Osteuropa kompakt
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Azerbaijan

Innovation to Asan Imza

Asan Imza (strengthened mobile e-signature service) is integrated to www.azexport.az portal. This innovation gives broad opportunities to entrepreneurs, who want to register their products and services on www.azexport.az internet resource. Asan Imza holders became able to use the internet resource without additional registration.

Amendments to the Law On Electronic Signature and Electronic Document

According to the Law, certificate (identification of Electronic signature holder) can now be also granted on the basis of application request of relevant state authority for verification of ID cards (previously, Electronic signature certificate could only be granted on the basis of a written contract).

Amendments to the Criminal Code

Amendment introduces a more accurate description the of criminal activities in the field of financial securities. According to the amendments, adoption of disinformation or misrepresentation to prospectus of securities (Information Memorandum), as well as statement of disinformation or misrepresentation to prospectus of securities (Information Memorandum), causing damage in the significant amount, shall lead to the criminal liability.

New rules On Conducting foreign currency operations by residents and non-residents

According to the rules, all advanced payments should be covered by customs declaration or a document confirming the provision of imported services within 180 days. Otherwise, the company will be penalised from 20% to 30% of paid advance.

Presidential Decree on Strategic roadmaps of national economy

As our readers may recall from the Issue №35, the development of non-oil sector is the principal direction of the economic policy. Considering this priority, President approved following strategic roadmaps:

1. Strategic Roadmap for logistics and trade development

The main aim this Strategic Roadmap follows is to make the country the most attractive in the region from the logistics and trade investments perspective by 2025 by improving the infrastructure and regulating incentives.

In order to reach this aim three goals have been defined for the period of 2016-2025:

- creation of a favourable environment to increase trade turnover going through Azerbaijan;
- introduction of a mechanism to implement goals in logistics and trade;
- getting a higher added value from transit trade.

According to the document it is planned to increase Azerbaijan's share in the field of maritime cargo transportation:

- via the Central Asia-Black Sea route to 40%;
- via the Central Asia-Europe route to 25%;
- via the China-Europe route to 3%;
- via the Russia-Iran route to 40%;
- via the Iran-Black Sea route to 25%.

2. Strategic Roadmap for development of telecommunication and information technologies

The main goal of Strategic Road Map is to ensure an efficient activity of public sector, development and improvement of ICT infrastructure for digitalization of economy and increase of ICT sector's potential. In addition, the strategic goals cover the following:

- improvement of the structure and regulatory framework of ICT sector by improving the state regulation;
- expansion of scope of broadband Internet services infrastructure for ICT implementation;

Moreover, the document envisages creation of the independent regulatory body which will shape the telecommunication market, ensure the development, conduct assessments for determination of the number of participants demanded in the market, and regulate following matters:

- release of licenses;
- transparent distribution of national frequency spectrum;
- allocation of numerical resources to market participants;
- delivery of numbers among operators.

Law on settlement of the tax debts

According to the Law, the following tax debts, valid as on 1 January 2017, are completely written off:

- interest amounts for failure to pay taxes in due time;
- financial sanctions imposed for violation of the rules of the cash settlements (without using cash register and receipts).

The Law discharges the tax debts, valid as on 1 January 2017, arising out of financial sanctions imposed during tax control and tax audits gradually. Thus:

- if 30% of the debt is paid in January 2017, 70% of the debt is written off;
- if 50% of the debt is paid during January-February 2017, 50% of the debt is written off;
- if 70% of the debt is paid during January-March 2017, 30% of the debt is written off.

The Law is also applicable to the said tax debts held to be payable by a court ruling, but not paid as of 1 January 2017.

Amendments to the customs duties' degree on export-import operations

The customs duties for refined copper blanks used for wire production, refined copper blanks used for rolling, other refined copper, copper based ligatures, refined copper rods and profiles, rods and profiles from other copper alloys export goods have been established at the level of 10(ten) percent, not being less than USD 300 per 1000 kg. The duties will come into force on 9 February 2017 and will remain effective for the period of 5(five) years.

New rules for foreign exchange auction

Azerbaijan cancelled the 4(four) percent margin for setting exchange rates for commercial banks. According to the new rules dollar will be sold to commercial banks in the organised market on a "best offer" basis. Auctions will be held on Mondays, Wednesdays and Fridays.

Amendments to the Law on Budget system

The Chamber of Accounts has been assigned responsible for the review of draft state budget for next year, fiscal policy, budget classification of revenues and expenses, the upper limit of the level of public debt, priority expenditures, the consolidated budget for the next year and forecast for the next three years, the projects of legislative acts necessary for the preparation and execution of the state budget.

Amendment to the Rules on registration procedure of grant contracts

According to the amendment, grant contracts should be submitted to the Ministry of Justice within 30 days from the signing date. Then information related to donor should be submitted within 7 (seven) days. If the subject of a grant contract is provision of services and implementation of work, such contract can be registered as a service contract.

Amendment on regulations on trade, public catering, household services and other type of services

Amendment defines agricultural cooperative market as the market of agricultural products regulated by legal entity registered by the state as agricultural cooperative.

The trading places to the agricultural cooperatives will be provided on the basis of a contract signed between market owner and agricultural cooperative. In order to sign such contract agricultural cooperative has to submit its request to the market owner.

The market owner will consider the request within ten (10) working days and make a decision (consent or substantiated refusal). In order to obtain a plot of land for use or lease for organization of sale networks (agrarian shops, green markets, agricultural cooperative markets and wholesale centres) agricultural cooperatives must apply to the local executive bodies or municipal authority. Then, the local executive bodies or municipal authorities take into consideration the land use planning documents including engineering and communications support and infrastructure opportunities and adopt a decision (consent or substantiated refusal) regarding the request within a period of one (1) month.

In order to obtain a building or a non-residential area for use or lease agricultural cooperatives apply to the superintendent of state property –State Committee on Property Issues or municipal authorities. The State Committee on Property Issues will consider the request within twenty (20) day period and adopt a resolution regarding this request. The municipal authority will consider the issue of use or lease of its own facilities within twenty (20) day period and provide official response. The agricultural cooperatives should determine the working regime at the sale networks, the types and places of the products to be sold, provide the sellers with the trading places and measuring devices and render other services in the area (area clean-up operations, veterinary and phyto-sanitary surveillance and disease control measures and etc.).

Regulations on categorisation of lands and their transfer from one category to another category

Categorisation of lands and their transfer from one category to another implemented by the resolution of the Cabinet of Ministers.

According to the new rules:

- lands belonging to aquaculture category must be preserved in their current category;
- sale, purchase, mortgaging and performing other transactions that may lead to the expropriation of forestlands and of other lands of this category, which may result in the use of these lands for other purposes, and may transfer them to another category is not allowed;
- areas used agriculturally are specifically protected and their transfer to another category for non-agricultural purposes is allowed only in exceptional cases.

Categorisation of lands and the basis for their transfer from one category to another consist of the following:

- construction of ports, railways and motor roads;
- creation of borderland for reliable protection of the state border;
- creation of industrial facilities, areas (quarters and parks);
- necessity to use the reserve fund lands;
- involvement of surrounding territories to cultivation cycle for creation of agro parks, farms and agricultural enterprises using advanced technologies;
- transfer of surrounding territories to the forest lands for creation of forest belts and green spaces;
- provision of surrounding territories for specifically protected areas of nature (including national parks, state reserves, preserves etc.) to preserve biodiversity;
- construction of the main line engineering and communication support systems, amelioration and water economy facilities and hydro technical devices;
- substitution of lands of residential settlements subject to exogenous geologic processes;
- allocation of surrounding territories in accordance with area planning documents for the building of new residential quarters (settlements) or development (enlargement) of existing residential settlements;

- creation of historical and cultural, natural reserves and recreation areas, population recreation organization, development of tourism, construction of sport and other social facilities;
- requests of the owners related to more efficient economic use of lands in private ownership.

Amendments to Law on medicines

According to the amendments medicines sold without a prescription, equipment authorised for use by the relevant executive body, treatment, prevention, diagnosis and rehabilitation methods can now be advertised. Advertiser of the medicines sold without a prescription, equipment authorized for use by the relevant executive body, treatment, prevention, diagnosis and rehabilitation methods must present to a producer and distributor of an advertisement a certificate of compliance issued by the accredited by the state body organization, instructions for the use of this medicines, the registration certificate of medicines, results of medical researches (if they are mentioned in an advertisement). If there are any side effects arising from the use of advertised medicines sold without a prescription, equipment authorized for use by the relevant executive body, treatment, prevention, diagnosis and rehabilitation methods they must be acknowledged in advertisement, as well as the necessity of the consultation with doctor prior to usage of advertised medicine. Medicines or medical equipment requiring training for use may only be advertised in the specialized publications and distributed to pharmacists, medical staff during the special events. Free distribution of medicines, sale, accompanied by provision of medical services (paid or unpaid) in advertising campaigns is prohibited.

Amendment to the Law on State Language

According to the amendment, foreign languages can be used in a text of an advisement used in the advisement installations with the request of an advertiser. In these cases, text in foreign languages has to be put under the text in Azerbaijani, must take less space than the text in Azerbaijani and should not exceed the one-third of advisement's total area. Trademarks and geographical indicators used in a foreign language may be used in an advertisement in a form specified by the relevant executive body.

Court practice on tax disputes

1. Company against the Ministry of Taxes and Baku city Tax Department

Amount of assessments: approx. 500k manats (AZN)

Court instance: Supreme Court

Date: July 2016

Subject: Land Tax

Issue: The Company undertook construction on a drained 50ha land plot (out of total 500ha area) granted for permanent use from the state water fund. The tax authority imposed tax on the entire area.

Decision: The Court, supporting the Company's position, decided that the undrained area was not used for production activity and, therefore, not taxable.

2. The Company against the Baku city Tax Department under the Ministry of Taxes

Amount of assessments: approx. 350k manats (AZN)

Court instance: Supreme Court

Date: September 2016

Subject: Simplified tax

Issue: The Company started construction of a residential building in 2005. The government subsequently stopped construction, as it needed the land. A new location was allocated to the company in 2008.

The issue was whether simplified tax, introduced in 2007 for construction of residential buildings applied. The tax authority applied simplified tax, which worsened the Company's tax position.

Decision: the Court concluded that the building constructed in a new location after the amendments, was resumption of the initial project. It also considered that applicability of the simplified tax worsens the Company's tax position. It decided that the applicability of the simplified tax is invalid and supported the position of the Company.

The law prohibits retrospective application of provisions worsening the situation of individuals and legal entities.

Amendments to the Rules of export-import operations in Azerbaijan

According to the amendments, export of goods (works, services) by legal entities and individuals by way of consignation must be declared to the customs authority. Export of goods (works, services) by way of consignation must be paid in accordance with the contract signed with foreign entities within a timeframe noted in the contract. Legal entities and individuals should remit money to the bank account of foreign legal entity, opened with a bank in Azerbaijan, within 180 days from the declaration date of export by way of consignation of goods (works, services).

The Ministry of Transport and the Ministry of Communications and High Technologies have been merged

According to the Presidential Decree, the Ministry of Transport of the Republic of Azerbaijan and the Ministry of Communications and High Technologies are merged and the Ministry of Transport, Communication and High Technologies is established.

Presidential Order on taking additional actions directed to acceleration of a tourist flow to Azerbaijan

President instructed the State Customs Committee and the State Border Agency to create a relevant organization that will establish a fast track routes for foreigners and stateless persons on the state borders with the Russian Federations, the Republic of Georgia, the Islamic Republic of Iran and the Republic of Turkey. The Order also instructs the State Agency on Public Service and Social Innovations under the President of Azerbaijan Republic to establish ASAN Payment and ASAN Visa terminals on all state border checkpoints, to enable foreigners and stateless persons to obtain their electronic visas right on the border checkpoints. President also gave instructions to the State Sea Administration of Azerbaijan Republic, Azerbaijan Caspian Shipyard DJSC and Baku

International Sea Trade Port CJSC to negotiate organization of Caspian Sea ship tours with Caspian Sea littoral countries.

Presidential Order on Appointment of the First Vice President of Azerbaijan

President appointed Mrs Mehriban Aliyeva to the position of the Republic of Azerbaijan First Vice President.

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Hungary

The new unified electronic form for filing local business tax returns has been published

With automated solutions, the filing process can be even more simple and swift

The new unified electronic form for filing local business tax returns has been published.

From 1 January 2017, taxpayers subject to local business tax may file their tax returns electronically, through the central filing programme of the national tax authority. The national tax authority forwards the local business tax returns to the competent local municipality without any modifications. The unified form of the local business tax return is now available on the webpage of the national tax authority.

PwC's tax experts and developers have created an IT solution that makes the still heavily administrative and time-consuming filing process simpler and swifter. Our solution automates the processing of the data necessary for the local business tax returns and the completing of the electronic tax returns.

Changes to tax proceedings

Taxpayer classification

From 1 July 2016, the total tax difference charged to taxpayers classified as "reliable" has to be reduced by the total tax difference credited to these taxpayers during the current year and the preceding five years.

As of 1 January 2017, the tax authority will be transferring VAT refunds to public limited liability companies within 30 days.

The criteria for classifying taxpayers as reliable or high-risk has changed, along with the related legal consequences.

A new requirement for reliable taxpayer status is that the sum of taxes paid by the taxpayer in the year concerned must be positive, meaning that dormant companies will no longer qualify for reliable status.

In addition, reliable taxpayers are automatically provided payment facilities. This means that reliable taxpayers may request a payment facility for a period of 12 months, without incurring a surcharge. This option may be exercised once a year, provided that the taxpayer's net outstanding tax liabilities do not exceed HUF 1.5 million at the time its request is evaluated. Reliable taxpayers may thus pay their taxes in instalments or even request a payment deferral. This is expected to benefit more taxpayers, since the HUF 500,000 limit has been raised to HUF 1.5 million. Under the amended legislation, public limited liability companies no longer need to have been in operation for at least three years in order to be classified as reliable.

The scope of high-risk taxpayer status has also been extended. The amended legislation provides that companies undergoing involuntary deregistration and taxpayers who have amassed unpaid default fines exceeding 70% of their tax payments also be slotted into the "high-risk" category. High-risk status is also attributed to companies whose registered office is registered at an office service provider and that were subject to a default fine imposed in a binding decision in the year concerned or in the three preceding years. Companies headquartered at registered office service providers have become subject to a more in-depth data supply obligation.

Tax audit of binding rulings

On 1 July 2016, a new type of tax audit was introduced: binding rulings are now fact-checked to find out whether the events underlying a binding ruling actually occurred, and if so, whether the ruling in question is binding on the tax authority. During the audit, the tax authority may only request documents specifically mentioned in the binding ruling as records that, if issued, kept or retained, prove that the underlying events have actually occurred. Regarding binding rulings becoming final and binding before 31 December 2015, the proceedings may also be initiated by the taxpayer.

Another change is that the expert opinion of the Hungarian Chamber of Auditors must be attached to requests for a binding ruling pertaining to IFRS accounting.

Publication obligation under the block exemption regulation

From 1 July 2016, in accordance with Article 9 of Commission Regulation (EU) No 651/2014 ("block exemption regulation"), the Member States concerned must ensure the publication of relevant information on each individual aid award exceeding the HUF equivalent of EUR 500,000. According to the amended legislation, for aid in the form of tax advantage, the required information on individual aid amounts in the specified ranges must be published within one year of the date the tax declaration was due, and must be available for at least 10 years after the date on which the aid was granted.

Self-revisions after the limitation period

According to the amended legislation, from 1 July 2016, taxpayers may, subject to a final court decision, submit self-revisions even after the right of tax assessment has lapsed, in order to meet their tax obligations. Based on the self-revision, the tax authority may conduct an audit within one year. For periods already closed by an audit, the related tax obligation may be corrected by means of a re-audit at the taxpayer's request.

Assistance procedure

From 1 January 2017, the tax authority is offering a new service: the assistance procedure. In essence, where errors or deficiencies are identified by risk assessment, the tax authority may, rather than commencing an audit, offer to assist the taxpayer in remedying those errors and deficiencies and invite it to conduct a self-revision. Participation in the procedure is voluntary. Infringements remedied under an assistance procedure are not subject to sanctions, but if the procedure is unsuccessful, the tax authority may commence a tax audit.

Food and beverage vending machines

The sale of food and beverages through vending machines will be subject to a data supply obligation from 30 June 2017. By that date, a monitoring device must be installed in every vending machine, except where, according to a unanimous declaration by monitoring service providers, it is technically impossible to install such equipment in the machine concerned. In addition, the relevant regulation sets out detailed rules concerning the licensing, operation, and liability of monitoring service providers.

Changes related to personal income tax, social security contributions, and the social tax

Clarifications and changes to statutory definitions

The definition of secondment changed on 1 August 2016: official and business trips (other than commuting to work or travelling to the employer's registered office or place of business) will also qualify as secondment.

Other smaller changes and clarifications have also been made in connection with allowances related to pension insurance, and reporting on controlled capital market transactions. The definition of “primary agricultural producer” has been amended, and the rules on the taxation of income from long-term investments have also been clarified.

In connection with employer-assisted housing benefits, from 1 January 2017, the amended laws include definitions for “modernisation”, “accessibility”, “reasonable housing need” and “family member sharing the same household”.

The amended regulation aims to align the definition of seconded employee, as found in the Act on Personal Income Tax, with the provisions of the new Labour Code. In connection with employer-assisted housing benefits, the definitions entering into force from 1 January 2017, including for terms such as “reasonable housing need” and “family member sharing the same household”, have been made clearer.

Personal income tax

The amended legislation extends the scope of the five-year phased tax base reduction to include all types of real estate (currently this only applies to 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 tax rate, the rate of income tax payable by individual entrepreneurs has been reduced to 9%.

In accordance with the amended definition, the rules concerning controlled foreign companies are no longer 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 be treated as dividend income (rather than as other income), which will result in a significantly reduced tax liability.

Draft tax returns for more taxpayers

Effective from 1 January 2017, the tax authority will prepare draft personal income tax returns for taxpayers registered for electronic tax filing who have either not requested their employers to prepare their tax return for them or whose request was not granted. Under the amended legislation, taxpayers not registered for electronic tax filing may also request the tax authority to prepare their draft tax returns, at the latest by 15 March of the year following the tax year.

We note that the draft tax returns may not necessarily include all income that the persons concerned are required to declare. This is because the draft tax returns are based on data (e.g. on wages paid by a Hungarian-based employer) that is reported to the tax authority during the year. However, not all items of income are subject to interim reporting. Therefore, the draft tax returns should be carefully reviewed and corrected or supplemented if necessary.

Reduced charges on interest income

The 6% healthcare tax on interest income was eliminated on 1 January 2017. Thus, interest credited after 31 December 2016 is only subject to personal income tax.

Promoting labour mobility

The amended legislation has implemented several changes aimed at promoting labour mobility. On 1 January 2017, the tax-exempt reimbursement that can be provided to employees using their own cars to commute to work increased to HUF 15/km from the previous HUF 9/km. It is now also possible to provide tax-exempt housing assistance for labour mobility purposes under the conditions and to the extent specified by law.

Under the amended regulations, providing accommodation in any real property owned or rented by the payer (workers' hostel or other employer-assisted housing) qualifies as a tax-exempt benefit even if only one person is housed in a given residential space.

Sporting events

There is a new statutory definition for "sporting event" from

1 August 2016. Accordingly, tax exemption will only apply to sporting events organised by a sports association or other sports organisation. Other economic operators no longer have this opportunity as of the above date.

Tax-exempt benefits

From 1 January 2017, in addition to child day-care services and benefits, kindergarten services and benefits will also qualify as tax-exempt benefits.

Fringe benefits

On 1 January 2017, the current fringe benefit system changed significantly. Fringe benefits now essentially comprise cash benefits and amounts credited to SZÉP cards. Only cash amounts provided within the annual threshold and amounts credited to SZÉP card sub-accounts within the statutory limits qualify as fringe benefits (the annual threshold is HUF 200,000 thousand per year for public sector workers, and HUF 450,000 per year for workers employed by non-public sector employers). Any part of the combined amount of benefits qualifying as fringe benefits (i.e. cash benefits and amounts credited to SZÉP cards) exceeding the annual threshold are regarded as other specific benefits. In the case of full-year employment, cash benefits of up to HUF 100,000 per year are taxed at a preferential rate, while cash benefits provided in excess of this amount are taxed as salary (i.e. this portion is not taxable as other specific benefits).

From 1 January 2017, previous fringe benefits are taxed as other specific benefits, i.e. at a higher tax rate.

Reduction in taxes and other dues on Cafeteria benefits

Under the previous rules for calculating taxes and other dues payable on fringe benefits (e.g. local travel passes) and certain specific benefits (e.g. private use of company phones) the tax base was the value of the benefits multiplied by a tax base increasing factor. As a result of the amendments, this tax base increasing factor has been reduced from 1.19 to 1.18. Consequently, from this year taxes and other dues have been reduced by about 0.3 percent on fringe benefits and by about 0.4 percent on certain specific benefits. Taking the reduced healthcare tax into account as well, the reduction amounts to 6.6%.

Social tax allowances

The amending act reintroduced the "Karrier Híd" Programme from 1 August 2016: employers of persons whose previous job was in the public sector will once again be eligible for social tax allowance. The tax allowance for employing career starters under 25 and job seekers who have been out of work for a long period will be available even in the event of a change of employer. A new social tax allowance was introduced for in-house R&D activities, with effect from 16 June 2016.

Social tax

Under the amended legislation, the social tax rate was reduced to 22% on 1 January 2017, and will be reduced 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 allowances of 27%, 13.5% or 14.5% available previously, 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%.

From 1 January 2017, no social tax liability will arise on remuneration paid to workers who are exempt from contribution liabilities in Hungary (whether under certain internal rules or international treaties) in respect of the exemption period, even if such remuneration is paid after the expiry of the exemption period.

Healthcare tax

The rate of healthcare tax (27%) was reduced to 22% on 1 January 2017, and will be reduced to 20% on 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 cafeteria benefits have been reduced from 49.98% to 43.66% in total.

Secondments of third-country nationals

Third-country nationals employed by a foreign employer and working in Hungary under a secondment arrangement will be exempt from the social security and social tax payment obligations if the duration of their secondment is less than two years.

The above rule will also apply to third-country nationals seconded to Hungary who are insured in their home country and whose country of nationality has a bilateral social security agreement with Hungary, as well as to EU nationals who are not covered by the relevant EU social security regulations and are insured in and seconded to Hungary from a third-country. These rules may be applied to secondments that commenced on or after 1 January 2016.

If the secondment is extended to more than two years, special rules will apply. In contrast with the previous rules, if the extension is due to unforeseen circumstances, and the employee concerned duly informs the tax authority of this, the social security and social tax payment obligations will arise from the end of the second year. This rule may be applied to secondments that commenced on or after 1 January 2016.

Less administration for Airbnb hosts

On 1 January 2017 the itemised flat-rate tax for private persons providing accommodation services was raised to HUF 38,400, while their health care tax liability was eliminated. Hosts opting for flat rate taxation will not see a change in their actual tax burden, but will certainly benefit from a reduction in their administration obligations through declaring and paying the amount corresponding to the former health care tax as part of their itemised flat-rate tax.

Less administration for claiming the tax incentive for first-time married couples

Under the previous rules, entitlement to the special tax incentive for first-time married couples ends upon conception of a child. According to the amended legislation, conception will no longer affect entitlement to this tax incentive. Under a transitional provision, the amended rules will apply to all marriages entered into after 31 December 2014. This is intended to ensure that the incentive can be claimed retroactively – e.g. by self-revising tax returns for 2015 – by those who were unable to do so previously due to conception of a child.

Amendments to the act on the economic stability of Hungary

Effective 18 January 2017, the amended legislation will repeal the provisions pertaining to the Stability Savings Account. However, private individuals will be able to choose 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 are 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. The procedure is anonymous, as the designated bank will not disclose information on the private individual or the income. During a tax audit, the individuals concerned will be able to prove that they have fulfilled their tax obligations using 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 used 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 value added tax

Extending the scope of the reduced VAT rate

According to the amended regulations, the scope of goods and services subject to the reduced VAT rate has been extended. On 1 January 2017, the VAT rate on poultry, eggs and fresh milk (except for breast milk, UHT and ESL milk) was reduced to 5%, and the 27% VAT rate on internet services was reduced to 18%.

The catering sector will also benefit from VAT rate cuts: on 1 January 2017, the 27% tax rate was reduced to 18%, and will be reduced once again from 1 January 2018 to 5%, on meals provided and certain non-alcoholic beverages prepared locally in bars and restaurants.

Tourism development contribution

In parallel to the introduction of the 5% VAT rate, the providers of catering services subject to the preferential VAT rate will have to pay a tourism development contribution from 1 January 2018. The contribution base will be the price (excluding VAT) charged for the service, and the rate will be 4%.

The contribution will be determined by self-assessment, and the frequency of reporting will depend on the taxpayer's VAT filing frequency. The contribution will have to be reported and paid for the VAT filing period during which the services shown in the invoice or other accounting document were supplied, or if no date of supply is indicated, the period in which the invoice or other accounting document was issued. For periods in respect of which the service provider is not required to file VAT returns, the deadline for reporting and paying the contribution will be 25 February of the year following the date of supply within the meaning of the VAT Act. Revenues from the contribution must be spent on tasks related to tourism development.

Domestic recapitulative statement

According to the amended legislation, domestic recapitulative statements must be filed for all invoices with a VAT content of HUF 100,000 instead of the previous threshold of HUF 1 million. Therefore, as of 1 January 2017, the customer's tax number must be indicated on all invoices that reach this threshold. It is not mandatory to show the customer's tax number in invoices that were issued in 2016 with a settlement date in 2017.

Online data supply

From 1 January 2017, VAT taxpayers are required to supply data online to the tax authority on invoices that are issued using invoicing software and have a VAT content of at least HUF 100,000. In the first half of 2017, taxpayers may supply such data

voluntarily, but will be obliged to meet this obligation from 1 July 2017. The tax authority is entitled under separate legislation to monitor and perform direct data queries from the invoicing software through telecommunications equipment.

Domestic reverse charge mechanism

The amended legislation provides that, from 1 January 2017, the reverse charge mechanism applies not only to construction services subject to a construction authority's permit or acknowledgement procedure but also to all construction services subject to a simple reporting obligation. In addition, the scope of the reverse charge mechanism has also been extended to cover the sale of chromium and vanadium waste and debris.

EKÁER reporting

Under the amended legislation, from 1 August 2016, a reporting obligation under the Electronic Road Freight Control System ("EKÁER") applies not only to deliveries performed using a vehicle subject to toll payment but also to deliveries in which the vehicle itself is not subject to toll payment, but its actual gross weight, including the goods transported, exceeds 3.5 tons. A further change is that carriers are required to keep the official seal intact until removed by the tax authority. Carriers that fail to meet this obligation are subject to a default fine of up to HUF 1 million. The tax authority may retain the vehicle without a specific decision until the default fine is paid. A further default fine may be imposed if the amount of the goods reported is higher than the amount of goods transported. The default fine may amount up to 40% of the value of goods reported but actually not transported.

The rules governing the EKÁER have been amended to include an obligation to provide risk deposits. Accordingly, for EKÁER reports filed after 15 February 2017, taxpayers that have not filed an EKÁER report or a VAT return or have had their tax number suspended in the year concerned and in the preceding two years, must provide a risk deposit for their first 10 reports, but no less than for a period of 180 days, in respect of intra-Community acquisitions of goods and the first taxable supply of goods in Hungary to parties other than end users.

Online connection of vending machines to the National Tax and Customs Authority

From 1 January 2017, vending machines (e.g. beverage vending machines) must be equipped with a monitoring device that facilitates data reporting to the tax authority. The amended legislation allows the tax authority to monitor vending machines through telecommunications equipment and to perform direct data queries.

Changes to the value threshold for individual tax exemption

Effective from 1 January 2017, the previous HUF 6 million threshold for individual tax exemption was raised to HUF 8 million. Under the transitional provisions, individual tax exemption is also available to taxpayers whose sales revenue in 2014, 2015, or 2016 was over HUF 6 million, but did not exceed HUF 8 million. This amendment could result in a significant increase in the number of taxpayers opting for individual tax exemption.

Changes to the reporting obligation of VAT payers concerning passenger cars

Under the amended legislation, taxpayers subject to VAT also have to report the vehicle identification number (chassis number) of passenger cars in the following cases: (i) import, (ii) intra-Community acquisition, and (iii) intra-Community supply. The required data must be provided in the VAT returns.

Changes related to customs regulations

The amended provisions concerning Act XIII of 2016 on the Implementation of Union Customs Law were laid down based on experience and observations since the Act's entry into force on 1 May 2016. Accordingly, the new regulations contain mostly technical amendments and additions. However, they also incorporate a number of material changes, such as the following:

- Under the general rules, deadlines for customs authority proceedings launched ex officio will be the same as for proceedings initiated upon request.
- The detailed rules on repeated audits conducted by the customs authority have been set out.
- In the interest of uniform legal interpretation, the amended legislation also sets out detailed rules for amending customs authorisations issued under the Community Customs Code that are still in effect.

Changes concerning corporate tax

New corporate tax rate

On 1 January 2017, the corporate tax rate was reduced to 9%. As a result, progressive exemption will no longer be available. The introduction of a flat corporate tax rate will affect payable and deferred tax calculations.

Transitional provisions concerning the tax rate change

Due to the introduction of the new tax rate, transitional provisions will apply to calculating corporate 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 total of their tax established at a rate of 10/19% for 2015 and HUF 20 million, but not more than 50% of the tax paid for the 2015 tax year. Tax advances payable in the second half of 2017 and the first half of 2018 will have to be calculated at the 9% tax rate.

Changes concerning the development tax incentive

According to the amended rules, the period for applying the development tax incentive has been 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 (previously, nine tax years), but no later than during the sixteenth tax year (previously, the fourteenth tax year) following the tax year in which the report or the application was submitted.

The headcount- and wage increase-related requirements of eligibility for the development tax incentive were significantly lowered on 1 January 2017.

For investment projects of at least HUF 3 billion in present value, taxpayers must increase their staff number by at least 50 persons, or their wage costs by at least three hundred times the minimum wage; for investment projects of at least HUF 1 billion in present value, taxpayers must increase their staff number by at least 25 persons, or their wage costs by at least one hundred fifty times the minimum wage, in order to be eligible for the tax incentive. By way of comparison, for investments of at least HUF 3 billion, the required increase in staff numbers was previously 150 persons.

For investment projects of at least HUF 500 million in present value carried out by small and medium-sized enterprises, the required increase will be at least 5 persons or ten

times the minimum wage for small enterprises, and at least 10 persons or twenty-five times the minimum wage for medium-sized enterprises.

Corporate tax incentive for investment projects aimed at energy efficiency

A corporate tax incentive was introduced on 1 January 2017 for the implementation and operation of investment projects aimed at improving energy efficiency by reducing final energy consumption, as laid down in separate legislation.

The tax incentive can be up to 30% of eligible costs (but not more than the HUF equivalent of EUR 15 million at present value), which can be increased by 20 percentage points for small enterprises, and 10 percentage points for medium-sized enterprises. The tax incentive can be used at the earliest in the tax year in which the investment became operational, and in the following five tax years.

The project must be operated for at least five years. The tax incentive may only be claimed in connection with projects aimed at energy efficiency and launched after the new regulations have entered into force, and only for eligible expenses incurred after the start of the project. The amendments also stipulate that the tax incentive for investment projects aimed at energy efficiency and the development tax incentive cannot be used at the same time.

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 performing arts organisations and sports organisations for popular team sports was extended to include the eighth calendar year (previously, the sixth tax year) following the year in which the support was provided. Under the amendments, taxpayers have to pay as supplementary support and additional supplementary sports development support an amount equal to at least 75% of the primary support amount as increased by corporate tax at a rate of 9%. At the same time, additional supplementary support and additional supplementary sports development support has been eliminated.

The amended legislation stipulates that following the promulgation of the relevant law (25 November 2016) taxpayers that provide supplementary support after the deadline but until the date on which the company's tax return is filed are eligible for 80% of the tax incentive stated in the support certificate.

If the 30-day deadline following the payment of supplementary and additional supplementary sports development support expires after the corporate tax return is filed for the tax year in which the support was provided, taxpayers will not be required to submit an extra report to the tax authority but may report payments in their corporate tax returns for the tax year in which the support was provided.

Corporate tax incentive for companies investing in business startups

From 1 January 2017, pre-tax profits may be decreased by three times the cost of shareholdings acquired in startup companies. The tax incentive can be used in four equal instalments, in the tax year of acquisition and in the three subsequent tax years, but only up to HUF 20 million per tax year.

"Business startup" is defined as a legal entity registered under separate legislation, with a headcount of at least two persons, one of whom must be employed in a research and development role (other requirements laid down in the relevant regulations may also apply). The detailed requirements will be specified in separate legislation.

Taxpayers may take advantage of the tax incentive if they acquire a shareholding in the equity of a business startup in which neither the taxpayer nor its legal predecessor or its related party was a member in the three tax years preceding the acquisition. The amount that taxpayers use based on the tax incentive, and the amount that business startups

receive as investment qualifies as de minimis aid. The amended regulations stipulate an obligation to increase the tax base if the shareholding is derecognised, and imposes sanctions if this obligation is not met.

Tax incentive for providing housing assistance for labour mobility purposes and setting up accommodation facilities for workers

The amended legislation clarifies that starting from 1 January 2017 the corporate tax base may be reduced by the aggregate of the investment cost and the increment of cost of accommodation facilities for workers, as defined by the Act on Personal Income Tax, rather than the costs and expenditures recognised in the tax year in which the relevant construction or renovation project is completed. The corporate tax base may also be reduced by the rent of property rented for the purpose of providing accommodation facilities for workers.

Corporate tax incentive promoting the preservation of listed historic buildings

As of 1 January 2017, the amended legislation extends and formulates more precisely the scope of corporate tax incentives promoting the preservation of buildings included in Hungary's official list of historic buildings, structures, objects and sites deemed worthy of preservation. Accordingly, in addition to listed and locally protected properties, buildings and structures registered as having special historic or cultural significance will also be eligible for the tax incentive. The amended rules provide a non-exhaustive list of protected fixtures, protected areas, historic gardens, burial sites or their remnants, or any combination of the above.

According to the amendments, the tax incentive is derived from the total cost of the investment or renovation, rather than from the expenses incurred during a given tax year (the tax incentive will be twice the total cost). The part of the tax incentive not used by the taxpayer can be used by the taxpayer's related companies, regardless of whether it is related to maintenance, renovation or other investment.

Corporate tax incentive for support provided to the Disaster Relief Fund

From 1 January 2017, taxpayers supporting the Disaster Relief Fund may be eligible for a corporate tax incentive. The tax incentive is 50% of the (financial) support provided.

Corporate tax incentive for live music services

From 1 January 2017, taxpayers will be eligible for a tax incentive based on the consideration (fees) they have accounted as costs or expenses for live music services provided in the restaurants they operate. The tax incentive may be up to 50% of the consideration (fees) accounted in the given tax year (exclusive of VAT).

The amendments stipulate that the portion of expenses recognised as consideration (fees) paid for live music services by which taxpayers reduce the tax payable, will not be deductible from the tax base. The tax incentive claimed during the tax year will be treated as de minimis aid.

Changes in the principles concerning tax evasion

According to the stricter principles introduced as of 1 January 2017, taxpayers will not be eligible for a tax advantage if their transactions are aimed mainly (rather than exclusively, as was the case previously) at achieving a tax advantage.

Definition of controlled foreign company

As a first step of implementing the relevant EU regulation, the definition of "controlled foreign company" has changed. The new definition, effective from 18 January 2017, and the related items adjusting the pre-tax profit or 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.

According to the new rules, a foreign entity or permanent establishment will be treated as a controlled foreign company if a Hungarian taxpayer holds a direct or indirect participation of more than 50%, or owns directly or indirectly more than 50% of capital or is entitled to receive more than 50% of the profits of that entity, provided that the actual corporate tax paid by the entity or permanent establishment is less than half the corporate tax that would have been charged on the entity or permanent establishment under the Hungarian corporate tax system. The above provisions will not apply if the foreign entity or permanent establishment can demonstrate that it pursues actual economic activities, or that on the first day of the tax year it has at least one owner (or that owner has an associated enterprise) that has been listed on a recognised stock exchange for at least five years.

As a general rule, companies that have permanent establishments with a low effective tax rate, 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 tax allowance for royalty

As of 1 July 2016 the tax allowance for royalties received was reduced based on a redefinition of royalty, to include only income from patents, property rights and software copyright. Besides the narrowed definition, taxpayers are eligible for a tax allowance based on income from royalties to an extent to which the intangible assets are generated as a result of their own research and development activities. The direct expenses of R&D services ordered from related companies, and the historical cost of intangible assets purchased (received) from related companies may be recognised as direct expenses of own research and development activities up to 30% of the own R&D expenses. Based on a transitional provision, taxpayers may apply the previous rules to intangible assets recorded before 30 June 2016.

Changes affecting financial support provided free of charge

According to the amending act, taxpayers that provide grants and other forms of financial support free of charge will be required as of 1 January 2017 to increase their tax base by the amount of that support if the recipient is not liable to pay corporate tax on this income.

Preferential transformation and transfer of assets

Under the amending act, with effect from 1 January 2017, companies that perform a preferential transfer of assets and sell their acquired shares following the transfer, during the period for which they have a deferred tax liability, will be required to increase their tax base by the amount they previously used as a tax base decreasing item (not to exceed the amount not yet accounted as deferred tax by the receiving company), while the receiving company may establish its tax base irrespective of the tax deferral. A further change is that taxpayers that perform a preferential transfer of assets or a preferential transformation will be required to justify the transaction from the economic and commercial perspectives.

Changes affecting related companies

Under the amended legislation, beginning with any tax year starting in 2018, transfer prices between related companies may be used as decreasing items only if the related company declares that it takes into account the difference between the price applied and the arm's length price when calculating the corporate tax base.

Taxpayers whose receivables from their related companies turn into bad debts, will be required to supply data on their related companies and the economic reasons underlying the transaction in their corporate tax return.

According to the amendments, Hungarian permanent establishments are not obliged to prepare transfer pricing documentation if they are exempted from paying corporate tax in Hungary based on an international convention.

Loss carry-forwards for R&D activities

Effective from 16 June 2016, companies with a negative corporate tax base may claim 9.5% of the tax base deductions applied on account of R&D activities as a social tax incentive, subject to the following criteria: at least 40% of the total revenues must be derived from R&D activities; the company must maintain at least one trainee position; and the average statistical headcount of R&D personnel in the tax year may not decrease by more than 10%. If applied, 50% of the above tax base deduction will be regarded as a loss carry-forward already used.

Extent of the capital expenditure tax incentive and the tax incentive on interest paid

According to the amended legislation, from 1 January 2017 SMEs may deduct from their tax base the full amount of capital expenditures relating to new tangible assets and the renovation of real property, while the amount of the tax incentive on interest paid on capital expenditure loans has further increased.

Changes concerning local taxes

General changes

From 1 January 2017, when deducting the cost of goods sold and the value of intermediated services from their net sales revenue, companies that qualify as related parties under the Corporate Tax Act are only required to determine their local business tax bases from consolidated data if the related party relationship was formed after 1 October 2016 as a result of a demerger.

The amended rules also allow credit institutions and financial enterprises that have opted for gross settlement when determining their net revenue, to deduct from their local business tax base the amount of purchased receivables accounted against expenditure on other financial services. The selected option can be applied retroactively to the local business tax bases of tax years beginning in 2015 and 2016.

Changes concerning the local business tax base

The amendments have reduced the gap between the rules on adjustments to the local business tax base (royalty, R&D) and the corporate tax base. As a result, effective from 1 July 2016 the definition of royalty was made narrower. In addition, from 1 January 2017 only amounts deducted from the corporate tax base may also be deducted from the local business tax base as direct costs of basic research, applied research, and experimental development. As for the definition of royalty, a transitional provision permits application of the previous rules until the tax year ending on or before 30 June 2021.

Setting up a single point of contact for filing local tax returns

From 1 January 2017, entities subject to local business tax may file their tax returns with the competent local municipality through the national tax authority. The national tax authority will forward tax returns to the competent local tax authorities in an electronic format only.

Definition of cultivated land located within municipal boundaries; tax exemption

From 1 January 2017, plots of cultivated land located within municipal boundaries, of a size not exceeding one hectare and registered as withdrawn from agricultural use, are no longer exempt from land tax if connection to the drinking water, power, and sewage grids is possible in an adjacent area.

Changes related to building tax

According to the amended legislation, from 1 January 2017, to qualify for exemption from local taxes, non-profit organisations are required to make a written declaration on not having had a corporate tax liability in the tax year preceding the year concerned, by the last day of the fifth month of the tax year. In addition, non-profit organisations may only claim tax exemption in regard to buildings, parts of buildings, or plots of land if registered as owners of the same in the Land Register.

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, the date on which the structure is placed. The subject of the advertising tax will be the owner of the advertising structure, and the tax will be calculated according to the display area expressed in square meters to two decimal places. The maximum tax payable will be HUF 12,000 per square metre.

Changes regarding duties

The preferential 2% property transfer duty will only apply to real estate agents who agree to resell the real estate to a buyer or lessee within two years. Otherwise the duty is 3%.

The amended legislation also significantly reduces the number of cases in which the tax authority may issue an order for payment. Accordingly, for exempt transactions, an order for payment will only be issued if the application of the exemption is subject to fulfilment of a specified condition.

Changes related to advertising tax

The amended legislation makes it clear that for online advertisements, the person or organisation that has right of disposal over the advertising space qualifies as the publisher of the advertisement (i.e. the subject of the advertising tax). In addition, the obligation to determine the advertising tax base from the consolidated data of related companies no longer applies.

In addition, from 1 January 2017, if a publisher of advertisements fails to comply with its obligation to make a declaration to the advertiser in relation to advertising tax, it must, on request, fulfil that obligation to the national tax authority. Failure to comply with such a request will attract a default fine of HUF 500,000; repeated failure to comply in respect of the same advertiser will be subject to a further default fine of HUF 10 million, and any further instance of non-compliance to a fine equalling triple the amount of the previous fine. Failure to comply with the registration obligation will incur fines according to the same regime. Further, in the case of failure to file a return on advertising taxes, the tax

authority will levy a deemed tax of HUF 3 billion, which the taxpayer concerned may challenge by submitting contrary evidence within a statutory deadline of 30 days.

Changes affecting the special tax on financial institutions

From 1 January 2017, the special tax on credit institutions and financial enterprises must be calculated from the tax base for the second tax year preceding the current tax year, rather than from the 2009 tax base. For credit institutions, the tax rate has been reduced to 0.15% on the part of the tax base not exceeding HUF 50 billion, and to 0.21% on the part exceeding HUF 50 billion.

Changes concerning the financial transaction tax

From 1 January 2017, the tax on financial transactions is also payable by financial institutions that engage in the granting and negotiation of credit and cash loans, but do not qualify as payment services providers. The tax base will be the amount paid in cash to the financial institution engaging in the granting and negotiation of credit and cash loans; the tax rate will be 0.3%.

Changes related to the public health product tax

According to the amendments, effective from 1 January 2017, Act CIII of 2011 on the Public Health Product Tax has been amended as follows:

Changes to definitions

The definitions for "additive" and "herb" have been clarified in order to make the tax classification of such products easier; exceptions include herbal extracts as specified by Community legislation. New definitions have also been added for "raw dairy materials", "sweetener" and "herbal beverage".

The amendments redefine "health promotion scheme" to include activities made available to private individuals for a fee of up to HUF 500 (the current definition only includes health promotion schemes available free of charge).

Changes related to taxable goods

The definition of "flavoured beer" has been extended to include beverages sweetened in whole or in part with sweeteners of a specified quantity. The sweetener content must be determined on the basis of how much sugar it replaces.

The definition for "alcopops" has also changed: like flavoured beers, alcopops sweetened in whole or in part with sweeteners of a specified quantity now also qualify as taxable. Alcopops containing additives are also taxable, irrespective of how much soft drink they contain. According to the amendments, alcopops may not contain more than 5% alcohol by volume.

Among alcoholic beverages, fruit spirits and herbal drinks will continue to be tax exempt. However, the requirements for herbal drinks are now more stringent: only those drinks are tax exempt that contain no additives, are made from at least seven different herbs (excluding flavoured vodka), and contain more than 3 g per 100 ml of herbs (or herbal extracts with an equivalent amount of active substances), and contain at least 0.2 g per 100 ml of each herb of the seven different herbs (or herbal extracts with an equivalent amount of active substances), with the proviso that the herb content must be taken into account converted to herb content with 15% moisture content, and that the dominant flavour and scent of the drink should be that of the herbs used.

Changes related to excise duty and the energy tax

The most important element related to excise duty is that the basic provisions of Act LXVIII of 2016 on Excise Duty ("new Excise Duty Act") will enter into force on 1 April instead of 1 January 2017. The current regulations on excise duty and the energy tax will also be repealed from that date.

However, Act CXXVII of 2003 on Excise Duties and Special Regulations on the Distribution of Excise Goods has been amended in such a manner that several provisions of the new Excise Duty Act on tobacco products will already be applicable from 1 January 2017. In line with the above, the following rules will apply to tobacco products from 1 January 2017:

The following will also qualify as tobacco products: products other than cigarettes, cigars, cigarillos, smoking tobacco or refill liquids, that are defined as tobacco products by the Act on the Protection of Non-Smokers and Certain Regulations on the Consumption and Distribution of Tobacco Products, i.e. all consumables that are, even partly, made of tobacco ("new tobacco product categories"), as well as refill liquids for electronic cigarettes.

The excise duty for tobacco products has increased. The duty rates for each new product category have also been specified:

- For cigarettes, the previous excise duty was HUF 15,700 per 1,000 cigarettes plus 25% of the retail selling price, but not less than HUF 28,400 per 1,000 cigarettes. This has increased to HUF 16,200 per 1,000 cigarettes plus 25% of the retail selling price, but not less than HUF 28,800 per 1,000 cigarettes.
- For cigars and cigarillos, the previous duty rate was 14% of the retail price, but not less than HUF 4,060 per 1,000 pieces. This has increased to 14% of the retail price, but not less than HUF 4,120 per 1,000 cigars or cigarillos.
- For fine-cut tobacco and other smoking tobaccos, the excise duty has increased to HUF 16,200 per kilogram from the previous HUF 15,100 per kilogram.
- For refill liquids, the excise duty will be HUF 55 per millilitre.
- For consumables belonging to the new tobacco product categories that contain tobacco or are consumed with tobacco, the excise duty has been set at
  - HUF 10 per unit for disposable products, and
  - HUF 70 per millilitre for liquids.

The excise duty and VAT on tobacco products will have to be paid in accordance with the general rules, and not at the time the tax stamps are received. Consequently, tax stamps do not correspond to the amount of excise duty and VAT, but rather they are valued at HUF 1,500 (this amount will have to be paid for each tax stamp the taxpayer cannot account for).

The regulations also set out the record keeping and reporting obligations for holders of excise authorisations in connection with the new Excise Duty Act. For example, warehouse operators wishing to continue their activities from 1 April 2017 will have to submit a statement to that effect to the tax authority by 28 February 2017.

From 1 January 2017, Act LXXXVIII of 2003 on Energy Taxes specifies the duty rate for natural gas in kWh (HUF 0.3038 per kWh) instead of gigajoule.

Changes to the duties applicable to excise goods

On 1 September 2016, the excise duty on fuel oil, petrol and kerosene was adjusted to reflect global oil prices. Depending on the price of crude oil on the world market, the duty on petrol and kerosene may increase or decrease by HUF 5 per litre, and the duty on fuel oil may increase or decrease by HUF 10 per litre.

Changes related to tax refunds

With the changing excise duty on fuel oil, the amount of excise duty that can be reclaimed on commercial fuel oil has also changed. Depending on the threshold set on the basis of global oil prices, the excise duty that can be reclaimed may be HUF 7 or HUF 17 per litre.

The amount of excise duty that can be reclaimed has also changed for fuel oil used in agriculture: depending on the threshold set on the basis of global oil prices, agricultural producers may reclaim 82% or 83.5% of the excise duty levied on the fuel oil they have used.

Changes related to accounting

Hedging and derivative transactions

The act includes several new definitions for hedging and derivative transactions, and hedge accounting, with some earlier definitions formulated more precisely.

According to the amended rules, derivative transactions may be linked to the prices of any financial instruments, and will no longer be restricted to the prices of securities or investments. In addition, the notion of fair value has been expanded to comprise intrinsic value, defined as the difference between the current market price (fair value) of the asset underlying the transaction and the value of the asset calculated at strike price.

The amendments provide a more precise definition for hedge effectiveness, and set the conditions under which a hedging transaction is likely to be effective.

As regards changes in hedging and derivative transactions, the amended act specifies in which cases it is required to account prepayments and accruals for derivative transactions.

Concerning fair valuation, the amended legislation stipulates more clearly that derivative transactions for trading purposes and for hedging purposes must be measured either at fair value or at intrinsic value. Accordingly, fair valuation may not be applied to forward delivery transactions and option transactions for goods that do not qualify as derivative transactions. In addition, the closing of forward and option transactions that do not qualify as derivative transactions will continue to be accounted according to the rules applicable to spot purchase and sale.

Depreciation of goodwill

The rule concerning the depreciation of goodwill changed again as of 16 June 2016. According to a previous provision of the Accounting Act, companies were allowed to decide whether they (i) write down goodwill in not less than five, and not more than ten years if the useful life could not be estimated, or (ii) continue to apply the depreciation rules that were in effect when goodwill was recorded. Under the amended regulations, depreciating goodwill will be obligatory from the financial year 2017.

The transitional rules stipulate that, for goodwill generated before the financial year 2016, companies have only an option to account depreciation for the financial year 2016, and are required to account depreciation from the financial year 2017 regardless of whether goodwill was recognised before or after the financial year 2016. Companies must determine the useful life of goodwill. Should this not be possible, they must apply a

period of not less than five and not more than ten years (based on their decision), as stated above.

Subsidies and benefits received

Under the amendments, in addition to the repayable amount of subsidies for development purposes received in the previous financial year(s) and accounted as revenues, the repayable amount of subsidies and benefits received as compensation for costs (expenses) must also be accounted as “other expenses”.

Changes concerning corporate tax in connection with the transition to IFRS

Tax base adjustment due to the transition to IFRS and treatment of tangible and intangible assets

Taxpayers may have differing tax bases as a result of the transition to IFRS due to the difference of the accounting standards. To make the IFRS transition neutral, a transition-related tax base adjustment may be necessary. Previously, tax base adjusting items were based on differences in the amount of equity calculated under the different accounting standards, attributable to differences in balance sheet line items, i.e. the differences in accounting values served as a basis for determining whether and by which amount the tax base increased or decreased. As opposed to the previous practice, the new regulation focuses on the difference between the tax bases in the tax years following the transition, i.e. the differences between the values of assets and liabilities that can be taken into account for tax purposes. This amendment provides for, among other things, the tax treatment of tangible and intangible assets at the date of transition. From 2017, taxpayers will have to observe the IFRS requirements and take into account the cost carried on the first day of the tax year in which the transition takes place when calculating the depreciation allowable under the Corporate Tax Act. An exception to this rule may apply to tangible assets carried at deemed cost according to IFRS 1, for which taxpayers may choose either to determine cost and tax value on the first day of the tax year in which the transition takes place to be identical with the book value or base the depreciation allowable under the Corporate Tax Act on a special extrapolation base.

Special option concerning the treatment of the transition to IFRS

Under the new legislation, taxpayers will have a choice in connection with the transition to IFRS. Taxpayers will be allowed to decide whether they will calculate their tax bases after the transition based on the entirety of their assets and liabilities, or only on their tangible and intangible assets as if they had not changed to IFRS. If taxpayers take advantage of any of these choices, the tax base will not need to be adjusted at the date of transition for the assets and liabilities concerned, and separate records will need to be kept on these assets and liabilities. Taxpayers that take this option will be required to take into account the cost and tax value calculated in accordance with previous accounting regulations when determining the amount of depreciation allowable under the Corporate Tax Act.

Tax base adjustment due to retrospective application of the accounting policy

Taxpayers are required to adjust their tax bases if changes in the accounting policy are applied retrospectively. Regulations concerning the obligation to adjust the tax base are in line with the tax base adjustment required due to the transition to IFRS, i.e. the tax base adjustment must be based on the difference between the tax bases, meaning that the tax base following the change must be compared to the tax base calculated if the accounting policy remains unchanged.

Jointly controlled operation

The previous regulations did not contain any provisions on the tax treatment of jointly controlled operation under IFRS 11, therefore, the tax base of jointly controlled operations would have been taken into consideration twice: 1) as the tax base of the entity performing the operation, and 2) in the tax bases of taxpayers exercising control, as calculated in the separate IFRS financial statements. Under the amended regulation, taxpayers exercising control will be required to recognise these operations in their tax bases as if they kept their records in accordance with the Accounting Act.

Equity-settled share-based payments

As of 2017, there are clear rules for considering share-based payments provided in equity instruments settled by means of repurchased treasury shares in the tax base. The amended act also contains supplementary provisions on tax base adjusting items related to share option schemes provided through ESOP trusts.

Regulations for termination without a legal successor

Similar to previous regulations, tax base adjusting items will become due as a single amount when a taxpayer that has adopted IFRS enters voluntary liquidation or liquidation. From 2017, exclusion from the scope of the Corporate Tax Act, with the exception of transfer of the registered office of a European Company and a European Cooperative Society to abroad, will have similar consequences.

Reduction of subscribed capital by means of divestiture

From 2017, taxpayers will be allowed to determine the tax impact of the reduction of subscribed capital by means of divestiture in accordance with the provisions of the Accounting Act also in cases in which the transaction is accounted other than as a derecognition of shareholdings (e.g. dividends) under IFRS.

Minimum tax and tax advance minimum

In regard to the reduction of the tax rate to 9%, taxpayers must determine their minimum tax and tax advance minimum liabilities by taking into account the tax payable for the tax year that precedes the tax year in which the transition takes place and that serves as the basis for comparison, using the tax rate as stipulated by the provisions in effect on the first day of the tax year in which the transition takes place. Accordingly, taxpayers that adopt IFRS as of 1 January 2017 are required to apply the 9% tax rate when determining the amount of minimum tax and tax advance minimum.

Transitional provisions

Under the newly introduced transitional provisions, taxpayers will be allowed to choose to apply the rules for jointly controlled operations and the cost and tax value of tangible and intangible assets already when calculating their tax bases for 2016.

Changes concerning local business tax in connection with the transition to IFRS

Changes regarding the transition to IFRS

From 2017, taxpayers adopting IFRS will be required to take into account their net sales revenues from continuing and discontinued operations, cost of goods sold, intermediary services, and raw material expenses when calculating their tax bases. However, taxpayers will have to calculate their tax bases for activities performed based on a joint arrangement under IFRS 11 as if they recognised them in accordance with the Accounting Act, i.e. net sales revenues from these activities, cost of goods sold, intermediary services and raw material expenses should not be regarded as part of the tax base.

Net sales revenue

The statutory amendment effective from 1 January 2017 has brought changes also in connection with adjustments to sales revenues as the wording for tax base adjusting items related to subsequently provided uninvoiced contractual discount (payable), and revenues from the supply of goods and services as part of extraordinary business activities has been formulated more precisely. Under the amended regulations, sales revenues from the extraction of mineral ores, and insurers' revenues from insurance contracts specified in IFRS 4 Insurance Contracts will also increase net sales revenues.

Cost of goods sold and raw material expenses

Similar to net sales revenues, the contractual amount of subsequently received (due) uninvoiced discount will change the value of cost of goods sold and raw material expenses. According to a further clarification, the cost of goods sold must be increased by the value of inventories received in exchange as determined in the exchange contract, rather than their book value. It has been introduced as a new element that the cost of goods sold and raw material expenses must be adjusted by the amount by which the hedge transaction modifies (increases or decreases) the acquisition cost of inventories.

Self-revision

From 2017, if, for a tax year prior to the transition, taxpayers correct accounting errors that must be treated differently under IFRS and the Accounting Act, the error limit must be taken into consideration in the tax base of the tax year in which the error is detected, without adjusting the difference attributable to the transition.

Submission process for Polish VAT returns to get stricter

Polish legislation effective from January 2017 establishes a strict framework for the submission of VAT returns. From 2017, entities registered for VAT purposes in Poland VAT may submit returns to the tax authority only with a Polish qualified electronic signature.

Although regulation number 910/2014/EU establishing the principle of mutual recognition of qualified electronic signatures entered into force from 1 July 2016, and was also implemented in Hungary, the Polish tax authority accepts solely Polish qualified electronic signatures due to technical issues. In order to obtain a polish qualified electronic signature, a Polish statistical number (PESEL) is required.

The Polish qualified electronic signature has to be obtained no later than 25 February 2017.

PwC Hungary, in cooperation with the Polish office, can help enterprises that are registered for VAT purposes in Poland to comply with the technical and legal requirements during the submission of VAT returns.

Simplified origin certification for goods imported from GSP beneficiary countries

The EU has granted trade concessions (preferential treatment) to developing countries since 1971. The Generalised Scheme of Preferences (GSP) allows reduced or no customs duties on certain goods imported from GSP beneficiary countries to the EU. Until 1 January 2017, the proof of origin for goods imported from a beneficiary country to the EU was, depending on the total value of the goods, either certificate of origin Form A or an invoice declaration. Form A was issued by governmental authorities of the beneficiary country, while invoice declarations were made out by the exporter.

From 1 January 2017, a new system of certification of origin of goods, the Registered Exporters (REX) system replaced the previous system of origin certification. Based on a principle of promoting risk assessment and self-certification by economic operators, the REX system gives complete control over certification of origin to exporters. Depending on their respective stages of preparation, GSP beneficiary countries are expected to apply the REX system from one of the following three dates: 1 January 2017, 1 January 2018 or 1 January 2019. However, it is important to note that after the transition period, which will last until 30 June 2020 at the latest, all GSP beneficiary countries will have to apply the REX system.

When a beneficiary country starts applying the REX system, and begins registering exporters, the system of origin certification with invoice declarations and certificates of origin Form A will no longer apply. As a general rule, the only way to certify the originating status of goods is by means of a statement on origin made out by the exporter.

The application of the REX system also affects EU economic operators, as registration of exporters has been in effect throughout the European Union, including Hungary, since 1 January 2017. From 1 January 2018, in the case of bilateral cumulation, establishing proof of originating status will only be possible by a statement on origin, so it will be imperative for certain EU economic operators to register.

The REX system is expected to streamline trade with beneficiary countries and make it more transparent. EU economic operators should feel more confident when doing business with a partner established in a beneficiary country because they can query the registered exporter status of their business partner from the REX database. Moreover, registered exporters will no longer have to obtain a Form A from the competent authorities.

The REX system currently only affects trade between the European Union and GSP beneficiary countries; however, it is conceivable that the system will be extended in respect of other countries and trade arrangements.

New opportunity for SMEs to develop their ICT systems with EU funds

Now is the time to undertake those ICT developments you've been postponing. 43 billion in EU funds will be available for information and communication technology development projects of small- and medium-sized enterprises from March. PwC Hungary's professionals can assist with your subsidy application, and with implementing your ICT project as well.

EU funds available for ICT developments of micro-, small- and medium-sized enterprises

Nearly HUF 43 billion in EU funds will be available for micro-, small- and medium-sized enterprises (SMEs) to implement information and communication technology (ICT) developments outside Pest county. The tender call (ID no. GINOP-3.2.2-8.2.4-16) will be open from 8 March 2017.

SMEs can apply for HUF 1 - 24 million in non-refundable cash subsidies combined with a HUF 1.25 - 37.5 million subsidized loan.

Projects to introduce or develop locally installed and/or cloud-based ICT solutions relating to 17 aspects of business are eligible for funding.

Eligible costs of the ICT project are fixed and intangible assets; services, consulting, training fees; and costs of the publicity required for EU-funded projects. The SME receiving the subsidy has to commit to increasing its operating profits or its sales revenue

from electronic sales in the second financial year upon finishing the implementation of the project.

Our services related to ICT development projects eligible for EU funding

PwC can provide assistance in connection with the above tender and the ICT development opportunity that it presents. We can help with the different stages of the tendering process and the implementation of the ICT development as well.

Our state aid team has extended professional experience with tendering processes ranging from preparing the subsidy application to project management. We can provide the following services regarding the above tender opportunity:

- general subsidy-related advisory services
- preparing the subsidy application
- assistance with finalizing the subsidy agreement,
- consultancy on subsidy drawdown and project management.

Our IT advisory team has taken part in several projects to introduce new ICT systems at our clients. Applying this experience, we can ensure the successful implementation of ICT development projects, including the introduction of CRM, controlling or billing workflow systems.

ICT solutions to automate taxation tasks

PwC's tax experts and developers have created ICT solutions to perform time-consuming taxation tasks with a few mouse clicks. SMEs can accomplish their tax compliance tasks more efficiently with the following automated tax solutions:

- PwC's T.R.U.S.T. (Tax Return Unified Support Tool) program fully automates the preparation of VAT returns.
- The PwC EKAER Tool is a fully automated solution for preparing EKAER declarations.
- The PwC Data Export Tool executes the obligatory data export from the billing system to the tax authority, and validates the transmitted data.

Our automated tax solutions can be developed to qualify as ICT solutions eligible for the above EU financing.

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Latvia

Employees with children: extra leave entitlement

All employees who have custody of children, i.e. the father, mother, one of the adopters who has been awarded custody and supervision of an adoptable child by an orphans' court order before adoption is legally confirmed, the member of a foster family who has entered into an agreement with the municipality, a guardian, or any other person who is in fact caring for and bringing up a child by an orphans' court order, are entitled to extra leave. This article explores how you can exercise this right in practice.

The legal framework

The length of extra leave depends on the number of children, their age and disability status:

- at least one day where there is one or two children up to 14 years old;
- three days where there are three or more children up to 16 years old, or a disabled child up to 18 years old.

To obtain extra leave, the employee must show the employer a supporting document such as the child's birth certificate or the employee's passport with a note of the child's existence. If the child is disabled, then a document granting disability status to the child must be shown. Both parents are entitled to extra leave, even if they are both employed by the same employer. If the employee has not claimed or taken extra leave before, it can be claimed for the last two years.

Application in practice

Questions might arise where the parents are divorced or separated. Section 151(1)(1) of the Labour Code has been amended with effect from 2015 to replace the words "who have" with the words "who have custody of," and this changes the way this clause is interpreted.

Under section 177 of the Civil Code, custody of the child means maintenance, i.e. providing food, clothing, housing, health care, education and upbringing (ensuring the child's mental and physical development, considering the child's individual abilities and interests as far as possible and preparing the child for publicly useful work). Under section 178 of the Civil Code, parents living together exercise their parental authority jointly. If the parents are separated, their joint parental authority continues, but custody and supervision will be awarded to the parent with whom the child is living.

It follows from the two sections of the Civil Code that both parents are entitled to extra leave if they are living together, because they have joint custody of the child, or only one of the parents if they are separated, i.e. the one with whom the child is living.

The above is a theoretical interpretation of the law, and so it is important to note that government agencies interpret these amendments in a different way, i.e. that it was not the lawmaker's intention in making these amendments to curtail the extra leave entitlement for parents who are separated, but rather to grant extra leave to those who have custody of an adoptable child before adoption is confirmed. However, the grounds for this opinion of government agencies are not to be found in the annotation to the amendments to the Labour Code nor in any official statement.

Reference on VAT invoice

References to a particular VAT scheme are a key element of the tax invoice. This article takes a closer look at this area.

Statutory requirements

Article 218 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (the "VAT directive") provides that a document or statement in paper or electronic form that meets the conditions laid down by the directive and gives all the details required to appear on a tax invoice will be recognised as a tax invoice. Similar criteria are laid down by the VAT Act: a document in paper or electronic form that gives specified details will be considered a tax invoice. So references on a tax invoice are as important as its other details because failure to make a reference might confuse the other party about clauses of VAT legislation invoked.

The SRS has stated that the administrative burden on taxpayers and member states' tax authorities in cross-border transactions is eased if tax invoices refer to clauses of the VAT directive and not to clauses of the national legislation of each member state.

Section 125(1) of the VAT Act specifies details that must appear on a tax invoice. Among other things, section 125(1)(14–23) lists a number of aspects to be considered when issuing a tax invoice for a supply of goods or services and for other separate transactions that require appropriate references to be made on a tax invoice.

For instance, the VAT Act states that a tax invoice for zero-rated or exempt supplies of goods or services must refer to the section of the VAT Act that provides for the zero-rating or exemption, or to the relevant article of the VAT directive, or must make any other reference to the statutory grounds for the zero-rating or exemption. Also, where the customer is responsible for paying VAT, the invoice should state "Reverse charge." A similar reference should be made where one of the special VAT payment schemes is applied.

The table summarises possible references on a tax invoice:

Transaction	VAT	Reference
Supply of services to taxable person registered in another member state if place of supply is determined under section 19(1) of VAT Act	Exempt	"Reverse charge"
Intra-Community supply of goods to taxable person registered in another member state	0%	Article 138(1) of VAT Directive (2006/112/EC)
Supply of services to taxable person registered in third country if place of supply is determined under section 19(1) of VAT Act	Exempt	"Reverse charge" or Article 44 of VAT Directive (2006/112/EC)
Export of goods	0%	Article 146(1)(a) of VAT Directive (2006/112/EC)
Supply of new vehicle	0%	Article 138(2)(a) of VAT Directive (2006/112/EC)
Supply of construction services	Special VAT scheme	"Reverse charge"
Supply of scrap metal and timber	Special VAT scheme	"Reverse charge"
Supply of smartphones, tablets, laptops and integrated circuit devices	Special VAT scheme	"Reverse charge"

Supply of grains and industrial crops (including oil seeds), including mixtures of these commodities that in unchanged form are not normally intended for end consumption	Special VAT scheme	"Reverse charge"
Supply of unwrought precious metals, precious metal alloys and metals clad with precious metal	Special VAT scheme	"Reverse charge"
Invoice issued by customer		"Self-billing"
Supply of goods or services with cash accounting	21%	"Cash accounting"
Supply of tourism services	21%	"Margin scheme – travel agents"
Supply of second-hand goods	21%	"Margin scheme – second-hand goods"
Supply of works of art	21%	"Margin scheme – works of art"
Supply of collector's items and antiques	21%	"Margin scheme – collector's items and antiques"

Major VAT changes in 2017

VAT treatment	Before 2017	From 1 January 2017
Conditions for refund of VAT overpayment arising in tax year	The overpaid VAT will be refunded if one of the following conditions is satisfied (we list only the conditions of section 109(5) of the VAT Act amended with effect from 2017):	We list only the amended conditions of section 109(5) of the VAT Act:
	• The overpaid VAT exceeds €1,422.87, and zero-rated supplies or supplies attracting the reduced rate or supplies treated as made outside Latvia represent at least 20% of taxable supplies;	• The threshold is €1,500 (merely rounded up);
	• VAT overpaid on non-current assets exceeds €142.29, and a refund claim is made;	• The threshold is €150 (merely rounded up);
	• The overpaid VAT exceeds **€11,382.97**.	• The threshold is **€5,000** (hugely cut down).

Simplified invoice	A simplified invoice is allowed for domestic supplies below €143 excluding VAT. A cash-register receipt or other document can be used as a simplified invoice for a supply below €29 excluding VAT.	The cap is €150 (merely rounded up). The cap is €30 (merely rounded up).
Farm produce processor's statement of quantity and value of farm produce received in tax year from each farmer	A processor of farm produce had by 1 February in the following tax year to file a statement of the quantity and value of farm produce received from each farmer in the tax year.	A processor of farm produce by 1 February 2017 must file a statement of the quantity and value of farm produce received from each farmer in 2016, with no statement to be filed for 2017.
Appendices to VAT return	Taxable persons making supplies to a free port or an enterprise zone had to file a statement of the value of goods supplied to each port or zone.	No such statement required.
VAT treatment of supplies of unwrought precious metals, precious metal alloys and metals clad with precious metal	General procedure for charging VAT	Reverse charge under section 143.3 of VAT Act
Special VAT scheme for non-current asset imports	The special VAT scheme may be applied without SRS permission under section 85 of the VAT Act to a non-current asset worth €710 or more excluding VAT.	The threshold is €700 (merely rounded down).

Deductible proportion of input VAT on untypical transactions

The Court of Justice of the European Union (CJEU) has made a preliminary ruling (C-378/15) on questions submitted by the Italian tax court about applying a deductible proportion of input VAT to all goods and services acquired by a taxable person by reference to the structure of his revenue, and about identifying transactions considered incidental (untypical).

Background

The Italian tax office challenged Mercedes Benz's proportional method for calculating a deductible ratio of input VAT, which involved treating its financial transactions – loans to subsidiaries – as auxiliary to its taxable supplies and excluding the accrued interest from the fraction used for arriving at the deductible input VAT proportion.

After an audit the tax office imposed an additional VAT assessment of close to €1.8 million, claiming that the loan interest had been incorrectly excluded from the calculation of the deductible input VAT proportion because the lending activity was one of Mercedes Benz's main activities, with the accrued interest representing 71.64% of the company's total revenue.

In legal proceedings against the tax office, Mercedes Benz claimed that they were legally permitted to exclude the accrued interest from the denominator of the fraction used for arriving at the deductible input VAT proportion, and pointed out that the national lawmaker had incorrectly transposed articles 168 and 173–175 of the VAT directive

(2006/112/EC), emphasising that the deductible proportion is consistently applied to all the goods and services acquired by the taxable person, regardless of whether they are intended for activities giving the right to a deduction or for activities not giving this right, or for both types of activities.

In such circumstances the Italian tax court decided to suspend the litigation and consult the CJEU.

The CJEU ruling

This was a reference to the CJEU for a preliminary ruling. In its ruling the CJEU analyses the relevant provisions of the VAT directive and case law. According to the CJEU, while income earned from those financial transactions, which fall within the scope of the directive, may indicate that such transactions cannot be considered untypical within the meaning of the directive, the mere fact that the company earns more income from such activities than from the activity it has indicated as its core activity does not mean that such activities cannot be considered untypical transactions within the meaning of the directive. The CJEU case law implies that a transaction cannot be considered untypical within the meaning of the directive if it is a direct, constant and necessary continuation of the company's taxable business, or if it involves the use of essential goods and services subject to VAT.

Having analysed the Italian VAT legislation and its practical application as well as the facts and circumstances of the case, the CJEU found that the provisions of the VAT directive should be interpreted so as to conclude that they do not prohibit the national legislation and practice invoked in the basic case, which requires the taxable person to –

- apply to all goods and services he has acquired a deductible proportion based on revenue, without providing for a method of calculation that is based on the nature and actual destination of each of the acquired goods and services and that objectively reflects the portion of expenses actually attributable to each of the taxable and exempt activities;
- refer to the structure of his revenue in order to identify transactions to be considered untypical, to the extent that the assessment carried out for that purpose takes account of the relationship between those transactions and the person's taxable activities and possibly of the intended use of the goods and services that are subject to VAT.

PwC comment

In view of the CJEU ruling, it is important to remember that Latvia has also transposed the provisions of the VAT directive into section 98(4) the VAT Act. This clause provides that a taxable person is permitted to exclude an untypical financial or real estate transaction from the deductible input VAT proportion if that transaction is a one-off transaction clearly different from the taxable person's normal business. However, as stated by the CJEU, the taxable person should assess whether any transaction excluded from the deductible input VAT proportion is indeed considered untypical.

Private cars used for company needs

Employees often use their private car to carry out their job duties (for the employer's business purposes). This article explores whether a company that uses private cars of its employees for business purposes may be liable to pay corporate light-duty vehicle tax ("company car tax").

Using a private car

Under the Vehicle Running Tax and Corporate Light-Duty Vehicle Tax Act, an employer that uses an employee's car under an employment contract or a loan for use may be liable to pay company car tax on that vehicle even if the employer is not registered as holder of the car. Thus company car tax may be payable by a trader that makes commercial use of a car borrowed from someone who is neither a trader nor a farmer. It is important to note that an individual who carries on a business is not considered a trader within the meaning of the Act and cannot be liable for company car tax.

When employing someone, the employer should consider the tax implications of the type of contract chosen for determining the right to use the employee's car.

A loan for use

Section 11 of the Act gives an exemption to a company that uses an employee's car under a loan for use for up to 15 days in a calendar month (regardless of how many hours a day and whether the use is continuous or intermittent) where in such cases the employer would not be liable for company car tax unless he is registered as holder of the car. In that case, however, the employer must be able to prove that the number of days the car is actually used each month does not exceed the statutory cap. This involves providing documentary evidence requested by the State Revenue Service (SRS) such as –

- the conditions of the loan for use;
- documentary evidence of fuel purchases; and
- completed trip tickets.

The employer is liable to pay company car tax for any calendar months in which a car is –

- used for more than 15 days, or
- registered in the employer's holding (unless the holder is committed to declaring the car's eligibility for an exemption at the Registry of Vehicles and Drivers within 15 days).

For example, if a company uses an employee's car under a loan for use for 17 days in January, then company car tax is payable for the whole January.

An employment contract

If an employee's own vehicle is used for business purposes under an employment contract, the employer will be liable to pay company car tax on that vehicle during the operation of the contract regardless of how many days it is used each month.

A lease

The employer is not liable for company car tax during the operation of a lease agreement with an employee.

It is important to note, however, that in this case the company may be liable to withhold personal income tax (PIT) on the rent payable to the employee under the PIT Act, unless he is registered with the SRS as a trader.[1]

If the lessor is registered with the SRS as a trader and independently calculates and pays PIT under the summary procedure on the rent received for the car,[2] the employer is not liable to withhold PIT on the rent.

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[1] Section 14(14) of the Vehicle Running Tax and Corporate Light-Duty Vehicle Tax Act
[2] Section 14(15) of the Vehicle Running Tax and Corporate Light-Duty Vehicle Tax Act

More exemptions from company car tax are given in section 14 of the Act.

The trader is allowed to treat his company car tax charge as a business expense and does not need to add it back to his income subject to corporate income tax.

Understanding customer business models

Driven by general globalisation trends, it is now the norm for companies to operate in two or more countries and be registered in or linked with a foreign jurisdiction. Opportunities offered by various jurisdictions are increasingly considered by companies planning their business model. This article explores proper ways of taking these opportunities and ensuring compliance with national rules, as well as understanding the importance of risk analysis.

Companies set up abroad

Setting up a company in a jurisdiction most suitable for the industry the company is operating in is now easier than even before. That is why more companies are being set up in jurisdictions that offer excellent opportunities for future business development. A variety of reasons are considered in choosing a particular jurisdiction. Foreign jurisdictions are selected when it comes to restructuring a group, sorting out cash flows, doing an IPO, protecting assets, or for family reasons. Cyprus, for example, is chosen because it has a large number of effective double tax treaties; the Cayman Islands is a suitable jurisdiction for various financial dealings; and more than 40% of the world's ships are registered in Panama, Liberia, and the Marshal Islands. Apart from an advantageous tax system, tax havens offer plenty of reasons for setting up a company there. A variety of factors influence a company's development plans, but the importance of benefits from lower tax costs diminishes when it comes to choosing a particular jurisdiction.

Regulation

Along with the OECD's global standard for automatic exchange of financial account information in tax matters, the EU enacted Directive 2014/107/EU as regards mandatory automatic exchange of information in the field of taxation, and Latvian tax legislation has been amended accordingly (see our article "Automatic financial account information exchange between tax authorities"). Latvia is among the 101 countries committed to exchanging information on financial accounts. As a result, financial institutions must already be able to gather sufficient information about customers in order to pass any requested details to government agencies. The activities of financial institutions are also governed by the Anti-Money Laundering and Counter-Terrorism Financing Act, and so they are required to identify and vet their customers. Customer identification and vetting requirements raise a number of new questions about information to be obtained from customers. Not only financial institutions are liable to gather information about customers and report any suspicious transactions – the activities of external accountants, tax consultants, real estate agents etc are also governed by the Act.

It is therefore crucial to be able to obtain relevant information from customers and analyse it. The professionals whose activities are governed by the Act have become the first bastion of defence against unfair practices in terms of both withholding their services and gathering information about customers and passing it on to government agencies. A proper understanding of how corporate structures work under different business models helps service providers not only stay out of illegal activities but also retain customers with sophisticated corporate structures through understanding their business models. There are plenty of reasons to include other countries in corporate structures, including various commercial and personal reasons, yet unlawful reasons are also possible. When assessing customers, it is important to understand statutory requirements for minimum information and documentation required to form an idea of how genuine a customer's business is.

Here are a few questions that must be answered when assessing customer risk:

1. Who is responsible for the day-to-day running of the company?
2. Where are the company's management decisions made?
3. Was any advice received from legal, tax and investment consultants at the time of setting up a cross-border corporate structure? What is their reputation?
4. How is the prospective customer's business conducted? What kind of income does he earn?

The main documents relating to a customer that should be obtained as a safeguard against liability being imposed on the service provider include –

1. the customer's certificate of incorporation,
2. details of shareholders,
3. copies of passports,
4. the latest financial statements, and
5. a statement issued by the particular jurisdiction confirming that the company carries on a business and is tax compliant.

It is clearly impossible and unnecessary to collect so many documents in day-to-day dealings with customers in Latvia or the EU. If a customer risk assessment raises no doubts about the legitimacy of the customer's business, then a few documents are enough. Answers to the above questions can often be gleaned from resources available on the Internet. However, the documents should be obtained and the answers found before any services are rendered to companies whose business dealings and corporate structures are not so transparent.

Using SAF-T globally and in Latvia

To simplify the process of selecting and structuring data for tax audit purposes, the OECD has drawn up guidelines for information to be filed in electronic form on a tax audit: the Standard Audit File for Tax (SAF-T). This article explores why SAF-T is being implemented and who might want to use it.

Why is SAF-T being implemented?

The purpose of SAF-T is to simplify tax compliance and audit processes and to provide the tax authorities with faster and easier access to company data in order to perform consistent data analysis and more efficient controls and audits. According to the OECD e-Audit committee's guidelines, using a single standard will help –

- cut reporting costs;
- reduce administrative costs;
- improve company audit results; and
- build a common platform to simplify joint audits.

This is essentially an international standard for electronic data interchange between a company's accounting system and the tax authorities or external auditors. For example, the following pieces of information may be requested in a structured way from the accounting system:

- general ledger entries;
- sales and supplier invoices;
- non-current assets;
- inventories;
- orders;
- transactions;
- payments;
- adjustments.

The guidelines emphasise that aspects of SAF-T implementation may vary from country to country depending on a particular country's tax system, yet the audit file requirements should be clearly defined so that software developers can make appropriate upgrades to accounting systems.

The volume of data interchange in electronic form between taxpayers and tax authorities is on the increase. The Latvian State Revenue Service annually improves the report forms to ensure that data is gathered and managed more efficiently. Latvia has yet to draw up its e-audit requirements, while Sweden, Germany and the Netherlands already have such requirements in place. SAF-T methodology indeed standardises the requirements for domestic and cross-border data interchange.

SAF-T in practice

The OECD's SAF-T requirements are framed as good practice recommendations, with each country having discretion to implement them into its national legislation.

SAF-T has been implemented in Austria, France, Luxembourg, Portugal, Lithuania, and Canada.

Norway has adopted SAF-T with effect from 1 January 2017.

In Poland, SAF-T reporting requirements have been applicable to large companies since 1 July 2016 and are expected to cover small and medium companies from 1 July 2018.

In Lithuania, VAT-registered traders have been liable to provide the tax authorities with information on documents and invoices electronically since 1 October 2016, with SAF-T requirements for companies reporting sales of over €8 million in place from 1 January 2017.

Belgium, Croatia, Finland, the UK and other countries are considering ways of implementing and using SAF-T.

In 2016, Latvia officially became the 35th member state of the OECD. Since use of the electronic environment is gaining momentum, Latvia might also choose to implement SAF-T requirements into its national legislation.

Implementing the single reporting and e-audit system could be especially important to multinational groups that have funds for technology development and could see a drastic reduction in administrative costs resulting from the standardisation of processes with common requirements. On the other hand, using SAF-T will help the tax authorities conduct cross-border data interchange and analysis through big data analytics. The increasing volume of electronic data gives significance to data protection and security, which will encourage cooperation between IT and the tax sector as well as technology development in the area of electronic data interchange.

Insurance premiums in Statement of Amounts Paid to Individual

Companies often cover their staff insurance costs, i.e. pay insurance premiums out of their own funds. The employer includes these contributions in the Statement of Amounts Paid to Individual (Summary). This article explores how to report insurance amounts in the Statement, depending on whether their calculation involves using a ratio, splitting the amounts according to the period specified in the contract or invoice, or including amounts actually paid in a particular period.

Reporting premiums in the Statement

Allowable expenses duly claimed under the Personal Income Tax (PIT) Act should be entered on the Statement's lines Contributions to Private Pension Funds, Endowment Assurance Premiums, and Life Assurance, Health and Accident Insurance Premiums.

The PIT Act states that any endowment assurance premiums paid to private pension funds registered in Latvia or another member state of the EU, the EEA or the OECD in line with licensed pension plans, and to an insurance company registered in Latvia or another EU/EEA/OECD member state, totalling up to 10% of the employee's gross pay for the tax year, as well as life assurance, health or accident insurance premiums totalling up to 10% of the employee's gross pay for the tax year (capped at €426.86 a year) should be excluded from the employee's income subject to payroll tax.

It is important to note that the 10% cap on the employee's gross pay for the tax year is not applied proportionally to any calendar days of the tax year during which the employee is on childcare leave, nor to any calendar days of temporary incapacity or maternity leave for which the employee holds incapacity certificate B.

So, considering what the law says, the Statement should show any insurance amounts actually paid to the insurance company out of the employer's bank account.

If the employer has contributed to a private pension fund for the current and the following tax year, then only the part of the contribution related to the current tax year should be taken into account when determining the ratio of the contribution to the employee's gross pay for the tax year.

If the employer has contributed to a private pension fund for the preceding and the current tax year, then all the contributions should be taken into account when determining the ratio of the contributions to the employee's gross pay for the tax year. So the part of the insurance amount related to the particular tax period should be separated from the period stated on the invoice.

If the employer buys a health insurance policy for the employee that exceeds the statutory threshold, the excess should be added to the employee's taxable income in the last month of the tax year and duly charged to payroll tax.

Companies often forget to include any excess insurance amounts in their payroll calculation for December, and so preparing the Statement involves adjusting the employer's statement of national social insurance contributions for December. We recommend paying attention to your December payroll calculation and making sure you include any excess insurance amounts to avoid being fined when you file adjustments later.

CJEU ruling on inclusion of interest in taxable amount

On 8 December 2016 the Court of Justice of the European Union (CJEU) ruled on case C-208/15 to determine whether a taxable person has made a single transaction (a supply of goods for a consideration) or multiple transactions (a supply of goods and a grant of finance). The CJEU finds that a supply of goods and the grant of a loan for the purchase of those goods within the integrated agricultural cooperation framework form a single transaction, and the taxable amount should therefore include both the price of the goods and interest on the loan granted to the farmer for the purchase.

Background

A Hungarian company (integrator) operating within the integrated agricultural cooperation framework financed a supply of current assets to a farmer (subject to integration). The loan could be used only for the purchase of current assets. An invoice for the supply of goods charged VAT at the standard rate, but quarterly interest on the loan was exempt.

During a tax audit, the Hungarian tax authorities disagreed with the VAT exemption for the loan interest and assessed additional VAT. The case eventually came up before the Hungarian Supreme Court, who decided to suspend the litigation and put the following questions to the CJEU:

1. Should the supply of goods and the grant of loan in this situation be regarded as distinct and independent transactions or as a single transaction whose taxable amount should include the loan interest?
2. If this is a single transaction, then may the VAT directive be interpreted with respect to the single transaction in a way which implies that this transaction is an exception to the principle of general applicability?

In other words, the Hungarian court asked how to apply and interpret the following provisions of the VAT directive:

- article 73 – "...the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply;"
- article 78(b) – "The taxable amount shall include the following factors: incidental expenses, such as commission, packing, transport and insurance costs...;"
- article 135(1)(b) – "Member States shall exempt the following transactions:... the granting and the negotiation of credit and the management of credit by the person granting it."

CJEU considerations and ruling

The CJEU emphasises that in certain circumstances, multiple services that are technically distinct and could be supplied separately and, if so supplied, could be either taxable or exempt, should be regarded as a single transaction, unless they are indeed independent.

A single service exists especially where two or more elements are so closely interrelated that they objectively form a single, economically indivisible service, the splitting of which would be artificial.

A service should be regarded as an additional service if it is not the customer's goal, but rather the most comfortable way of receiving the main service. We should, therefore, consider both the economic purpose of the transaction and the customer's interests.

The CJEU finds that where an integrator operating within the integrated agricultural cooperation framework grants a loan to a farmer (subject to integration) for the purchase of current assets from the integrator, the loan cannot be regarded as an autonomous service from the farmer's point of view, because the farmer does not have discretion to freely use the loan. What matters, however, is that a loan cannot be granted without restricting its use to the purchase of current assets.

The CJEU also attaches significance to the fact that the supply of current assets and the loan share the same economic purpose. In such circumstances, therefore, the supply of current assets is considered the main service, and the farmer's borrowing to buy those assets is not the end in itself, but it is merely a means that helps him buy assets necessary for production.

The CJEU ruled that where a supply of assets and a loan share the same objective, the supply of such assets and the grant of the loan intended for their purchase should be regarded as a single complex transaction for VAT purposes, and the loan interest should therefore be included in the taxable amount.

According to the CJEU, the fact that an integrator may supply additional services to farmers does not affect the finding that the transaction meets the criteria for a single transaction.

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Poland

Poland is fighting fraud through new law regulations

Polish government is exacerbating the fight against the gray economy. Ministry of Finance and Ministry of Development has joined forces to prepare a new set of regulations aimed at further sealing a tax law in Poland. Ongoing legislation process is focused on requirements related to transport of sensitive goods such as fuel. Government Bodies want to introduce a new Act on registration and monitoring of road transport in Poland. The Act will specify a catalog of sensitive goods, which transport across the country will be controlled.

Under the new rules a monitoring system consisting of a Customs Service register of transported goods and dedicated mobile communications system will be introduced.

The carrier of the goods will have to register on the customs electronic platform. He will also receive a GPS device that will allow tax officials to keep track of the goods route. The route will not only be monitored, but also saved.

Prepared regulations besides carriers control introduce severe sanctions in case of any irregularities in the carriage of goods – for example, penalty amount of 46 percent of net value of transported goods.

The proposed Act focused on transport is another solution by which Polish government wants to fight the gray economy mainly in the fuel market. The first was entered into force on 1 August 2016 so called fuel package.

Solutions that are to come into force in Poland were already successfully introduced in Hungary and Portugal.

VAT scams in Poland - do you know your business partner?

VAT non-compliance is currently a hot topic in the European Union. VAT Gap grows rapidly, and budget revenues from VAT remain unstable. Polish VAT gap was estimated and government bodies chose to take decisive steps to prevent its growth.

There are many actions that affect VAT compliance in Poland, but the most common method of defrauding public funds remains the so called “carousel fraud” or “the missing trader fraud”. In this type of scams it is important to remember that, unfortunately, such practice may also have negative consequences for businesses that are conducted with integrity.

Persons guilty of tax fraud frequently take advantage of the ignorance of honest entrepreneurs when committing tax frauds and expose even the most reputable companies on the market to enormous costs. Recently, tax authorities have been conducting an increased number of inspection proceedings aimed at detecting such frauds, emphasising how important is to review a business partners.

Introducing an effective business partners verification procedures is very important. Honest enterpriser should review its business partners from the perspective of whether transactions concluded with them could potentially be deemed dishonest by the tax authorities / tax inspection authorities responsible for inspecting the correctness of tax settlements. Such approach will be useful in case of a dispute with tax authorities

Polish Ministry of Finance and the Ministry of Justice, realizing the scale of the problem, decided to take more radical steps in the fight against criminals. Ongoing legislation process is now focused on strengthening penalties for tax fraud, introducing imprisonment even for 25 years (currently it is up to 5 years or 10 years in case of extraordinary restrictions). The proposed changes are intended to discourage criminals to engage in the VAT extortion practice.

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Romania

New law on public-private partnerships

In brief

On 23 November 2016, the President of Romania enacted Law 233/2016, with the main purpose of implementing a legislative framework capable of ensuring efficient cooperation between the public and the private sector regarding public investments. The object of the public-private partnerships is to create, rehabilitate or extend goods intended to provide a public service.

In detail

Main provisions:

1. The scope of the act

The provisions apply to implementation projects for which the substantiation report establishes that the expected project company revenue is to be generated by payments from the public partner or from some other public institution to the benefit of the public partner.

Public-private contracts can be concluded for one of the main relevant activities in the public utility segment, as indicated in Law no. 99/2016 and Law no. 51/2006.

2. Forms of public-private partnership

Public-private partnerships can be:

- Contractual where the parties are the public partner, the private partner and the project company with the share capital owned entirely by the private partner.
- Institutional where the public and private partners are establishing a new company to act as the project company with own legal status on registration.

3. Financing

Public-private partnership projects can be financed:

- entirely from the private partner's own financial resources;
- or using financial resources from both partners.

The private partner is able to ensure the financing of the project either from own or third-party resources.

Public partners can contribute financing in one of the following ways:

- Setting up rights on behalf of the project company or the private partner;
- Cash contributions to the project company's share capital.
- Assuming payment obligations to the private partner or the project company;
- Providing guarantees in favour of financers of public-private partnerships which are credit institution or financial institutions.

4. Collateralisation

The private partner or the project company are entitled to provide guarantees regarding the legal rights they have from the public-private partnership only for the project financers and for as long as the partnership lasts.

Private partners can also settle guarantees regarding the shares owned by the project company, only on behalf of project financers which are either a credit institution or a financial institution.

5. Steps for concluding public-private partnerships

The following are required to conclude such a contract:

- The substantiation report has to be prepared by the public partner following the feasibility study;
- The specific requirements detailed in the second Chapter of the Government Emergency Ordinance no. 88/2013 have to be fulfilled;
- The procurement procedures of the public-private partnership have to be followed; Projects are assigned in accordance with the provisions of Law nos. 98/2016, 99/2016 and 100/2016.

6. The nature of the contract

A legally-concluded public-private contract is an administrative contract and the provisions of Law no. 101/2016 apply in full.

The entire duration of the contract is established according to the amortisation period of the investments to be made by the project company.

7. Modifying the contract

The contract can be modified or unilaterally terminated only by the public partner if the public interest demands so in compliance with the following conditions:

- The procurement documentation and the public-private partnership contract contain this possibility detailed in a very precise way;
- The modification of the contract does not affect its nature;
- With the prior notification of the private partner and the project company.

8. Replacement of the private partner

If the private partner or the project company does not fulfil their tasks, the public partner has the right to replace the other party, if this possibility is stipulated in the contract.

9. Dispute settlement

The competence to solve any disputes arising from public-private partnerships is established by Law no. 101/2016.

[Source: The new law on public-private partnership as adopted by the Chamber of Deputies on 11 July 2016 and enacted by the President of Romania on 23 November 2016]

Fiscal Code amendments by GEO

In brief

Government Emergency Ordinance (GEO) no. 3/2017 has been published, bringing a series of modifications and amendments to Law 227/2015 concerning the Fiscal Code.

In detail

Law 227/2015 concerning the Fiscal Code has been amended and supplemented as follows:

Exemption from corporate income tax for taxpayers engaged exclusively in innovation and R&D activities

Taxpayers which exclusively perform innovation and R&D activities as defined by Government Ordinance 57/2002 on scientific research and technological development, as amended and supplemented, and related activities, are exempted from corporate income tax for the first 10 years of activity.

Income tax for microenterprises

The condition regarding the maximum revenues of a company for being considered a microenterprise has been changed, increasing the threshold to EUR 500,000.

A new rule has been introduced regarding the classification of a company as a microenterprise for fiscal purposes. Thus, for 2017, Romanian companies which are corporate income tax payers and as at 31 December 2016 fulfil the conditions for being a microenterprise as defined by Law 227/2015 become subject to tax for microenterprise revenues as of 1 February 2017. They also have the following obligations:

- To submit the statement for changing the taxation system no later than 25 February 2017;
- To submit the tax return for corporate income tax for taxable profit obtained during the period 1 - 31 January 2017 no later than 25 February 2017.

The tax rates used as of 2017 for microenterprise income tax have been changed as follows:

- 1% for microenterprises with one or more employees;
- 3% for microenterprises with no employees.

Exemptions from the payment of income tax

Individuals deriving salary income and income treated as such are exempted from income tax, provided they perform activities based on individual employment contracts concluded for a 12-month period with Romanian legal entities that perform seasonal activities as stipulated by Law 170/2016 regarding the tax on specific activities.

Deductions applied for the assessment of income tax for salary income and income treated as such

Medical services provided by means of subscription, as defined by Law 95/2006 regarding healthcare reform, and which are borne by the employees are deductible for income tax purposes, up to the limit of the RON equivalent of EUR 400 per year.

Income tax due for the transfer of real estate from personal patrimony

Upon the transfer, by legal deeds inter vivos, of the property right and its dismemberments, on constructions of any kind and on the related land, as well as on land of any kind without constructions, the income tax due is assessed by applying a tax rate of 3% on the taxable income. The taxable income is assessed by deducting the non-taxable amount of RON 450,000 from the value of the transaction.

Social contributions due for salary income and income treated as such

The following social contributions calculation caps are repealed beginning with February 2017 salary income and income treated as such:

- The monthly calculation cap represented by the value of five times the average gross salary income used for substantiating the social insurance state budget when assessing the individual social insurance contribution and individual health insurance contribution;
- The monthly calculation cap considered for the assessment of the social insurance contribution due by employers and any entity treated as such represented by the value of five times the average gross salary income multiplied by the number of insured individuals for whom the contribution is due;
- The monthly calculation cap considered for the assessment of the health insurance contribution due by employers and any entity treated as such represented by the sum of gross income obtained by individuals deriving salary income and income treated as such capped at the value of five times the average gross salary income.

Social contributions due for investment income and income from other sources

The cap represented by the amount of five times the average gross salary income used for assessing the health insurance contribution due for investment income and income from other sources has been repealed.

Individuals deriving investment income and/or income from other sources do not owe the health insurance contribution for the respective income if they derive other types of income (e.g. salary income, income from the pursuit of self-employment activities, pensions or income from the pursuit of agricultural activities).

[Source: Government Emergency Ordinance no 3/2017 published in the Romanian Official Gazette no. 16 on 6 January 2017]

The takeaway

- A corporate income tax exemption has been introduced for taxpayers engaged exclusively in innovation and R&D activities for the first 10 years of activity.
- Additional changes have been made to the tax regime for microenterprise income tax regarding the maximum revenues threshold, the re-classification of corporate income tax payers as microenterprises and changes to the tax rates.
- A new category of individuals who are exempted from income tax payment has been introduced.
- Medical services rendered under subscription are deductible, under certain conditions, for assessing the taxable salary income.
- New taxation rules have been introduced for income derived from the transfer of real estate from personal patrimony.
- The calculation cap used for the assessment of the social insurance contribution and health insurance contribution due on salary income, investment income and income from other sources has been repealed.

Law eliminating tariffs and not-tax charges

In brief

Law no. 1/2017 eliminating tariffs and non-tax charges entered into force on 1 February 2017. Known as the Law eliminating 102 taxes, it also amends and supplements certain acts.

In detail

We mention below the most important changes introduced by Law 1/2017, on future elimination of tariffs and non-tax charges:

Law no. 26/1990 regarding the trade register

- No fees are imposed for registration in the trade register.

Romanian Citizenship Law no. 21/1991

- No fees are imposed for applications for granting / recovering Romanian citizenship.

Government Ordinance no. 24/1992 establishing certain public services and the fees for those services in Romania

No fees are imposed for:

- issuing documents and other services, such as issuing an electronic passport, a temporary passport or other documents for crossing the border, purchasing a judicial document out of court at the request of individual foreign legal, issuing certificates and other services provided by the authorities;
- granting Romanian citizenship under Art. 8 of Law no. 21/1991, republished;
- granting / regaining Romanian citizenship under Art. 10 para. (1) of Law no. 21/1991, republished;
- legalisation, such as seals and signatures from an official document or a certificate of origin of goods on a commercial invoice or other documents required to export / import of goods.
- identifying a person in Romania.

Law no. 41/1994 on the organisation and functioning of the Romanian Radio Broadcasting Corporation and the Romanian Television Company

- Fees are no longer imposed for the public radio and television service.

Law no. 202/1998 on the organisation of the Official Gazette of Romania

- No fees and taxes are imposed, for individuals who are determined by law to announce losses of acts and changes of names, for publishing in the Official Gazette of Romania.

Law no. 117/1999 on judicial stamp duties

Judicial Stamp Fees Act has been repealed. The most important judicial stamp duties abolished include:

- fees for issuing or changing identity documents and writing entries therein;
- examination fees for drivers of vehicles in order to obtain driving licences;

- registration fees for motor vehicles and trailers, draft permit and permit-free movement for evidence.

Government Ordinance no. 128/2000 on the establishment of fees for services for individuals and businesses by the Ministry of Administration and Interior

No fees are imposed for:

- issuing criminal records;
- apostille on official administrative acts at the request of individuals;
- apostille on official administrative acts at the request of companies and in cases of representation by a lawyer;
- filing the application for an apostille.

Law no. 248/2005 on the free movement of Romanian citizens abroad

- Fees are no longer imposed for issuing a temporary or simple passport, amount established according to Law no. 198/2008.

Law no. 198/2008 on fee-based consular services and the consular fees at the diplomatic missions and consular offices of Romania abroad

Fees are no longer imposed for:

- registering an application for issuing an ID card or an electronic ID card;
- a passport or travel document;
- drafting, authentication and revocation of a document regardless of its nature;
- legalisation of the translator's signature;
- legalisation of copies of documents;
- legalising the signature on a document under private signature;
- legalisation of seal and signature of the Ministry of Foreign Affairs, implemented on an official document issued by the Romanian authorities to be used abroad, or a seal and signature on an official document that will produce legal effects in Romania;
- legalisation of seal and signature of the foreign competent authorities on a certificate of origin of goods on a commercial invoice and other documents required to export and import goods from and to Romania, depending on the value of the goods for each specimen;
- releasing a copy or extract of documents in the archives of diplomatic missions or consular offices;
- a translation from Romanian language or into Romanian;
- legalisation of a translation;
- certification of the facts personally established by the consular officer;
- certificate of custom;
- archiving documentary evidence and the documents submitted by the parties;
- marriage registration at diplomatic missions and consular offices;

- registration of a foreign birth or marriage certificate in the Romanian civil registers;
- purchasing a duplicate certificate of Romanian civil status or a multilingual extract of Romanian civil status;
- filing the registration of a claim considering Romanian civil status;
- issuing a statement of marital status;
- issuing proof of citizenship;
- purchase of a judicial or extrajudicial document in the country or abroad;
- verifying the authenticity of a Romanian driving licence;
- legalisation or apostille of an official document through diplomatic missions or Romania's consular offices abroad;
- other consular services not mentioned above.

Government Emergency Ordinance no. 23/2008 on fisheries and aquaculture

- The nominal licence for recreational / sport fishing is now issued without fees and charges.

Law no. 263/2010 on the unitary public pension system

- There are now no fees for operations not related to the determination and payment of pensions and other social insurance rights to be charged by the National Public Pensions Institution (CNPP), the territorial pension institutions and the sectoral pension institutions.

Government Emergency Ordinance no. 9/2013 on environmental stamp for vehicles

- The Government Emergency Ordinance no. 9/2013 on environmental stamp for vehicles has been repealed.

Law no. 85/2014 on the procedures to prevent insolvency and insolvency

- No charges are to be paid at the trade register in relation to insolvency procedure.
- There is no fee for publishing in the Bulletin of insolvency proceedings (BPI).

Government Ordinance no. 39/2015 on the fiscal record

The certificate of fiscal record is issued in writing, on paper or electronically, without charging fees.

[Source: Law 1/2017, published in the Romanian Official Gazette no. 15 on 6 January 2017]

The takeaway

Law no. 1/2017 eliminates more than 100 non-tax charges.

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Slovakia

The National Council of the Slovak Republic approved the Amended Act no. 442/2012 Coll. effective from 1 March 2017

On 1 February 2017, the National Council of the Slovak Republic approved a bill amending and supplementing the Act no. 442/2012 Coll. on International Assistance and Cooperation in Tax Administration ("Amended Act"). The Amended Act, effective from 1 March 2017, implements into Slovak law the Country-by-country reporting ("CbCR") requirements. We would like to draw your attention to the obligations which the Amended Act imposes on certain Slovak taxpayers in relation to the tax period of 2016. Many taxpayers will need to take action from 31 March 2017.

Definitions in the Amended Act

- Multinational enterprises ("MNEs") are required to file the CbCR if their consolidated revenues for the fiscal year preceding the reporting year equal or exceed EUR 750 mil ("MNE for CbCR purposes").
- The CbCR reporting period is the fiscal year for which the ultimate parent entity prepares the financial statements.
- Amended Act defines the ultimate parent company, surrogate parent company and constituent entity. An ultimate parent company is primarily responsible for filing the CbCR in the country of its tax residence. However, the Amended Act introduces the concept of secondary mechanism that transmits the obligation to file the CbCR to a surrogate parent company or to another constituent entity. Therefore, in some cases the Slovak taxpayers will have the CbCR filing obligation.
- CbCR should be filed with the Financial Directorate of the Slovak Republic ("FRSR") electronically. The template of the CbCR is included in the Amended Act and will also be published at the FRSR website.
- CbCR contains general information on the global distribution of income and taxes between the various members of the MNE as well as other indicators of their economic activity.
- The tax administrator cannot make tax base adjustments solely on the basis of information from the CbCR.

Your responsibilities and deadlines

- Within the deadline for filing their tax return, Slovak taxpayers which are members of a MNE for CbCR purposes must notify the FRSR of whether they have an obligation to file the CbCR (i.e. if they are the ultimate parent entity, a surrogate parent entity or constituent entity being a reporting entity).
- If they do not have the obligation to file the CbCR, they still have to provide requested information on the entity which will file the CbCR on behalf of their MNE. This Notification obligation applies to the tax period started on or after 1 January 2016. This means that many Slovak taxpayers should comply with this requirement by 31 March 2017. The template of the Notification "Oznámenie DAC4/CbCR", through which the taxpayer will fulfill its notification obligation, is published at the Financial administration website.
- CbCR should be filed within 12 months from the last day of a reporting period and the following applies:

  The Slovak tax resident that is ultimate parent entity or surrogate parent entity filing the CbCR, is obliged to file CbCR for the reporting period starting from January 2016.

All other Slovak tax residents being themselves the reporting entities are required to file CbCR for the reporting period starting from January 2017.

- FRSR will exchange 2016 CbCR with the competent foreign authorities within 18 months from the last day of the reporting year starting in 2016. For the reporting years starting in 2017 or later, the FRSR will exchange the CbCRs within 15 months from the last day of the reporting period.

Penalties

- For failure to file the CbCR, a penalty of up to EUR 10,000 may be imposed. A penalty of up to EUR 3,000 may be imposed for failure to fulfill the CbCR Notification obligation.
- Both penalties can be imposed repeatedly.

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Ukraine

Updates on work permits issuance

Changes in the procedure of work permits issuance became effective

On January 18, 2017 the Cabinet of Ministers of Ukraine (the CMU) announced changes to the Procedure of issuance, extension and revocation of work permits for foreigners in Ukraine[3].

The changes came into effect on February 3, 2017[4].

Key changes are the following:

- employers are now able to have foreigners employed on several positions simultaneously;
- an employer is now obliged to sign an employment agreement (contract) with a foreign employee within 90 calendar days from the date when the respective work permit was issued;
- rules and procedure for administrative appeal of refusal to issue or extend a work permit were established.

It is expected that the introduced changes will improve the investment climate and simplify doing business in Ukraine.

Update on currency control restrictions

National Bank of Ukraine eases currency control restrictions

The National Bank of Ukraine ("NBU") continues to ease its currency control restrictions. In particular, it has recently introduced the following changes:

From now on, individuals are permitted to make investments and/or deposit and keep funds on bank accounts abroad without obtaining individual licenses from the NBU if such investment/placement is made using funds originating from outside Ukraine (e.g. salaries, dividend payments received from foreign companies, etc.)[5]. Transfer of funds out of Ukraine still requires individual licenses from the NBU.

Business entities, private entrepreneurs and representative offices registered in Ukraine, may purchase foreign currency if they have less than USD 100,000 (or its equivalent) on their current and/or deposit accounts in all banks (previously the threshold amount was set at USD 25,000).[6]

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[3] The CMU Resolution No. 437, May 27, 2013
[4] The CMU Resolution No. 28, January 18, 2017
[5] The NBU Resolution No. 14 dated 23 February 2017
[6] The NBU Resolution No. 13 dated 22 February 2017

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