GOBERT&PARTNERS
Taxand

TAX & LAW SHOOTER

December 2011

NEW YEAR—WITH NEW BEGINNING

1st of December is an important date for our company due to many reasons.

First of all, we officially opened the doors of our new office on Andrássy street 10, where we moved recently. The Office Opening Event started at 7 PM, on December 1st and was accompanied with live music, entertainment and cuisine specialties. We welcome our valued partners and friends to visit us at our new location: Hungary, 1061 Budapest, Stern Palota, Andrássy út 10.

Second of all, we welcomed on board another legal team member—Dr. Réka Ipacs, who was officially announced as a Partner on December 1st as well. Having qualified as an Attorney in 2005, Réka actively practiced her knowledge in various respected law firms. During her career, she successfully resolved numerous issues in commercial law and IP/IT area as well as tax law. Prior to joining our team, Réka was a cooperative partner with Csiby & Partners Law Office concerning client work in the field of corporate law. Her expertise and knowledge in such significant legal areas will certainly add value to our services.

And last but not least—our company undergone slight rebranding, and you may see our new logo in the top-left corner. We believe that it truly represents our continuous progress and improvement of our services from both legal and tax point of view.

Dr. Arne Gobert
Managing Partner

HUNGARY: NEW TAX LEGISLATION APPROVED ON 21ST OF NOVEMBER 2011 BY THE PARLIAMENT

Before the final vote the government submitted over a hundred pages of changes concerning the tax law. Among them was the introduction of the so-called "Elizabeth voucher" ("Erszébet utalvány" in Hungarian) from January of 2012, which may in result terminate the use of competitors' vouchers on the market. Thus, employers are only eligible for a tax benefit, if they increase wages not by means of vouchers.

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FIRM NEWS

- OUR MAILING ADDRESS CHANGED TO:

  HUNGARY
  1061 BUDAPEST
  STERN PALOTA
  ANDRÁSSY ÚT 10.

- OUR WEB-PAGE ADDRESS CHANGED TO:

  WWW.GOBERTPARTNERS.COM

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The Elizabeth voucher relates to fringe benefits, and will be issued by the state from January of 2012. It was announced, that it will become a sole benefit which can be given to employees within the framework of fringe benefits. Hereby, this change mainly takes away the possibility from the companies to issue preferential vouchers which were very popular in the past years due to a significant tax allowance.

From 2012 companies will be able to issue only general-tax vouchers, while the price-reduction vouchers are terminated. In the meantime, the redemption of vouchers, issued during this year, should not be affected if they are valid until December 31, 2012.

In the meantime, it has not been changed, that the overall value of the discounting vouchers may not exceed five thousand forints per month, whereas the limit for the canteen-meal vouchers ("cafeteria") is set to HUF 12 500. The voucher may be issued either in the form of card or tickets. It is, however, possible, that the paper-based vouchers will be terminated soon enough as well.

Overall, the influence of the changes for the employers shall be consider as rather negative. If employers maintain the net value of the salary of every employee, they may obtain tax benefit, but in case of increasing the salary, the tax discount is only given if the wage increase does not concern the benefits package.

SIMPLIFIED BUSINESS TAX — ALL DECIDED

The recent tax changes affected the Simplified Business Tax (Egyszerűsített Vállalkozói Adó: EVA) as well. Unlike the previous government intention, the simplified business tax will not be terminated next year, however, there are still government notions of doing so. The cap on revenue for entrepreneurs eligible to pay EVA, will be raised to an annual 30 mln HUF from the current 25 mln. From January 2012 the tax rate on gross revenue will be raised from 30 percent to 37 percent. It means that this year per 100 HUF of net revenue, 37.5 HUF will be counted as a tax, and 87.5 as income, whereas next year 47 HUF is transferred to tax and 80 HUF to income. Although few rules were implemented in connection with the procedure of exiting EVA system, it is yet unclear, how long the Simplified Business Tax will remain.

COMPETITION LAW—NEW CHALLENGES

Reflecting to the changes introduced in the EU legislation with regards to block exemption from the prohibition on restrictive market practices, on October the 7th 2011, the Hungarian government issued Government Decree No. 205/2011 (X.7) on the Group exemption of Vertical Agreements From the Prohibition of Restrictive Market Practices ("Vertical Decree"). The Vertical Decree entered into force on October 22, 2011 and replaces the previous exemption dated 2001.

In line with the EU legislation the Vertical Decree provides exemption for the so called vertical agreements, that is agreements between the different levels of the distribution chain, for example between manufacturers and distributors, wholesalers and retailers or principles and agents. Certain agreements which were exempted under the old system might be problematic in the future, as from 7th October, the 30 percent limit applies to the supplier and purchaser as well. According to the previous exemption if the share of the supplier is less than 30 percent in the market, it was enough to gain exemption regarding the restrictive provisions (with the exception of exclusive supply obligation), prescribed in vertical agreements, whereas the new Decree prescribes that the market share of the purchaser shall be also less than 30 percent. This limits the number of agreements when the parties can benefit from the exemption.

Taking into account the fact that the Hungarian Competition Authority may apply significant amount of fines (up to 10 percent of the worldwide revenue) if an agreement conflicting the prohibition is considered to be void, it is highly important for companies to carefully check all provisions of their distribution agreements, in particular if the market share of either buyer or seller exceeds 30 percent.

LABOUR LAW—ATTENTION, EMPLOYERS!

On November 28th 2011, the parliament accepted the new tax legislation introducing significant changes to the tax laws. It is important to note that the parliament also approved the mandatory compensation of employee salaries by the employer which require that the employers make certain mandatory increase in salaries for those whose "income" does not reach the statutory limit of HUF 300.000.

The definition of "income" is not yet clear and may raise several questions, for example whether the average salary can be considered as income of an employee (e.g., whether the employer may calculate with the income of its employees overtime payments or shift allowances, or even bonuses for the previous year).

If an employment supervision finds that the employer did not follow the mandatory salary increase and the fines are applied, the employer would be excluded from all public procurement procedures and from all kind of state support for 2 years from the date of the decision.

Materials prepared for you by the Attorneys team of Gobert & Partners / Taxand

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