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LAW SHOOTER

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In our last newsletter of the year you can read an article about the increased purchase price of the Residence Government Bonds and we continue our article series connected to foreign currency loans. Another interesting article can be read in the December newsletter, primarily for people with foreign bank accounts. Last but not least, you can be informed about the tax law changes concerning retail trade.

Whereas this is our last newsletter for the year 2014, we would like to hereby thank you for your interest in our Articles and your trust in BWSP Gobert and Partners. We wish you and your families a wonderful holiday!

Should you have any questions regarding any of the articles in our newsletter, feel free to contact us anytime.

Dr. Arne Gobert
Managing Partner

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THE GOVERNMENT INCREASED THE PURCHASE PRICE OF THE RESIDENCE GOVERNMENT BONDS

Residence Government Bonds were sold for EUR 275,5 Million at face value – it was announced by Antal Rogán, after the sitting of the Economic Committee, that the proposal for **increasing the nominal value of the Bond from EUR 250.000 to EUR 300.000** from the 1st of January, 2015 was accepted.

At the meeting, the Residence Government Bond Programme was considered as it had „lived up to expectations”, since the Hungarian State had almost 250 Billion Forint revenue from the Programme.

At the start of the Programme the target was to try to sell 4.000 Bonds in four years, therefore it can be established that the legal institution of the Investment Residence was performing well pro rata temporis.

With regards to the popularity of the Programme, the Economic Committee supported that amending proposal; thus for the residence permit shall be allowed to be issued by investing in the Bonds nominal value of EUR 250.000 to EUR 300.000 from the 1st of January, 2015.

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So far only 47 residence permits have been changed to settlement permits, which is understandable; since requesting the permanent settlement can be only happen after having a residence permit for more than a half year.

Our Law Firm has been providing and also intends in the future to provide legal advice and assistance in the process of subscribing Residence Bond and guarantee the amount invested shall be paid out via attorney's escrow of request of the applicant but only, if the authority procedure has been ended with a positive decision and the applicant – and also the family members of the applicant within the framework of the family reunification programme – have received the temporary residence permit. Implicitly, in case of unsuccessful procedure upon any ground, the whole amount will be transferred back to the applicant (principal). Although until now and from our previous proceedings to date, this has not happened yet.

Should you or your acquaintances be interested in the opportunity of purchasing Residence Bond, or would like to get more information about the process, or perhaps need help in other migration issues, just turn to our law Firm with confidence and our experts would be pleased to help you.

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DO NOT BE AFRAID OF THE FOREIGN EXCHANGE FORMULA

We have already informed our readers in our newsletters in July and October about the first foreign exchange loans act which was declared the exchange-rate spread void, respectively about the second foreign exchange loan act on the regulation of the financial settlements of the overpayments.

We continue our article series with the review of the regulation of the Hungarian National Bank connected to foreign currency loans, which stipulates the methodology of the settlement with the debtor clients.

The regulation shall solely apply for the settlement of trouble free contracts, namely it may be applied for such consumer loan agreements, where

- the consumer fulfilled its payment obligation without any delay,
- the consumer was not partook in any allowance.

Under the regulation the financial institutions may choose from three extremely complicated formula in the course of the settlement. However we do not need promptly inhere a scientific calculating machine, because the end of the month the specifications informing the consumers will be regulated by a regulation of the Hungarian National Bank and it will contain detailed information about the round of duties and deadlines of the consumers. However it is better now to find the statement of accounts, balances in order to the consumers could use these in the course of the inspections. Furthermore if somebody has already closed its bank credit and after this its personal data's has been changed (e.g. address, name) than it is better to indicate such modifications to the bank in advance.

All three methodology lead to the same result, and the substance of these is that the overpayments of the consumers shall account as fund early repayment.

The regulation of the National Bank shall regulate the methodology of contracts affected by allowances and delay, respectively methodology of financial institution under litigation or dissolution procedure as well. So the complicated formulas do not deter anybody to take the advantage of this chance, namely according to the former calculation of bankmonitor.hu one average debtor – who for example took out 7 million HUF for 20 year in the currency of Swiss francs – may get 1,8 million HUF reimbursement, which will be reduced its outstanding debit with 20 %. It seems that the repayment of the overpayments eventually shall be fulfilled, namely the Constitutional Court in its decision dated on 11 November 2014 has rejected the proposals submitted by the judge of the Metropolitan Court and it has established that the first package helping the foreign currency debtors is not unconstitutional (see details in our newsletter regarding November).

The Constitutional Court has studied primarily whether the provisions of the act breach the prohibition of the



retroactivity, in addition whether the rules of the court procedure is suit the requirements of the fair procedure.

In connection with the aforementioned it established that the unilateral contract modifications have been restricted throughout by the requirements of good faith and fair procedure. In connection with the right for fair procedure the Constitutional Court established that 30 days deadline for the claims commenced by the financial institutions could not be deemed neither unnecessary nor the restriction of fundamental rights. This time was sufficient for the financial institutions to reflect realistically and to decide whether they would like to demolish the legal presumptions.

In case of any further development in this case we will inform you in the following newsletters.

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AUTOMATIC EXCHANGE OF FINANCIAL INFORMATION FOREIGN BANK ACCOUNT CANNOT BE HIDDEN ANYMORE?

Among 51 countries Hungary signed the International OECD Standard against tax evasion and financial abuse in Berlin.

According to the Standard the financial institutions of the participating countries will have client identification obligation, – for the accomplishment of which they will have special client audit procedure at their disposal – and the tax authorities will have information exchange obligation for the given bank accounts.

Based on this tax authorities can automatically access data of the citizens, companies, foundations of given countries originating from financial activities pursued in other states participating in the OECD Standard, thus

to information pertaining to account balances and income from dividends, interests as well.

The purpose of the thus established mutual system is to make unable to hide income from tax authorities of the participating countries by reshuffling money. The information exchange will start in September, 2017 and will relate to the data arising after December 31st, 2014. With the help of the system assets held at foreign financial institutions can be revealed. Thus for example, if someone opens a bank account abroad and places a suspicious amount of money to it, data must be automatically sent to the individual's home country. Financial institutions will be able to quickly check with the aim of the special procedure whether the given amount is coming from legal or illegal sources.

Consequently, information exchange so far available only upon the special request of the authorities will now be automatic among all countries participating in the agreement and as mentioned above will not only refer to private individuals, but to companies and foundations as well. According to the Standard for Automatic Exchange of Financial Account Information in Tax Matters issued by OECD data exchange covers besides bank account information account balance of income from equity and apply not only to banks, but to company group financing companies, brokers, investment companies, insurance companies and investment funds as well.

Should the above raise your attention, or would you like to receive more information on the particularities and detailed steps of the audit procedure, please feel free to contact us and our professionals will be at your kind disposal.

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TAX ACT CHANGES IN 2015 PART I.: TAX LAW CHANGES CONCERNING RETAIL TRADE

The tax package adopted by the Parliament for the next year will not introduce new tax type – the internet tax was withdrawn – and neither have to we calculate with radical tax law changes; but, with numerous new provisions and amendments. Out from these we firstly call the attention to the main changes affecting the retail trade sector.

1. Corporate Income Tax Act (the CIT Act) will tighten the concept of the income- / profit minimum

Cost of goods sold and the cost of mediated services cannot be taken into account – that is divided from total revenues - in the calculation of the so called revenue – (profit -) minimum relevant for the preparation of the corporate income tax report (however, the local revenues of foreign premises can still be taken into account).

Thus based on the above the CIT Act practically defines the income minimum as 2 % of the adjusted total revenue, not including the special adjustments – namely this calculation must be taken into account from now on as the corporate income tax base (10%, 16%) by companies, which choose taxation according to income- (profit-) minimum.

Nonetheless, we note that in certain cases the company may not decide on the taxation according to the above calculated income minimum (neither according to the current regulations):

Thus for example, if the pre-tax profit or the corporate tax base pursuant to the general provisions is higher than the profit minimum; or such tax year is concerned when functioning as a pre-company that is in the first year of the undertaking founded without predecessor; or if in the tax year or in the previous tax year natural disaster had sustained the company, and nor in the case, when a special organizational form (for example association, foundation, charitable non-profit organization etc.) excludes the applicability to that effect.

2. Changes pertaining to local taxes

- According to the amendment act the municipalities will have authorization to introduce municipality taxes in their administrative area to subjects, which are not already levied by a public burden, in addition, taxable person can be a private individual, not entrepreneur, business association or organization. This way the amendment will spare stores.

- Nevertheless, determination of the base of the local business tax (HIPA) is tightening as of 2015 as the consequence of the amendment act.

Combined tax base determining rules during the calculation of HIPA of affiliated companies have to be used proportionately for the period of existence of the affiliated companies.

Pursuant to the Act on Local taxes, taxable persons qualifying to be affiliated companies according to CIT Act may determine their local business tax base in a way that the total net revenue of affiliated companies and the total net revenue decreasing expenditure positive difference.

During the calculation of the tax base the amount of the cost of the goods sold and the cost of mediated services shall be taken into account as well according to the net revenue of the taxable person; however, pursuant to the amendment act by the increase of the revenue it can be deducted in a decreasing extent progressively (expressed in %).

Therefore, whilst according to the currently effective rules when determining the revenue of affiliated companies the above adjustment items can be taken into account without restriction, afterwards only proportionately in line with the existence of the affiliated relation and to % extent according to the net revenue.

3. Establishing progressively and increasing the supervision fee payable by food traders

Stores and chain stores selling daily consumer products according legal provisions currently pay uniformly 0,1% food chain supervision fee upon the net revenue arising from the payable activity from previous year. The fee must be reported for the subject year and its base can be reduced with the amount of the already paid excise duty and the public health product tax.



Significance of the fee is that the food-chain supervising organ ensures the income of the National Food Chain Safety Office (NFCSO) and the governmental offices for the ensurance of the official supervisory activities pertaining to food chains. Authorities pursue hundreds of thousands of supervisions annually, and examinations of millions to the products of food stores.

As a result of the amendment of legal provisions the amount of the food chain supervision fee will increase and will be established progressively upon the net revenue of the business association according to the below:

- up to HUF 500 million: no fee payment obligation;
- up to HUF 500 million – HUF 50 billion: 0,1%;
- above HUF 50 billion: the amount of the fee increases by 1-1% after each 50 billion;
- above HUF 300 billion: 6% (this is the maximum extent).

The increase of the food supervision fee can mean additional burden of the value of billion to the food store chains, based on which it is likely that they will be forced to increase the consumer retail trade prices.

We will inform our Readers about further changes of the tax package from 2015 in our upcoming newsletters.

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