

**The regulation relating to company car tax will be amended; the long-term lease will not be terminated**

Act LXVI of 2016 ( on the amendment of certain tax laws and other related laws, as well as of Act CXXII of 2010 on National Tax and Custom Administration) , among others, amends Act LXXXII of 1991 on the Motor Vehicle Tax and, as a consequence of these amendments, the concept of long-term lease will be removed from the Act on the Motor Vehicle Tax from 1 January 2017 and the former regulation relating to long-term lease will be terminated, according to which the subject of company car tax was the long-term lessee instead of the owner and private individual as long-term lessee is not obliged to pay company car tax if certain conditions are met.

According to the justification of the amendment, the objective of the amendment especially is that the existing abuses relating to the current rules are prevented. The justification of the legislation also details that *many times, in practice, the non-private individual, the owner registered in the motor vehicle register “got rid of” his taxability and tax payment that they established a long-term lease agreement (operator’s right) in favour of the individual as executive, this private individual did not account for the expenses in connection with the use of the vehicle and the owner company accounted only for the depreciation as expenses.*

It is widespread regarding the amendment that the objective of the amendment is the evaluation of the long-term lease construction but there is no question of this. The long-term lease has not functioned as an individual category of civil law in the Hungarian legislation, furthermore, both the new Civil Code (Ptk.) (Act V of 2013) and the new Act on Credit Institutions and Financial Enterprises (Act CCXXXVII of 2013) defines the concept of financial lease that the concept of financial lease is not identical to the concept of operational lease also named as long-term lease. In accordance with the long-term lease, the operational lease, which is concerned by the above amendment, invariably corresponds with lease agreement from civil law aspect and does not fall within the scope of services covered by the Act on Credit Institutions and Financial Enterprise.

**It should be emphasised that it is not about the legal construction but the termination of rules relating thereto concerning specified scope of entities for payment of company car tax, providing exemption from tax liability in certain cases, and about its repeal from 1 January 2017.** As a result of the amendment, the subject of the company car tax will be the owner of the vehicle in case of



vehicles operated in long-term lease scheme, who will be obliged to pay company car tax apart from the long-term lease.

The rule, according to which the motor vehicle tax imposed on the taxable person by the municipal tax authority can be deducted from the company car tax payable quarterly, invariably remains in force. At the same time, as a result of the above amendment, in practice this deduction will not be possible without modification in transactions, in case of which the legislator intends to prevent the possibility of company car tax evasion. Since in terms of the new regulation, the owners will be required to pay the company car tax in case of the transactions concerned, the company car tax payment liability will be invariably attached to the person registered by the authorities as the operator.

In view of the above, the legislative amendment aiming to eliminate tax evasion with the transfer of company car tax payment to the owner seems to solve the same that, in this example, the company car tax payment liability cannot be evaded with the establishment of a long term lease construction between a company and an executive. But it also creates such situation, in which in case of the long term leased motor vehicle – as well as in case of long- term lease between companies, if the lessee registered in the motor vehicle register as operator – the operator is separated. Thus the person liable for the payment of company car tax and the owner are the persons liable for the payment of company car tax from 1 January 2017. As a result of this, all the constructions concerned – even in the case when the lessee is not an individual person – the amount of vehicle tax payable will not be possible to be deducted from the amount of company car tax.

It means further predictable difficulties and problems that it cannot be disregarded at the reconsideration of these schemes that the operators of the legal relationship of the long-term lease are supposed to take out and to maintain liability insurance relating to the motor vehicle. For this reason, the possible termination of the operator's capacity – in order that the subject of the motor vehicle tax and the company car tax would be the same person and the evasion of double taxation ensured by legislation can be applied – does not arise as a simple technical question ( with the related fixed but one-off cost ), but it raises further questions and at the inquiry of its expediency, not only the advantages from the deduction of the amount of company car tax from the amount of vehicle tax payable but the potential other changes from the termination of the capacity as operator and its financial impacts must also be taken into consideration (it also involves that the lessor will obviously impose his new tax burden on the lessee but he will only be able to do it if it is increased by VAT.)



In conclusion, it seems that the amendment will have unfavourable impact beyond the justified objective since it will not exclusively affect that circle which presumably chose such operational construction with the purpose of tax optimization and it requires the redesigning of the construction applied hitherto in case of the undertakings, which operate vehicles or fleet of vehicles within the framework of long-term lease agreement in respect of the regulation currently in force.