Upcoming tax changes in 2012 in Hungary

The primary purpose of the changes in taxation as of 2012 is to reduce the administration burdens of entrepreneurs and business organizations, simplify the administration and force back tax fraud and tax evasion. Unfortunately, only few of the original objectives may be realized because – similarly to the previous years – the Hungarian taxation system seems to be even more complicated next year.

With regard to the awkward position of the state budget, almost all taxpayers – both private persons and entrepreneurs - will have to pay higher taxes. The regulations of almost all tax types will change (the rules are going to be more stringent but there are also some favorable tendencies), and – besides the existing ones - new taxes will be entered in the system. The following summary highlights the major changes affecting the taxation next year.

01 Changes in Value Added Tax (VAT)

1.1. The most important change is that the general rate of VAT will be increased from 25% to 27% as of 1 January 2012.

1.2. We point out the transitional rules in order to make sure that the right rate is applied at the change of year:

- The new rate (27%) is applicable to advance payments which are credited on 1 January 2012 or later.
- The former rate (25%) is applicable to sales where the end of the partial payment period or the accounting period falls on 31 December 2011 or earlier – irrespective of the validity date.
- At sales where either the partial payment period or the accounting period has started on 31 December 2011 or earlier but ends only on 1 January 2012 or later, the tax base shall be divided in a way to apply the 25% rate for the period of 2011 and the 27% rate for the period of 2012.
- Due to the change in VAT rate, the point-of-sale terminals and taxameters giving vouchers and/or invoices shall be adjusted by the authorized service stations until 29 February 2012.
- The taxpayers affected by the above provision shall issue vouchers and invoices manually until the devices are adjusted.

1.3. Another change is that the tax base shall subsequently be reduced in case when it turns out after performance that a price higher than agreed was invoiced, or when – in case of non-performance – the advance is paid back in part or in full.
1.4. An essential amendment is that the taxable person may reduce the total amount of VAT payable for the assessment period only by the VAT amount incurred in and preliminary charged (but deductible) for the same assessment period or for one or more earlier assessment periods within the term of limitation under the Taxation Rules Act. Contrary to the former ruling where no term of limitation was stipulated, as of 2012 the right of VAT deduction is barred by limitation and the term of limitation is 5 (five) years from the last day of the calendar year of performance.

1.5. When the invoices are issued electronically, the written agreement is no longer a requirement of application, but the use of electronic invoices is still subject to the prior agreement of the parties.

1.6. As for the innovation contribution payable in 2012 it must be pointed out that the terms “basic research”, “applied research” and “experimental development” have changed in the law. In addition, the law specifically defines the meaning of agreement on research and development.

**02 Major Changes in Personal Income Tax (PIT)**

2.1. The most important change is the gradual withdrawal of super grossing, whereby the super-gross tax base (i.e. gross tax base increased by 27%) shall not apply to that part of the income not exceeding HUF 2,424,000. Accordingly, the actual tax rate is 16% up to an annual income of HUF 2,424,000 (i.e. HUF 202,000 monthly), and it is 20.32% in excess thereof. On the other hand, the income tax credits are terminated.

2.2. The amount of family tax benefits will not change in 2012 (HUF/person 62,500 for one or two dependents, and HUF/person 206,250 for three or more dependents), but can be applied in a wider scope. A family tax benefit can be claimed upon the grounds of entitlement, and it is not required that the employee should actually get a family allowance.

2.3. Tax exemption of business gifts and entertainment ceases. Such benefits are classified as “certain specific benefits” which are liable to 16% PIT and 27% healthcare tax “EHO” calculated for 1.19-fold of value of benefit. Good news, however, that any gifts given in the scope of business, official, professional or religious relations are classified as business gifts without value limit. It will be rather favorable for both the grantors and the beneficiaries because this year any gifts given in excess of the value limit have been classified as “other incomes” of the beneficiary.

2.4. The benefits given to employees under known policies, as well as the benefits given to all employees in the same value will be included again in the PIT Act. Both benefit types are classified as “certain specific benefits” on which the provider shall pay 16% PIT and 27% healthcare tax “EHO” calculated for 1.19-fold of value of benefit.

2.5. Fringe benefits (on which the provider shall pay 16% PIT and 10% healthcare tax “EHO” calculated for 1.19-fold of value of benefit) can be provided up to a value limit of HUF 500,000. Any fringe benefits in excess of this value limit are classified as “certain specific benefits” liable to 27% healthcare tax “EHO”.
2.6. The scope of fringe benefits is also amended. The current luncheon voucher will be replaced by the Széchenyi Rest Card – Catering Card. The Széchenyi Rest Card has three components: accommodation card in max. value of HUF 225,000, catering card in max. value of HUF 150,000 and leisure time card in max. value of HUF 75,000. Similarly to the cold meal vouchers of the previous years, Erzsébet Cards will be issued for consumption and purchase of ready-to-eat food, in value up to HUF 5,000 monthly, to be classified as a fringe benefit. The Internet service will, however, be left out of the scope of fringe benefits.

2.7. It will no longer be possible not to deduct tax advance from a private person who has a tax number and issues the invoice. The former order is reinstated: the possibility not to deduct tax advance is only available in respect of farmers and individual entrepreneurs, and a cost declaration can only be made in maximum 50% (contrary to 100% allowed in 2011).

03 Social Security

3.1. The rate of health insurance and labor market contribution payable by the insured person will be increased from 7.5% to 8.5% as of 2012 (within this: health insurance in kind 4%, health insurance in cash 3% and labor market contribution 1.5%).

3.2. According to the Budget Bill for 2012, the upper limit of pension contribution will be increased from HUF 21,000 daily (HUF 7,665,000 annually) to HUF 21,700 daily (HUF 7,920,500 annually).

As of 2012, the membership fees shall again be declared and paid to the private pension funds and not to the National Tax and Customs Administration (NAV).

3.3. The social security contribution (27%) payable by the employer will be replaced by social contribution tax, but the rate remains unchanged. For this the employer may apply for a tax allowance provided that it has carried out the expected wage increase for wages below HUF 300,000; however, the relevant government regulation has not been published yet.

3.4. The monthly amount of health service contribution will be increased from HUF 5,100 to HUF 6,390.

04 Company Car Tax

Its rate will be determined on the basis of the engine capacity and the environmental class. Instead of the former two tax rates, the tax will be imposed with differentiation, classified in 12 categories and ranging from HUF 7,700 to HUF 44,000.
There were significant changes in the corporation tax also in 2011. One of them was the introduction of a tax allowance to be claimed on the support of spectacle team sports, and another interim change was that the definition of regulated real estate investment company and project company was entered in the Corporation Tax Act. These rules can be applied already in the year of 2011, so in the tax return to be closed now.

5.1. Among the changes entering into force as of 1 January 2012, we point out first of all the possibility of limited use of losses accrued. Contrary to the former legislation, the losses accrued in the previous years can be accounted to the charge of the current year’s profit up to 50% of the tax base net of losses accrued. The rule, however, still exists that the carry-forward of such losses accrued are not subject to tax authority approval, and that the carry-forward of losses is allowed only in case when the taxpayer exercises its right properly.

5.2. The direct costs of research and development will be classified as costs not incurred in the interest of the enterprising activity (so the tax base cannot be reduced by such costs) if they are not associated with the taxpayer’s revenue earning activity. A part of R&D tax allowances formerly available for SMEs will cease (such as deduction of wage costs), thus the SMEs will not be entitled to reduce the tax base by such items.

5.3. Parallel with the amendment of the PIT Act, the costs of business gifts and entertainment will again be recognized for the purposes of the corporation tax. As these costs are liable to PIT, the pre-tax profit can be reduced by the tax so accounted (i.e. it will be a recognized cost in the corporation tax).

5.4. Similarly to the declared profit-sharing (holdings), the term “declared intangible assets” is also introduced, thus the profits so realized can be deducted from the corporation tax.

5.5. The rule of undercapitalization also changes. According to the former ruling, the pre-tax profit had to be increased by the amount of interest accounted for that part of the liability exceeding threefold of the equity. Previously, the term “liability” only included the liability on which interest was payable; in 2012, however, the term “liability” also includes the interest-free liability.

5.6. The free grants classified as donation will be deductible from the corporation tax, provided that the donor has the certificate of donation issued by the donee.

5.7. The change in the rules of Simplified Entrepreneurial Tax (SET), namely the significant increase of the flat rate, will probably result in that many entrepreneurs may prefer being subject to the corporation tax. Absolutely new rules have been introduced, according to which the taxpayers leaving the scope of SET shall pay corporation tax advance for each complete calendar quarter from the day following termination of being subject of SET to the last day of the sixth month following the fiscal year, not later than the 10th day following the last day of the quarter concerned. The amount of corporation tax advance shall be 1% of the total revenues accounted for the fiscal year when the taxpayer has ceased to be subject of SET.
06 Accounting Act

6.1. In case of company acquisition it may occur that the calculated equity (market value) of the acquired company is negative. According to the Bill, in this case the paid value shall be considered as goodwill. This rule can already be applied when making the annual report for 2011.

6.2. Unless otherwise provided by the Accounting Act or other laws, the enterprises related rules of the Accounting Act shall apply, as appropriate, to the foundation, operation and termination of the Hungarian branch premises of companies seated abroad.

6.3. When it meets the requirements and is not a parent company, the enterprise involved in consolidation is entitled to make a simplified annual report.

6.4. Except for the credit institutions, financial institutions and insurance companies, each enterprise may choose – on own decision – to have its business year other than the calendar year, provided that it is justified by the nature of its operations.

6.5. With a view to harmonize the accounting and taxation rules and to reduce the administration burdens, the Accounting Act provides that the repurchased own shares and business shares and the redeemed shares shall be charged against the equity (and not against the pre-tax profit).

6.6. An extraordinary depreciation shall be accounted also for the capitalized value of formation and restructuring, when the recovery thereof is not ensured in the revenues. This rule can already be applied when making the annual report for 2011.

6.7. At transactions where the value is given in a foreign currency, and for determination of the HUF equivalent of the foreign-currency receivables and payables, the enterprise may decide – in accordance with its accounting policy – whether to apply the exchange rate as required by the VAT Act for assessment of the tax base in HUF. This rule can already be applied when making the annual report for 2011.

6.8. The enterprise shall in each year check the inventory items for trueness and authenticity by reconciliation of the entries in the ledger and in the analytic records. The enterprise – when keeping quantitative records – shall take an itemized quantitative inventory at least once in every three years.

6.9. The foreign tax on revenues to be set off against or exempted from the corporation tax shall be recognized as a tax liability in the same way as the corporation tax.

6.10. The term of depositing the annual report will be in harmony with the term of corporation tax return (i.e. the last day of the fifth month following the balance sheet date). This rule can already be applied when making the annual report for 2011.

6.11. The compulsory wording of the audit certificate is cancelled.

6.12. The enterprises shall keep the annual report, the business report and the supporting inventory, evaluation and abstract of ledger for at least 8 years.
6.13. **The daily closing cash at hand** – i.e. the daily average thereof calculated for each calendar month – may not exceed 10% (it was 2% earlier) of the total revenues of the previous business year, calculated on annual level.

6.14. According to the amendment of the Act on Business Associations, **interim dividend** is also payable as stated in the annual report made under the Accounting Act, within 6 months of the balance sheet date, or – in case of interim balance sheet – also the contents thereof can be taken into account within 6 months of the interim balance sheet date.

6.15. The Taxation Rules Act provides that – if **the taxpayer fails to meet its obligation to deposit and publish the annual report** made under the Accounting Act, by the deadline stipulated in the first notice of the tax authority – the tax authority will charge a **default fine up to HUF 1,000,000**.

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**07 Public health tax on products**

7.1. The scope of products **not** being subject to this tax is extended to beverages, juices and pulps having at least 25% fruit or vegetable contents, as well as to products made of at least 50% milk basic material. The tax rates are also raised.

7.2. The public health tax on products has a new tax type: the accident tax. The subject of **accident tax** is the person who has an obligation to pay compulsory automobile liability insurance. The rate of accident tax is 30% of the annual insurance premium, the daily amount not exceeding HUF 83/vehicle. The insurance company providing the compulsory automobile liability insurance shall collect the amount of accident tax together with the due insurance premium and pay it into the tax authority’s account.

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**08 Green tax**

The amendment of the Green Tax Act makes it clear that the obligation to pay green tax sets in when the product liable to green tax is put into circulation or use for own purposes. The packaging materials liable to green tax are identified with the codes of the packaging catalogue included in the government regulation issued for enforcement of the Green Tax Act.

The obligation to indicate the green tax in the invoices also changes with the widening scope of cases when the amount of green tax shall compulsorily be indicated in the invoices.

The obligor has the obligation to assess, declare and pay a green tax advance in respect of the fourth quarter of the year. The amount of advance shall be 80% of one third of the green tax paid for the first three quarters of the year (fiscal year). The obligor shall pay the green tax advance until 20 December of the year concerned.
09 Duties

9.1. The fees and duties payable for administration proceedings will be increased as of 2012.

9.2. The regulation has a new element, namely the administrative services surcharge, which will be imposed in addition to the statutory duties for the cases when the administration procedure takes place – on application of the client – promptly, or with urgency or priority, or outside the authority’s district.

9.3. The duties payable on purchase of vehicles are determined with differentiation subject to the engine capacity in kw (4 categories) and the age of the vehicle (3 categories). Only the electric motor driven vehicles are exempt from property transfer duty.

10 Changes in excise duty

Products under Heading 3811 are enlisted in the controlled scope, and the amount of duty depends on whether the product is mixed in gasoline or diesel oil, and if the product is not used for fuels, the excise duty is HUF 0.

The amount of excise duty on commercial diesel oil shall reach the EU minimum amount (EU requirement), therefore the duty allowance (the reclaimable amount) shall be reduced from HUF/liter 19.50 to HUF/liter 17.00.

11 Registration tax

The most important change in the registration tax is that the tax burden decreases significantly, and the tax will be imposed with differentiation subject to the engine capacity (9 categories) and the environmental classification (5 classes). There is a possibility for electronic administration, and another change is that a person acting as customs law representative may also proceed in the registration procedure.
12 Taxation Rules Act

12.1. According to the Decision on Suspension of Tax Number, the suspension of tax number will no longer be published on notice boards but only on the website of the tax authority.

12.2. Within the scope of the Taxation Rules Act, new tools are specified for the fight against black economy:

12.2.1. **Tax registration procedure**, in the course of which the tax authority – prior to issue of the tax number – compares the founders’ data with those in the official records, and in certain cases the authority is entitled to refuse the issue of tax number;

12.2.2. **Increased authority control**, whereby the tax authority – after issue of the tax number – sends a questionnaire to the taxpayer, inquiring about the details of the company’s activities and about the technical and financial means required to the activities. Based on the answers, the tax authority makes a risk analysis, and – as a result of which – it is entitled to subject the taxpayer to an increased authority control for a period of maximum one year. The tax authority may impose sanctions, ordering to file VAT returns in shorter intervals, or present hardcopies of the certificates underlying the tax returns, or to have the tax returns countersigned by a tax consultant or a certified tax consultant.

12.3. A new element is the uncertain tax law status: the taxpayer may declare in its tax return filed to the tax authority within the stipulated term that the amount of tax payable or reclaimable by it as indicated in the tax return might be incorrect because its interpretation of the specific statutory provision applicable to the facts underlying the assessment of tax may turn out to be incorrect.

12.4. In the course of a tax audit, the invoices, certificates and the underlying contracts made in English, German or French languages shall not be translated into Hungarian in future.

12.5. In the course of audits before transfer, the partial amounts not objected to by the tax auditor can be transferred.

12.6. If the taxpayer employs unreported employees, the tax authority will assess the unpaid taxes and contributions on the double of the minimum wage valid from time to time and with presumption of at least three months’ employment.

12.7. If the taxpayer fails to meet its obligation to deposit and publish the annual report made under the Accounting Act, by the deadline stipulated in the first notice sent by the tax authority under Section 174/A of the Taxation Rules Act, the tax authority will charge a default fine up to HUF 1,000,000.

12.8. A default fine can be imposed on the taxpayer up to HUF 1,000,000 if the taxpayer infringes its obligation to keep the documents. If the taxpayer infringes this obligation through failure of keeping the printed invoices and vouchers, the default fine shall be HUF 200,000 for private persons and HUF 500,000 multiplied by the number of missing invoices and vouchers for other taxpayers.