

TaxAlert

2009

Proposed tax law amendments submitted to the Parliament

The modifications of certain tax acts and other related laws have been submitted to the Parliament by the Government. The bill affects tax measures in 2009 and 2010 and in this alert we highlight the main changes.

Changes in Act on Personal Income Tax

The tax table should be the following

In 2009 (for the entire year)

The tax base of the 18% tax bracket is extended:

Up to 1.900.000 HUF	18%
1.900.001 – 7.446.000 HUF	36%
Above 7.446.000 HUF	36% +4% solidarity tax

From 2010 the tax table would be:

Up to 3.000.000 HUF	19%
Above 3 000 001	38%

In accordance with the planned changes, the 4 % solidarity tax would be abolished from 2010. Currently solidarity tax is payable if the consolidated tax base of a private individual exceeds 7 446 000 HUF.

From 2010, all personal tax allowances are going to be abolished, except the family allowance.

The following are to be treated as non taxable items:

- Family support (educational allowance): from 1 September, 2009 when calculating the personal income tax liability, this amount could be divided equally between the parents and for a single parent, 50 percent of the family support will be subject to personal income tax.
- Child care allowance: for mothers whose children are born after 1 April, 2010, the child care allowance will be treated as non taxable.
- Government's subsidy for Home Building (Buying) or the young people's allowance for housing purposes: These amounts shall be built into the consolidated tax base after a two year moratorium (first in 2012) in five equal parts.

Some of the non-taxable benefits in kind are turning to be fully taxable, for example: fuel savings, per diem, country side tourism (hospitality).

Fifty per cent of some formerly non taxable benefits in kind are to be subject to personal income tax. From 2010, the school starting subsidy, employer's contribution to private pension fund, the voluntary mutual insurance payments, the contribution of employer's pension fund furthermore tuition allowances, national holiday voucher, lunch coupon, monthly pass, internet subsidy will bear tax on 50 per cent of their value.

According to the above mentioned changes 50 per cent of these allowances would remain non taxable.

If there was a maximum value limit (determined by law) then the non taxable part will be determined by the lower of 50 per cent of its value limit or the amount provided by the employer. The employer will have a 62 per cent personal income tax liability on the partly taxable allowances.

Employees are responsible to inform their employer about the amount of benefits in kind received in order to ensure the appropriate tax advance calculation. An employee's declaration on their benefits in kind is valid until withdrawal or modification.

If the employee does not declare their amount of non taxable items, the employer is required to apply the higher tax rate when deducting the employee's tax advance.

Contribution of employers

According to the draft legislation from 1 July, 2009, the social security contributions of employers or private entrepreneurs are to be decreased from 29 to 26 percent capped at twice the minimum wage for the contribution base. The 26 percent social security contributions contain 24 per cent pension fund, 2 per cent health care and from that 1.5 percent is the in kind contribution and 0.5 percent is in cash. Above twice the minimum wage, the social security contribution remains 29 per cent. However, as of 1 January, 2010 this wage limit is abolished and 26 per cent contribution is payable on all wages.

From 1 July, 2009 the employer contribution is to be reduced to 1 per cent up to twice the minimum wage. From next year the employer contribution will be reduced (without any income limitation) to 1 per cent.

It is also considered to change the age limit of pension entitlement progressively (4 months in every year) to 65 year by 2027.

Corporate income tax

The proposed modifications concerning the Hungarian corporate income tax and dividend tax are to enter into force on 1 January 2010. These modifications have to be applied first when determining the tax obligation for 2010.

The Proposal tightens the terms of the so called 'announced participation'. The amendment declares that shares acquired in a company, in which the proportional value of real properties exceeds 75 percent of the total assets at the time of the acquisition, can not be considered as an 'announced participation'.

According to another restriction in connection with this, shares acquired during a transformation process may in certain cases not qualify as being 'notified'.

The Proposal significantly restricts the expenses considered as tax deductible in relation to R & D activities. In the future only direct costs of one's own research activity will be deductible when determining the corporate income tax base.

The Proposal would ensure that tax liability will not arise at the transferring company during a subsequent preferential transformation or a preferential exchange of shares provided that the shares/companies taking part in the consecutive preferential transformations/preferred exchange of shares.

The Proposal would abolish the tax base increasing / decreasing items regarding donations, allowances and assets/cash given/received without consideration etc.

In addition, the Draft significantly reduces the set of non taxable items. The most important items being donations and the extra deduction possibility of local business tax. Furthermore, the following tax base decreasing items would also be removed from the Act on CIT, for example:

- Deductibility of foreign exchange gains realised on investments in small and medium-sized enterprises.
- Decreasing items concerning the employment of vocational school students, unemployed or at least 50 per cent disabled workers,
- Employment allowance of micro-sized enterprises

According to the Proposal, representation costs and costs of business gifts (determined according to the Act on Personal Income Tax) should be considered as costs incurred in connection with non-business activities and the CIT base is to be increased by such items.

The general CIT rate is to be increased to 19%, but where the conditions are fulfilled, the 10% preferential rate will still be applicable up to the tax base of HUF 50 million.

The Proposal contains some transitional provisions in connection with the tax base modifying items to be abolished.

Act on Surtax

According to the Proposal, the Act on Surtax would be repealed as of 1 January 2010.

Value added tax

The proposal would increase the standard rate of VAT from 20% to 23% from 1st July 2009.

An important issue will be the separation of old and new transactions. Generally, the new rate will apply to supplies made after June 30th. In case of periodic invoicing, the new rate will only apply if both the closing date of the period and the due date for payment are later than June 30th.

For intra-Community acquisitions, imports, reverse charge transactions and advance payment, the deciding point is whether the chargeable event specified by the law takes place later than June 30th. For example, if an advance payment is collected by June 30th, 20% VAT will apply to this amount. If the final supply is made, however, after June 30th then the remaining amount from the consideration will be subject to 23% VAT.

Excise duty

1. Tax increase

Excise duty rates will be increased in two steps, from 1 July 2009 and 1 January 2010. The first increase in excise duty rates is reasoned on the ground of budgetary aspects, while the second one is due to EU minimums.

a) Fuels

From 1 July 2009, the excise duty rate of fuels will rise by 5,5 HUF per litre, which will likely cause about a 2,2-2,3% increase in the prices. From 1 January 2010, due to the new EU minimum, there will be a further increase regarding diesel amounting to 6,5 HUF per litre.

b) Alcohol products

The duty rates of alcohol and alcoholic drinks (spirits, beer, fruit wine, sparkling wine, liquors) will be increased by 6,5% as an average from 1 July 2009. This increase will likely cause a 1-2% rise in the prices.

c) Tobacco products

The specific and minimum duty rates on cigarettes will be increased from 1 July 2009. The ad valorem duty will remain the same. Regarding the minimum duty of fine cut tobacco and other smoking tobacco the increase will be 10,7% as an average. Due to the weak Hungarian currency, a further tax increase is planned from 1 January 2010 in order to meet the EU minimum. The specific duty rate on cigarettes will be increased by 8,7% in the most popular price category, furthermore there will be an increase again regarding the minimum duty of cigarettes and smoking tobacco.

2. Reclaim of excise duty concerning natural gas shortage

According to the proposal, above a certain threshold (500m³/day), industrial consumers would have the right to reclaim the excise duty content of diesel, provided they switch to diesel in place of natural gas during a shortage period. The refund would be exercised and controlled by the customs authority. This provision has to be approved by the European Commission; hence the entry into force will depend on the decision of the Commission.

Act on Accounting

According to the modifications, each entrepreneur could prepare their annual reports in euro from 1st January 2010, provided their accounting policy contains this decision in the preceding financial year and euro is the functional currency of the company as recorded in its foundation document. Once made, the decision cannot be changed for 5 years.

Annual reports can be prepared in currencies other than euro or forint based on the currently prevailing accounting rules with one change. According to this modification, 25 per cent (previously 50 per cent) of (i) assets/liabilities and (ii) income/expenditure should arise in that given currency in order for this rule to be applied.

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

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