 February and 2.7% for the period after 1 February, and shall also divide the annual tax base between the two tax rates.

The annual tax base can be divided between the old and the new tax rate, – depending on the company's decision – by two different methods:

- 1) in proportion to calendar days (assuming an evenly tax base distribution during the year)
- 2) on the basis of an interim accounting closure for 31 January (taking into account any seasonal fluctuations in the tax base)

*Effective from 01.02.2022*

§ (30) Act XLV. of 2020. 11.§ and 6.§ d)

