

Expected amendments to Hungary's tax legislation

28 June 2018.

A draft of interim and tax law amendments for next year was submitted to Hungary's Parliament on 19 June 2018. Below, we summarize the most significant changes anticipated according to draft Law No. T/625.

PERSONAL INCOME TAX

In-kind and tax free benefits (cafeteria system)

- Liabilities on fringe benefits are currently payable on a multiplied tax base (118% of income). As of 1 January 2019, this multiplied tax base would not be applicable for fringe benefits. It should be, however, noted that a 19.5% social tax would be payable on a fringe benefit, instead of the currently applicable 14% health care charge. The effective tax burden would be 34.5% (which is currently 34.22%).
- The multiplied base (118% of the income) on special defined benefits would remain applicable. From 1 January 2019, a 19.5% social tax would be payable on these benefits (currently a 19.5% health care charge is payable). In light of the above, the effective tax burden (of 40.71%) will not change.
- From 1 January 2019, many in-kind benefits (fringe and special defined benefits) would be abolished. Among others, the HUF 100,000 cash benefit and holiday services would not be considered fringe benefits. Moreover, personal insurance; products and/or services provided based on an internal policy (that is available for every employee); the school starting support; season tickets; payment into voluntary funds and the so-called Erzsébet vouchers would be excluded from special defined benefits.
- Several tax-free benefits would also be revoked including support provided by an employer for a home loan, for risk insurance and for student loans; housing allowance for mobility purposes and tickets provided for sporting and cultural events.

Definition changes

- A definition of "permanent home" would be inserted into the Act on Personal Income Tax. According to this definition, a permanent home could be real estate which is available for the individual permanently and is sufficient for living purposes.
- The definition of securities would include certain statutory financial contributions, such as assets contributed to a law firm.

Modifications related to tax return proposals

- As of 1 January 2019, the Hungarian tax authority would prepare tax return proposals for private entrepreneurs as well. Simultaneously, the filing deadline for private entrepreneurs would also be 20 May following the tax year in question.
- The tax authority would prepare tax return proposals for individuals based on the data provided by employers, or disburseurs by the last day of February following the tax year.
- Individuals who have foreign pension insurance and intend to apply for tax allowances in this respect would also be eligible for tax return proposals created by the Hungarian tax authority. However, the information related to the foreign pension insurance in question should be added by the individual as an amendment of their tax return proposal.

Modifications related to rental income

- According to the amendment, utility costs charged by a landlord to a tenant would not be regarded as revenue realized by the landlord –

even if invoices are issued to the landlord in his/her name.

- Based on the amendment, any company that is obliged to act as disburser with respect to rental income should not withhold tax from the landlord's income, if the landlord declares to the company that he/she rents an apartment in another city and intends to offset this rental cost against the rental income. In this case, the landlord would also be personally liable to pay related tax advances.

Insurances related modifications

- An employer's support on risk insurance (up to 30% of the minimum wage) would not be regarded as tax-free income as of 1 January 2019.
- In addition to the above, employer's support for personal insurance would be excluded from special defined benefits.

Further modifications

- Individuals with government portal registration (Ügyfélkapu) would be able to submit their tax allowance declarations (e.g. family tax allowance declaration) electronically. After filing, these declarations would be forwarded by the tax authority to employers, disbursers.
- The simplified entrepreneurial tax (eva) could be chosen by individuals until 20 December 2018. After this date, this type of taxation method would not be available.
- The amendment also contains a modification regarding the training fund contribution: if a company employs an individual who receives an old-age pension (i.e. he/she is a retired individual), the employer could be exempt from the training fund contribution.

SOCIAL SECURITY

Retired individuals' employment

- The activity performed by a retired individual (under a Hungarian employment contract) would not result in insured status from the social security point of view. Accordingly, the employee and the employer parts of the social security liabilities would not be due on a retired individual's employment income. In the meantime, the individual would not be entitled for healthcare services as an employee (they are eligible for this service based on their retired status), and would not be able to gain further service time or pension base.

Social tax and healthcare charge

- A new act would be enacted on the social tax (the employer portion of the social security liabilities), which would cover the current legislation on the social tax and healthcare charge.

- The social tax would rate remain 19.5% (flat rate).
- Compared to the Act on Healthcare Charge, the personal scope of the new Act on Social Tax would be extended. The current Act on Healthcare Charge basically does not cover individuals who are not regarded as residents from a social security point of view. From 1 January 2019, as a general rule, social tax would be due with respect to each private person who receives income falling within the scope of the legislation.

- Liability on income from capital investments would be still capped. The social tax would be payable until the combined base of the consolidated tax base, base salary (in the absence of taxable income in Hungary) and income from capital investments in question do not exceed an amount of 24 times the minimum wage in the tax year concerned.

- The same exemption would be applicable based on the new social tax (as described in the current acts). In addition, with respect to income relating to the consolidated tax base, third-country nationals may be exempted from the new social tax for up to a two-year period.

- Some of the social tax allowances would be abolished (e.g. allowances for employees under the age of 25 or R&D), while new allowances may be applicable as of 1 January 2019. Allowances that would be available according to the new act are the following: allowances regarding non-skilled and agricultural employees; individuals entering the labor market; women with three or more children entering the labor market; individuals with reduced working capacity and public employees.

Further modifications

- The amount of the healthcare service fee will be HUF 250 per day and HUF 7,500 per month.
- An individual shall be regarded as an insured person from the social security perspective in the period between an unlawful termination and the reinstatement of employment.
- The fee for agreement regarding pension service time and pension base will be 24% of the elected base (instead of the currently applicable 34%).
- Severance payment and overdue wages shall be regarded as income subject to social security contribution and social tax.

CORPORATE INCOME TAX

- According to the draft, the definition of the participation exemption would be specified. For example, the investment units issued by open-ended investment funds would no longer

be covered, or the previous condition would be abolished, namely that preferential treatment is applicable for a newly-acquired participation only, if the previously-acquired participation was announced to the Tax Authority.

- Based on the draft, taxpayers could apply for tax allowance related to the improvement of energy efficiency in addition to investments in case of renovation works (as defined by the Act on Accounting) as well. Furthermore, in the case of certain promotable settlements, the rate of the tax allowance could be increased to 35-45%, but the cap would remain at EUR 15 million.
- The draft would introduce the definition of “kindergarten at the workplace” for corporate income tax purposes; simultaneously, the daycare’s operational costs would be tax deductible.
- The draft would increase the maximum amount of development reserve from HUF 500 million to HUF 10 billion.
- Up to now, buyers could not take into account the direct costs of inbound R&D services when calculating the R&D allowance. However, as per the proposed amendments, the tax base decreasing item related to R&D services could be divided by a supplier and a buyer upon their written declaration. The entitlement for such beneficial treatment (divided amounts between supplier and buyer) would not be transferable to related parties.
- The special CIT rules related to taxpayers applying IFRS would be specified, i.e. concerning the application of IFRS 9 and other depreciation issues — tax depreciation could be applied in case of certain assets, where the tax value of the assets differs from zero, even if they have been fully depreciated under IFRS already.
- According to the draft, no data has to be reported to the Tax Authority as part of the top-up procedure (usually due on 20 December) by taxpayers who are applying IFRS for the first time.
- Based on the draft, if, as per the Act on Accounting, there is a self-revision carried out because of a non-significant error which is not followed by a self revision according to the Act on Procedural Rules of Taxation (e.g. because of statute of limitation rules), CIT base adjustments related to self revision would not be applicable.
- Pursuant to legislators’ intentions, a decision related to the utilization of tax allowances could be modified afterwards through self-revision, yet it is not formalized, but based on the wording of the draft such modification is expected

TAX ON CREDIT INSTITUTIONS, TAX ON FINANCIAL INSTITUTIONS

- As per the draft, a tax on credit institutions would be abolished as of 1 January 2019.
- The draft would add several amending provisions related to the tax base of financial institutions applying IFRS, which would sometimes result in a situation where tax liability should be determined based on taxpayers’ total assets instead of their income or profit, as previously.

INNOVATION CONTRIBUTION

- The draft would restore previous rules in terms of small and medium-sized enterprises (SME) status, meaning that such status should be determined based on all of the provisions of the Act on SMEs.

LOCAL TAXES

- Pursuant to the draft, administrative burdens would be decreased in terms of announcements/ announcement of changes, as certain announcement obligations would be replaced by data reported by the Tax Authority to municipalities.
- As per the draft, municipalities would be entitled to grant tax allowances related to certain investments through municipal decrees.
- The draft includes certain modifications which would be necessary because of the future application of IFRS 16 on lease contracts.

INSURANCE TAX

- According to the draft, accident tax would be abolished, and certain modified rules of accident tax would be transferred to the Act on Insurance Tax.
- Flat rates would be applied: 15% in the case of third-party liability insurance for vehicles (KGFB), 20% for cars and motorcycles which is payable by the insurers.
- The preferential progressive tax rate would be still in force in the case of property insurance, accident insurance and comprehensive insurance (CASCO) for insurance companies, where the annual tax base does not exceed HUF 8 billion. The premium emerging from third-party liability insurance for vehicles should be excluded from the calculation of the annual threshold of preferential tax rates.

FINANCIAL TRANSACTION TAX

- As per the draft, HUF 20,000 would be exempted for money transfers initiated by individuals.

PROCEDURAL RULES ON TAXATION

- The draft would restore an interest payment obligation for the Tax Authority in cases when an unlawful decision by it results in a reclaim for the taxpayer.
- Late payment interest would be increased from twice the prime rate to the prime rate plus 5% (5.90%), while self-revision interest would remain equal to the prime rate (0.9%).

VALUE ADDED TAX

- Treatment of vouchers within the VAT system: According to the draft, in line with Community legislation, new provisions will be introduced regarding the treatment of vouchers as of 1 January 2019. The VAT Act defines vouchers, distinguishing between single-purpose and multi-purpose vouchers.
- The purpose of the regulation is to bring the tax point close to the issuance of a voucher. For that, it is necessary to know the applicable tax rate (place of supply) and tax base. For single-purpose vouchers these parameters are known, so the tax payment obligation can be determined when issuing the voucher, while for multi-purpose vouchers the tax point is when vouchers are used.
- Specific rules apply for agent and commission resale and also for handling other services connected to voucher and promotional schemes.
- There is a so-called “mini one-stop shop system” (MOSS) for treating electronically-supplied services rendered towards non-taxable persons. The draft introduces that only those service providers seated in one EU Member State can take advantage of additional simplification measures. If their turnover received from a specific EU Member State does not exceed the threshold of EUR 10,000, the supplier has the opportunity to charge VAT of the country of establishment despite the general rule. So there is no obligation to charge VAT according to the country of establishment for sales below the threshold. Another clarification will be introduced, namely that for invoice requirements the provisions of the country where established (where the MOSS registration took place) apply.
- A new section will be added to the periodical settlement rule. According to this, if the taxable person terminates without legal succession prior to the date of supply of a particular transaction, then the periodical settlement transaction shall be deemed to have been fulfilled on the day prior to the termination.
- The draft introduces further conditions for VAT exemption in connection with services directly related to export or other similar VAT-exempt

transactions. Such services shall only be treated as VAT exempt services if they are provided directly to a partner who performs the VAT-exempt goods transactions.

- Reporting of invoicing data: According to previous tax legislation modifications, the threshold for reporting an invoice will decrease to HUF 100,000 as of 1 July 2018 and an online invoice reporting mechanism will replace the domestic sales list report. The draft provides guidance in connection with the method of how to report invoice data above the threshold conditional to the date of issuance and invoice date (transitional measure).
- The provisions of the draft cover a scenario which would lead to double reporting of particular transactions during the transitional period. According to the transitional measures, the addressee of the invoice would not be obliged to prepare a domestic purchase list regarding those invoices that are also reportable before 1 July based on the rules effective on 30 June.
- Foreign taxable persons registered for Hungarian VAT could deduct VAT regarding their purchases prior to the date of registration through their VAT return submitted for the period of registration.
- Reverse charge: according to the draft, the applicability of reverse charge mechanism would change:
 - As of 1 January 2021 for services of secondment or rendering available personnel, the reverse charge mechanism would not be applicable (unless secondments are related to real estate transfer or construction work or other installation work as defined by the VAT Act). As of the same date reverse charge for school cooperatives and pensioner cooperatives will cease to exist.
 - Reverse charge for the supply of certain cereal and steel products remains effective until 30 June 2022.
- Reduced VAT rate: As of 1 January 2019, the VAT rate for UHT and ESL milk will decrease to 5%.

PUBLIC HEALTH PRODUCT TAX

- The public health product tax will increase by 20% generally for certain food and drinks (e.g. soft drinks, snack, chocolate, spirit drinks, marmalade and condiments) as of 2019 for public health reasons.

Partners

Gábor Beer

Partner, Head of Tax and Legal Advisory

T: +36 1 887 7329

E: gabor.beer@kpmg.hu

Gábor Zachár

Partner

T: +36 1 887 6690

E: gabor.zachar@kpmg.hu

dr. Árpád Varga

Director

T: +36 1 887 4061

E: arpad.varga@kpmg.hu

Indirect Tax Advisory and Compliance Services

Károly Zsolt Kovács

Director

T: +36 1 887 7467

E: zsolt.kovacs@kpmg.hu

Zsolt Srankó

Senior Manager

T: +36 1 887 7460

E: zsolt.sranko@kpmg.hu

Ágnes Mara-Sibelka

Manager

T: +36 1 887 7100

E: agnes.mara-sibelka@kpmg.hu

Corporate Tax, Deal Advisory and M&A Tax

dr. András Németh

Director

T: +36 1 887 7261

E: andras.nemeth@kpmg.hu

Eszter Somogyi

Senior menedzser

T.: +36 1 887 6636

E.: eszter.somogyi@kpmg.hu

Erzsébet Pellei

Manager

T: +36 1 887 6549

E: erzsebet.pellei@kpmg.hu

International Tax

Zsófia Pongrácz

Senior Manager

T: +36 1 887 7374

E: zsofia.pongracz@kpmg.hu

Global Mobility Services

Attila Zoltán Arányi

Director

T: +36 1 887 7304

E: attila.aranyi@kpmg.hu

Andrea Szűcs

Senior Manager

T: +36 1 887 6589

E: andrea.szucs@kpmg.hu

Viktória Czibók

Manager

T: +36 1 887 7348

E: viktoria.czibok@kpmg.hu

dr. Edit Mária Pákozdi

Manager

T: +36 1 887 6576

E: edit.pakozdi@kpmg.hu

dr. Roland Zsolt Sándor

Manager

T: +36 1 887 7482

E: roland.sandor@kpmg.hu

Erika Anna Erdelics

Manager

T: +36 1 887 5512

E: erika.erdelics@kpmg.hu

Dávid Volosinovszki

Manager

T: +36 1 887 7359

E: david.volosinovszki@kpmg.hu

Transfer Pricing Advisory Group

Mihály Gódor

Director

T: +36 1 887 7340

E: mihaly.godor@kpmg.hu

Tax Advice for the Financial Services Sector

Gábor Farkas

Senior Manager

T: +36 1 887 7415

E: gabor.farkas@kpmg.hu

Balázs Pethő

Senior Manager

T: +36 1 887 7368

E: balazs.petho@kpmg.hu

Accounting Advisory, Bookkeeping and Payroll Services

Ágnes Rakó

Partner

T: +36 1 887 7438

E: agnes.rako@kpmg.hu

Legal Services

dr. Bálint Tóásó

Attorney-at-law

T: +36 1 887 7282

E: balint.toaso@kpmg.hu

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name, logo are registered trademarks or trademarks of KPMG International Cooperative ("KPMG International").

© 2018 KPMG Tanácsadó Kft., a Hungarian limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.