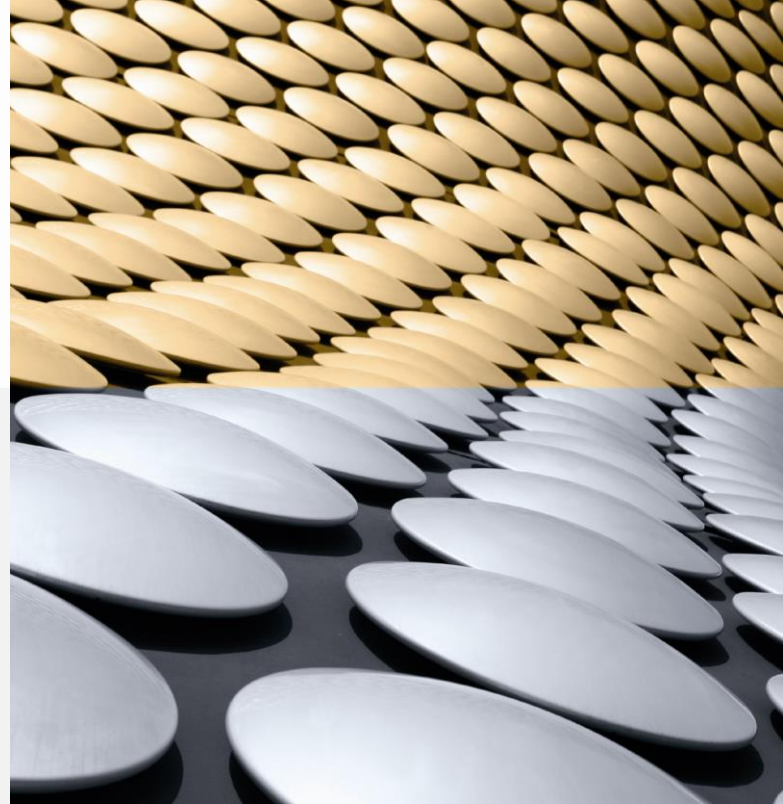




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KRS INFORMATION BROCHURE

## ADVERTISEMENT TAX Amended Regulations



### How can you profit from reading this brochure?

On 27 May 2015 the Hungarian Government approved a proposal for the amendment of Act XXII of 2014 on Advertisement Tax 2015. The modifications introduced changes to the rules governing the establishment of the tax base and the applicable tax rate, and influence the way in which the tax base of the corporate tax is determined.

This updated brochure contains the latest amendments, and is meant to provide a practical guideline to enterprises engaged in advertisement, marketing or sponsorship related services, as well as to those commissioning such services, to assist these enterprises in deciding what amendments may become necessary to their existing contracts, and how to formulate contractual relations in the future, so that their business operations remain

- (i) in strict conformity with the effective provisions of the Advertisement Tax Act,
- (ii) by reducing or eliminating the company's tax burdens to the lowest, while maintaining an effective risk minimisation policy.

### When does the advertisement tax payment obligation arise?

It derives from a **combination** of the following 3 factors:

- a) exercising a taxable activity **AND**
- b) qualifying as a taxable person by the criteria of taxability (the most critical factor) **AND**
- c) reaching the tax base threshold stipulated by law.

Let's see in detail what these mean!

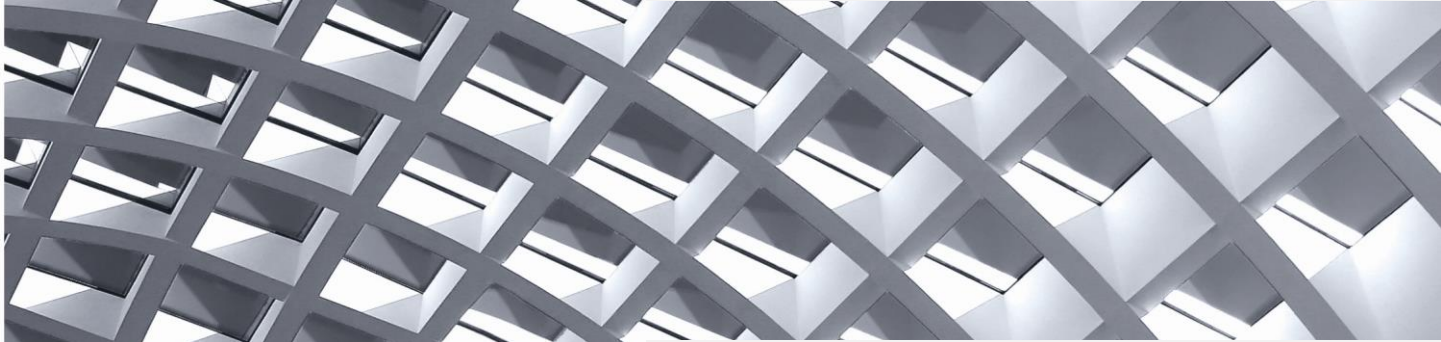
#### a) *Which activities are taxable?*

- (i) **Publication of advertisement** in media services, in press products published or distributed in Hungary predominantly in the Hungarian language, by means of outdoor advertising media provided for in the Advertising Act, on any means of transport, in any printed matter, over the internet, or via websites published predominantly in the Hungarian language.





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Based on the interpretation of the act issued by the National Tax Authority (NAV):

- the fact whether the **publication of advertisement is required mandatorily by law** or not, is indifferent for the establishment of taxability, it does not provide tax exemption.
- the definition of **printed trade advertising material** is not limited exclusively to advertisement printed on paper, the term involves the taxability of any other advertising material as well (such as gadgets, T-shirts, banners, branded pens, pendrives displaying the company logo.)
- displaying the company name and/or logo on any **printed material or vehicle**, in as much as it is targeted at the company's identification as opposed to the promotion of the company or its products, will not be regarded as taxable dissemination. At the same time, this rather surprising interpretation **leaves room for some flexibility** for companies when it comes to the design of advertising spaces and materials.
- proceeds resulting from **sponsorship** will be exempt from the taxability of revenue (or expense) only on condition if the sponsored party does not disseminate the identity of the sponsor(s) or alternatively, he communicates the sponsor's name limited to verbal dissemination, e.g. in the form of verbal announcements made at a sporting event. In all other cases (e.g. displaying the sponsor's name or logo on invitations, programs, websites, or on athletes' uniforms, equipment, or banners etc.) the dissemination of the sponsor will be regarded as a taxable event.

(ii) **Placing orders for advertisement**

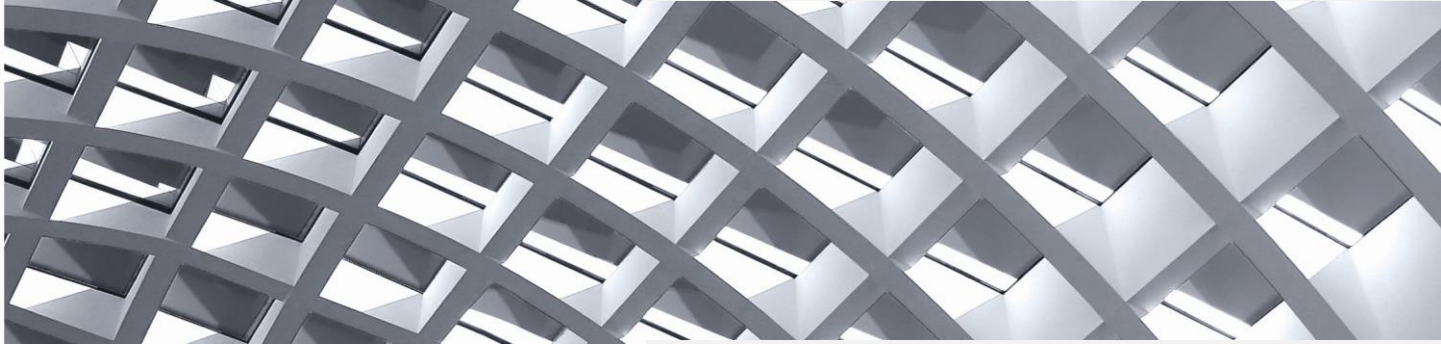
Placing orders for advertisement will be exempt from taxability in two cases:

- where the party ordering the services qualifies as a private individual who is not treated as a private entrepreneur under the Personal Income Tax; **OR**
- where the party ordering the services has a **statement** from the person publishing the advertisement (the party liable for the payment of advertisement tax) declaring that (i) he satisfies the obligation of payment of advertisement tax arising in connection with the publication of advertisement or (ii) that he is not required to pay any advertisement tax in the given fiscal year; **OR**
- where the party ordering the services is able to produce credible evidence (e.g. by record of delivery, or in case of e-mails by read receipt confirmations, or the list of sent e-mails) to the fact that he has **asked the taxable person to provide the aforementioned statement, but did not receive such statement** within ten working days from date of receipt of the invoice or accounting document made out for the dissemination of advertisement, **AND he has reported** the price charged for dissemination to the tax authority; **OR**
- where the party publishing the advertisement (the taxable person) is shown **in the register** of tax subjects satisfying their tax declaration obligations lawfully, and of taxable persons not required to pay tax, which is published on the website of the state tax authority at the time of placing the order for the dissemination of advertisement; **OR**
- **where the party ordering the services places the order indirectly, through the services of an intermediary.**

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*b) Who may be a tax subject under the advertisement tax act?*

- media content providers (Media content providers established in Hungary, and any person or organization managing outdoor advertising media, and any means of transport, printed matter or real estate property, or on the Internet; publishers of press products etc.);
- anyone, who places an order directly with the publisher for the publication of an advertisement, excluding private individuals not recognized as private entrepreneurs under the Personal Income Act

Please note that taxability must be established based on a case by case basis regarding the single transactions. Therefore, depending on individual contracts, in the given tax year business operations may qualify as a taxable person both in terms of their quality as the publisher of advertising, and as the advertiser who ordered the publication of advertisement. Other contracts, however, will not make business operations subject to the tax payment obligation, for example if an advertising agency has been assigned.

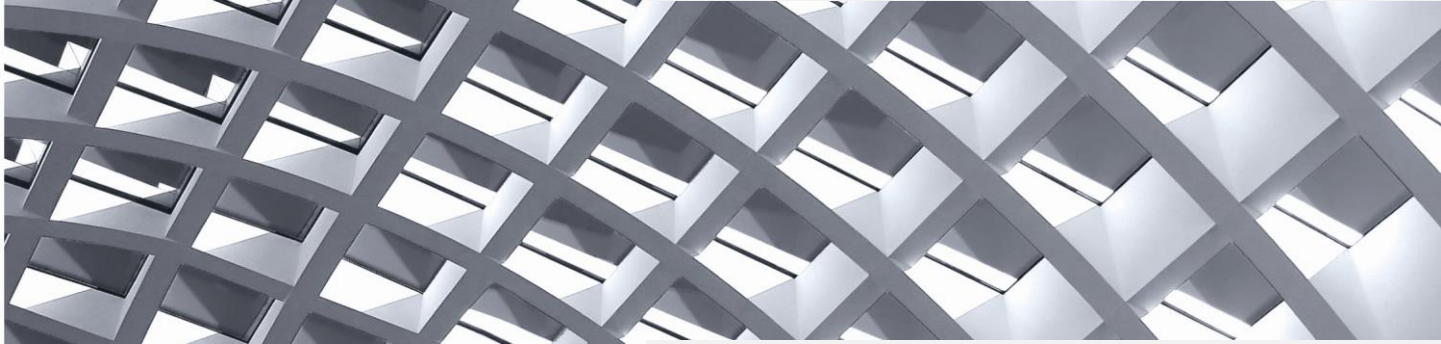
*c) What is the tax base for the purposes of the advertisement tax?*

- In case of self-promotion the tax will be based on the **direct costs of publication**. Since this latter concept is vaguely defined by the act, on one hand it exposes the business operations to certain risks and insecurities, but on the other hand it provides them with favourable tax planning opportunities
- In case of the publisher of the advertisement the tax base will be the **net turnover from taxable activities during the tax year (at the moment the amount beyond HUF 500m.)** Wherever an advertising agency was assigned for the publication **AND** such advertising agency qualifies according to the Accounting Act as a party related to the publisher of advertisement, the margin stipulated in the contract concluded with the agency must be added to the turnover (i.e. the tax base). The existence of the parties' related status is not necessarily a year-round relationship, the tax base must already be increased with the margin if the related status between the parties subsists only for one day in the given tax year.
- In case of the advertiser who ordered the services, the tax base will be the sum above HUF 2,500,000 of the total monthly expenses of publication of advertisements regarding all advertisement of **which he or she is not in possession of an eligibility statement issued by the person liable for the payment of advertisement tax** (see point a) ii) above), Here the applicable tax rate is 20 per cent of the tax base amount.

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*d) What is the applicable tax rate?*

- is 0 per cent of the tax base up to HUF 100 million,
- and 5,3 per cent of the tax base over HUF 100 million,

whereby the tax base of affiliated taxable persons must be added up only in case the relationship of affiliation is established subsequent to 15 August 2015, by way of division.

**Corporate tax implications**

- The costs claimed in connection with the publication of advertisement are considered as cost and expenses incurred in the interest of the business operation (to be deducted from the taxable person's pre-tax profit) irrespective of any other condition, if the amount thereof does not exceed HUF 30 million in the given tax year.
- The tax base may be reduced by 50 per cent of the deferred loss stemming from the negative corporate or entrepreneurial tax base accrued in previous years, but not exceeding the amount of the tax base of the advertisement tax.

**We suggest companies to take the following steps:**

- oversee your existing contractual relationships;
- prior to signing future agreements, make sure you conduct a due diligence investigation, and obtain the necessary declarations. This is of particular importance, since that the absence of such declarations may be rectified within the limitation period, wherefore it is not too late to incorporate those in your company's administrative/ payment practices;
- if your company is a publisher of advertisement/sponsored party, you may want to elaborate an internal policy regarding the issuance of declarations and the wording of those;
- you may want to consider outsourcing or assigning your company's advertisement tasks to an intermediary party, to make sure you remove all administrative burdens;
- revise your accounting policies, since reformulating certain questions or drawing up some new regulations may reduce the advertisement tax obligations;
- and last but not least, in cases of enterprise-specific questions that have not been sufficiently clarified by legislative regulations, you may consider addressing the competent authorities and institutions to request interpretation.

**We remain at your disposal should you need assistance in the preparation, planning or implementation of any of the above tasks. Please feel free to request our advice concerning your legal or tax-related inquiries.**

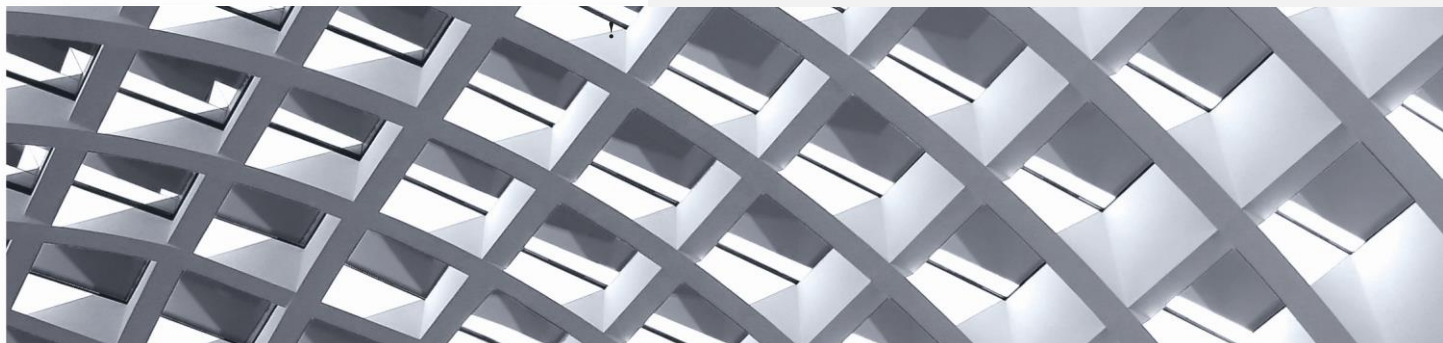
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*This publication is based on "Act XXII of 2014 on Advertisement Tax" published on 17 June 2014 in the Hungarian Official Gazette No. 82./2014, the official communication issued by the National Tax and Customs Administration of Hungary (NAV) „The Main Advertisement Tax Regulations 2014”, the relevant communications and publications issued in the subject by the Ministry for National Economy (NGM), and the Advertisement Tax Act amendment proposal enacted by the Parliament on 27 May 2015. This publication is intended for informational purposes only and does not contain or convey legal or tax advice.*

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