KOVÁCS RÉTI SZEGHEŐ
ATTORNEYS AT LAW

The Parliament adopted the amendment on tax laws and other related regulations and the amendment on National Tax and Customs Administration (NAV) on 7 June 2016. The most important changes will be summarised in the following.

Amendments on classification of taxable persons

The amount of tax difference imposed on the taxpayer has to be reduced with the tax difference for the current tax year and the five previous tax years to the tax payer's benefit for taxpayer classified as reliable from 1 July 2016.

At least 3 years of operation is not necessary for public limited companies to qualify as reliable taxpayer.

The National Tax and Customs Administration is going to automatically classify companies under deregistration procedure and the taxpayers, whose the amount of default penalty payable exceeds 70% of the taxpayer's taxes, into the category of unreliable taxpayers.

The audit of provisional assessment

In order to prevent abuses, a new form of tax monitoring for tax authorities will be implemented from 1 July 2016 , the aim of which is to state whether the fact of the case serving as basis for provisional assessment has been performed and, if, so, then whether the provisional assessment is binding on the tax authority. The tax authority may require the submission of documents during provisional assessment, which were stipulated by the resolution on provisional assessment that their issue, retention and maintenance are the condition for establishment of the relevant facts. The taxpayer himself may initiate proceedings on the basis of resolutions on provisional assessment that became legally binding on 31 December 2015.

Self-audit beyond the term of limitation

It will be possible beyond the term of limitation of the right to tax assessment on the basis of final court decision from 1 July 2016 that the taxpayer submits self-audit beyond the term of limitation of tax assessment for declaring his tax liabilities, on the basis of which the tax authority may conduct an audit within one year. The tax liability may be corrected at the request of the taxpayer within the framework of re-audit for the term already completed by audit.

Amendments on promotion of labour mobility

The amount of tax-free expenses will be increased in case of the use of own vehicle in travelling to work from 1 January 2017, from the current 9 HUF/km to 15 HUF/km.

The amount of tax-free travel expense shall also be provided from the registered office/establishment of employer to the place of employment in case of teleworking, if they are located in different settlements.

The definition of sporting event

The concept of sporting event will be defined as a new term from 1 August 2016. By way of derogation, sport organisation or sport club may exclusively organise sporting event exempt from tax on the basis of the new concept; other economic operators are not allowed to do that in the future.

Enhancement in the scope of tax-free allowances

The scope of tax-free allowances is further enhanced. The employer may provide all the employees or some employees with specified health screening test, physiotherapy or mental-health service on the basis of internal regulation.

Services, food and drink provided and giving gifts in a certain value by local or minority government, association, funds, public foundation or ecclesiastical legal persons, concerning the population or wide range of community thus at a non-private cultural, traditional, sporting, outdoor and other similar community events shall be considered as tax-free allowance.

Social contribution tax allowances

The institution of the Career Bridge Program (Karrier Híd Program) will be re-opened from 1 August 2016, within the framework of which, social contribution tax allowance may be claimed in case of employment of such person, who was employed immediately previously in the public sector.

The tax allowance relating to long-term job seekers and employees under the age of 25 qualified as fresh starter may be claimed in case of any changes of employer in the future. A new social contribution tax allowance relating to R&D activities produced on their specific field was implemented from 8 June 2016.

Tax Contribution Allowance relating to the delegation of third country national

If the employee holding a citizenship of a third country employed by a foreign employer works within the framework of delegation in Hungary, he will be exempted from the payment obligation of social contribution tax and from the obligation of social security in case of delegation not exceeding 2 years.

This rule may be applied in the case if

(i) such private person delegated from a third-country and insured there arrives in Hungary, whose state of nationality has a bilateral social security agreement with Hungary and

(ii) in the case of such EU citizens delegated from a third country and insured there, who do not fall within the scope of coordination of social security systems.

These rules, allowances may be retroactively applied to the delegation started from 1 January 2016.

If the delegation is extended and the term of delegation extends two years, the Act shall provide application of different rules. If the delegation is extended due to unforeseeable reasons and the employee informed the authority about that according to the conditions laid down in Act then the

social contribution tax and the obligation of social security are valid from the end of the second year by way of derogation from the current rules.

Amendments on threshold for national VAT summary report

The threshold of report was decreased from 1,000,000 HUF to 100, 000 HUF, accordingly, the buyer's tax number shall also be indicated on the invoice reaching this threshold from 1 January 2017. The indication of buyer's tax number is not mandatory on that invoices, which were issued in 2016 but their due date falls in 2017.

Online data reporting

VAT registered persons will become liable for online data reporting to the tax authority relating to invoices issued by invoicing software from 1 January 2017, which VAT amount shall reach or exceed 100, 000 HUF.

The liable persons shall perform the data reporting on voluntarily basis in the first half of the year but the application of rules will be mandatory from 1 July 2017. A specific legislation makes possible for the tax authority to supervise the operation of invoicing software through a communication tool and to send direct data request.

Expansion of Reverse Change Procedure

Not only construction services subject to authorization by the competent building authority or to the building authority's acknowledgement falls within the scope of reverse change procedure from 1 January 2017, but also all the construction services, which are subject to simple notification.

Notification requirement for EKAER (Electronic Public Road Transportation System)is expanding

Not only transportations of goods on public roads by a motor vehicle subject to toll charges fall within the scope of notification requirement for EKAER from 1 August 2016, but also those transportations, in case of which the vehicle itself would not be subject to toll charges but its total effective vehicle mass exceeds 3,5 tons together with the goods.

Further change is that the carrier is obliged to keep the official seal affixed by tax authority unharmed until the tax authority removes it. If the carrier does not fulfil this liability, default penalty of 1,000,000 HUF may be imposed until the payment of which the tax authority may withhold the transport equipment without separate decision.

Default penalty may be imposed in the future if the quantity of products notified exceeds the actual quantity of products transported. The amount of penalty may be up to 40% of the value of the goods notified but actually not transported.

Changes relating to corporate tax

Tightening relating to tax evasion

The assessment principle of tax evasion is further tightening in the Act on Corporate Tax from 1 January 2017, if the transaction is not exclusive but its main purpose is to take a tax advantage then the tax advantage may not be validated.

Tightening of allowances on royalty

Allowance enforceable on the basis of received royalty will be significantly tightened by the redefinition of the concept of royalty; the income from patents, protections and copyright of software shall basically belong to this scope. Beyond the concept narrowly formulated, the income from royalties is eligible for allowance to such an extent, in the proportion to which the tax payer created the intangible assets on the basis of his own research and development activity. Direct cost of R&D service ordered from the affiliated company, furthermore, the accounting cost of intangible assets received from affiliated company may be taken as direct cost of own research and development activity, up to 30% of it. The taxpayer may act in connection with the stock of intangible assets till 30 June 2016 according to the rules preceding the amendments. The rules above shall be applied to determine the assessment base to be used for business tax.

Loss transfer in case of R&D activity

9,5 % of the amount of tax base deduction claimed with regard to research and development activity may be validated as contribution tax allowance in case of negative tax base from the date of the publication of the Act. If:

(iii) 40% of all revenues of the business association originate from R&D activities.

(iv) it provides at least one traineeship, furthermore

(v) the average number of R&D staff members decreased by maximum of 10 % in the tax year.

50% of tax base deduction item validated according to the above may be regarded as loss transfer used.

Tightening of assets without consideration

The tax payer that has provided assets without consideration shall increase the tax base by the amount of assets without consideration from 1 January 2017 if the taxpayer receiving assets without payment does not pay corporate tax for this income.

Preferential transformation and preferential transfer of assets

As from 1 January 2017, in case of preferential transfer of assets if the transferring company sells his acquired quotas following the preferential transfer of assets during the period of deferred tax liability, it has to re-increase its tax base by the amount taken as tax base reducing item (but maximum by the amount, which has not yet been claimed as deferred tax by the receiving company) regarding preferential transformation, while the receiving company may determine its tax base irrespective of tax deferment in the future.

Further change is that the tax payer is obliged to prove the real economic and commercial reasons of transaction in case of preferential transformation and preferential transfer of assets in the future.

Changes relating to affiliated companies

Data on affiliated company and the economic reasons for transaction have to be provided in tax return, if the taxpayer's claim for affiliated company becomes irrecoverable. The decreasing items relating to transfer prices between affiliated companies may be applicable from 1 January 2017 if the affiliated party declares that he shall take the tax on difference between the price charged and the fair market value into account in the determination of tax base. he domestic business' establishment shall not perform the obligation to document transfer prices if he is domestically exempt from the obligation of payment of corporate tax on the basis of international convention.

Amendments on advertisement tax

If the publisher of advertisement does not perform his obligation to declare relating to advertisement tax to the customer of advertisement, he has to do so to tax authority at the request of the state tax authority from 1 January 2017. In case of noncompliance, a default penalty of HUF 500,000 shall be paid, and further HUF 10 million shall be paid to the same customer in case of re-default and then this amount multiplied by three shall be paid. The same penalty system prevails in case of default of the notification obligation. Further change is that the tax authority shall impose HUF 3 billion constructive tax in case of noncompliance with the obligation of tax return, against which evidence to the contrary shall be admissible within the limitation period of 30 days.