

## **Tax planning practice already successful in Western Europe is going to be available in Hungary as well from 2019**

Specific details of a new tax institution were established in a so-called “tax-package” submitted prior to the festive week-end, which has had unfortunately passed away.

Following the VAT grouping, corporate tax grouping is going to be available in Hungary, thus, also a massive competitive disadvantage is willing to be vanished.

It has long been known, that a low corporate tax rate is not a sufficient competitive advantage, according to cross border investments, transactions, or the place or form of establishment, and the amount of investment, and as a consequence, with regard to the budgetary revenue thereof, the presence or lack of tax consolidation is deemed even more relevant.

The administration of tax consolidation is a key pillar, criteria of corporate tax models.

The lack of tax consolidation often leads to double taxation and hinders an obstacle to cross-border investments, business activities, by doing so, it has a direct impact on investments, and on transfers of basis of assessment. An obvious connection can be shown between effective corporate tax burden and the rate of accounting losses.

### **What does group corporate taxation mean?**

The majority of the member states of EU, whilst four member states in a cross-border system ensure tax-law consolidation, i.e. the opportunity of group corporate taxation for the companies.

The very meaning of group corporate taxation is that a certain corporate group counts as one taxpayer within that particular tax type, as long as in other tax types the members of the corporate group remain individual, which provides flexibility for the taxpayer companies through the carrying out and optimal constructing of their business activity without the peril of double taxation, since the conventions for the avoidance of double taxation cannot provide solution in every situation.

### **What is the difference between being a taxpayer company at VAT grouping or group corporate taxation?**

With regard to the most important criteria of being a taxpayer at VAT grouping, which can also be its main difference compared to group corporate taxation is that rationalization and tax consolidation is not based on the profitability of companies, but intra-group transactions to neutralize and exempt VAT.

### **Which are the characteristics and conditions of use of group corporate taxation?**

For the time being, Hungarian legislation allows group taxation within the border only, or even two resident taxpayers can form a group, with at least 75% of affiliated companies having a voting right and a maximum number of participants; however, a taxpayer may be a member of only one group at the same time.

Further conditions are the following:

- their balance sheet date coincides
- they use the same currency in their books, and
- they prepare their accounts in accordance with the Hungarian Accounting Act or IFRS



### **What does group corporate taxation mean in practice, what are the benefits?**

The companies that form the group prepare their own tax return, which is sent to the tax authority and the group representative, who then prepares the group-level tax return. The corporation tax payable is divided among the group members in proportion to the positive tax bases, which the group representative declares to the national tax authority in the group corporate tax return. The group tax base will be reduced under special loss limitation rules by the group members' negative tax base for a given year, which, such as general loss limitation rules, can be spent for five years. The fifty percent loss limit will also apply here.

A group corporation taxpayer will also be required to pay a corporation tax of 9%, and the group members will be able to enforce tax benefits jointly. A group corporation taxpayer may also use the credit for the donation. Tax benefits for group membership will be taken into account if the member also qualifies as a member of the group and the group can benefit from a new tax credit if at least one of the group members meets the requirements.

A significant rule is that members of the group are exempt from the transfer documentation obligation for transactions between each other, and the documentation will only be prepared at the level of the group corporate taxpayer.

### **What is group formation, what are the administrative requirements?**

The intention for transition could have been announced for the first time between 1 January and 15 January 2019, this is a strict time limit, following this deadline, the transition will not be possible for the year of 2019. Considering the end of the year and the beginning of the year, there will be approx. 1,5 working weeks for taxpayers to prepare and submit their application, so the analysis and decision process should be done this year, at the same time as the closing process!

The group corporate taxpayer will be created with permit of the national tax authority, a.k.a. NAV upon the joint written request of the prospective group members. The corporate tax group will then be represented by the group representative before the tax authority, who will receive a separate group identification number. The group representative will be required to keep a special record of the details of the group tax calculation.

In the event of a dissolution of the group, the former group members start a new tax year, declare a corporate tax advance, and then declare their tax advances and taxes independently and pay them.

**Our tax law working group has been dealing with the practical implementation of various European corporate tax models for many years, the working group is aware of the advantages and disadvantages of practical operation. If you are interested in a new tax planning opportunity and would like to see if your business group could have the chance to benefit from this new solution, please kindly be invited to contact our office, we will help you find the best solution!**