

## TaxAlert

May 2009

### ***Proposed tax law amendments submitted to the Parliament***

*The modification of certain tax acts and other related laws were submitted to and accepted by the Parliament on 11 May 2009. Some of these modifications enter into force during 2009 and in this alert we highlight the main changes.*

#### **Personal Income Tax**

The tax table will be the following for 2009, retrospectively from 1 January:

Up to 1,900,000 HUF	18%
Above 1,900,001 –	36% plus HUF 342,000

When calculating the personal income tax liability the so called “family allowance” should be declared as non-taxable and the income should be divided between the parents (50 percent each). In case of a single parent, 50 percent of the family support should be included in the consolidated income tax base.

#### **Social Security Contribution Liabilities**

26 percent social security contribution should be paid up to twice the amount of the minimum wage (i.e. HUF 143,000) from July 1, 2009. The breakdown of the 26 percent social security contribution is: pension contributions of 24 percent, 1.5 percent in kind health insurance contributions and 0.5 percent cash health insurance contributions. Above twice the minimum wage, the social security rate remains 29 percent.

Individuals who wish to be entitled to health services from the Hungarian health system based on a voluntary agreement with the Health Insurance Board could do so by paying a monthly health care contribution. The monthly health care contribution in such a case equals the minimum wage (in case of a child, 30 percent of the minimum wage). According to the new legislation, the health care contribution paid by a self-insured person is decreased to 50 per cent of the minimum wage (for those under the age of 18 the contribution remains 30 percent).

The employer’s contribution would be reduced to 1 percent up to twice the minimum wage. Above this amount, the contribution rate remains 3 percent.

The maximum duration of passive sick-pay will be reduced from 45 days to 30 days from 1 August 2009, furthermore the amount will be decreased from 70 percent of the salary to 60 percent (if the insured person has two years' continuous insurance) or rather 60 percent to 50 percent if the insured person has less than two years' continuous insurance or if the insured person is in hospital. The maximum amount of sick-payment will be limited to 400 percent of the minimum wage, in case of passive sick-pay it is limited to 150 percent of the minimum wage.

#### **Labour Law**

The sickness absence payment payable by the employer during sick leave will be reduced from 80 percent to 70 percent from 31 July 2009.

#### **Corporate Income Tax**

The current proposal does not contain the original concept of the previous administration regarding the corporate income tax law changes for 2010. The proposal does, though, include two amendments which can be applied retrospectively to the tax year 2008.

There is a change to the tax base adjusting item concerning unrealized exchange rate fluctuations arising from financial investments. The current changes refined the application of this item for shareholder entities.

A favourable amendment regarding extraordinary tax depreciation is proposed. In case of certain assets, the current corporate income tax law allows deduction of accounted extraordinary depreciation for corporate tax purposes. According to the proposal, should the taxpayer not benefit from this legislation in the year of accounting for the extraordinary depreciation, it can reduce its tax base in the following four tax years in equal amounts.

#### **Solidarity Tax**

The proposal does not repeal the solidarity tax for either individuals or corporations, contrary to the original concept of the previous administration which intended to abolish this type of tax as of 1 January 2010.

#### **Value Added Tax**

##### *Changing VAT rates*

Based on the decision of the Hungarian Parliament, the standard rate of VAT is to increase from 20% to 25% (not the previously proposed 23%), and a new 18% VAT rate is introduced for dairy and bakery products. This latter new rate will be applicable for central heating as well, once the EU Commission has approved the change.

The amendment of the VAT rates will affect both invoices issued and received, therefore it is recommended to pay special attention to the modification of invoicing software, and to checking the amount of input VAT charged on invoices received after 30 June 2009.

The separation of old and new transactions would also be important. Generally, the new rate will apply to supplies made after 30 June 2009. In case of Intra-Community acquisitions, the import of goods, transactions subject to reverse charge and advance payments, the question is whether or not the tax point is after 30 June. For example, a cash advance paid before 30 June should be subject to the 20% rate; however, if the actual supply of goods or services takes place after 30 June, the remaining part of the total consideration will be subject to 25% VAT.

Where invoices are issued for periods starting before 1 July 2009 and ending after this date, the consideration on the invoice must be divided to two parts, in respect of the number of days before and after 1 July. The 20% rate effective before 30 June and the 25% rate applying thereafter should be calculated accordingly. If a period ends before 1 July 2009, the 20% rate should be applicable, even if the due date related to the transaction is after 30 June 2009.

#### *“PARAT” case*

The European Court of Justice made its decision on 23 April 2009 in the ‘PARAT’ case. The ECJ ruled that the Hungarian government’s restriction was contrary to the EU directives regarding VAT deductions between 1 May 2004 and 31 December 2005 for purchases financed by governmental subsidies.

Consequently, taxpayers with VAT deductions blocked in the past now have the opportunity to recover the amount of VAT within 180 days of the publication of the ECJ decision. The claim can be submitted as a self-revision if all legal conditions are fulfilled. The tax authority should remit the amount of VAT and interest based on the prime rate from the original due date, as well. The current legal changes regulate the procedural rules, conditions and consequences of the potential request in more detail.

### ***Excise Duty***

#### 1. Tax increase

From 1 July 2009 excise duty rates will be increased. As already announced, a second tax increase is expected to take effect on 1 January 2010 for harmonization purposes, however the relevant provisions are not included in the current tax package.

##### a) Fuels

Effective as of 1 July 2009, the excise duty burden will increase by HUF 5.5 per liter concerning fuels, which would result in a 2.2-2.3% increase in prices. Further increase of HUF 6.5 per liter is envisaged for diesel fuel with effect from 1 January 2010, having regard to the new EU tax minimum.

The tax differentiation according to the bio-content of fuel will end; other legislation will however require mandatory bio-content from the fuel distributors. The Excise Duty Act will only require basic material of Community origin in the case of fuels which continue to be subject to tax relief (E85).

##### b) Alcohol

With effect from 1 July 2009, the excise duty burden will increase by 6.5% as an average concerning alcohol and alcoholic beverages (spirits, beer, fruit wines, sparkling wines, liqueurs). This increase could result in a 1-2% increase in the sales price.

c) Tobacco products

Effective as of 1 July 2009, the duty on cigarettes will be increased, with the exception of the value based duty element. The minimum tax on fine-cut smoking tobacco and other smoking tobacco will be increased by an average of 10.7%. Due to the weak Hungarian currency a further tax increase will likely be needed to meet the EU minimum from 1 January 2010.

2. Tax refund in case of natural gas operating problems

According to the proposal, natural gas consumers above a certain threshold (500 cubic meters / day) could claim a refund of excise duty in the future, if they switch to use diesel fuel instead of natural gas during a gas shortage. The excise duty refund will be controlled by the customs authority. This provision is subject to the European Commission's approval; therefore, the date of entry into force can be announced only after relevant decision is received.

Should you have any questions regarding the above, please do not hesitate to contact Bálint Gombkötő (tel: 887-7159, [balint.gombkoto@kpmg.hu](mailto:balint.gombkoto@kpmg.hu)) at the tax department of KPMG Advisory Ltd. or your regular tax advisor.

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