Luther

GOBERT, FEST & PARTNERS
ATTORNEYS AT LAW
Taxand


## INTERIM TAX LAW CHANGES: A VISION OF FUTURE

*In the first weeks of governance, the new government of Hungary has elaborated its well-heralded proposal on the improvement of the Hungarian tax and business environment under the aegis of strengthening the competitiveness and designing the conditions for economic development in order to stabilize the crisis-struck state budget and to make Hungary attractive for businesses.*

*The bureaucracy, the overall tax burden of both businesses and private individuals which is said to be still high and unfairly allocated, the complexity of the domestic tax environment and the lack of transparency makes the everyday business and the medium- and long-term planning considerably difficult.*

*While the former government's aim was to handle the adverse effects of the global economic downturn and to reform the tax system gradually, step by step, the newly appointed government finds it essential to adopt and introduce the necessary and unavoidable measures as quickly as possible.*

*The new budgetary programme is based on three pillars. The first one is supposed to achieve the monetary stability and create the conditions being indispensable for the economic growth. Within the framework of the second pillar, the government aims to reduce significantly the administrative burden of businesses and also intends to rationalize the outbound payments from the public sector, while the objective of the third pillar is to lay a solid foundation for the enlargement of employment.*

*The proposed and adopted tax law changes outlined in the current newsletter anticipate a busy and challenging tax year which may hold further surprises for all of us, however, some of the proposals foreshadow the promise of a more attractive, viable and business-friendly tax regime.*

*Dr. Arne Gobert*

## CONTENTS



Taxand

## Decrease in corporate income tax rate

The amendment of greatest significance is related to the extension of the 10 per cent corporate income tax rate which is aimed at the decrease of the tax burden of corporate entities, meaning that the general corporate income tax rate falls by 9 percentage points to a tax base not exceeding HUF 500 Million (approximately EUR 1,8 Million), while in excess of the above threshold the result deriving from business operations shall be taxed at a rate of the previously prevailing 19 per cent. The amendment has entered into force with retroactive effect to July 1, 2010.

According to the new regulations, the applicability of the preferential rate does not depend on the fulfilment of any additional requirements such as limitation on the application of further tax incentives, a minimum level of employment and employment-related tax payments, payment of corporate income tax at least on the minimum (expected) tax base, etc.

Taking into account the fact that the tax regulations in question were introduced with retroactive effect to July 1, 2010, the tax base of the current tax year shall be divided into two parts in order to determine the annual tax payment obligation. In the first half-year, the old regulations shall apply meaning that corporate entities shall pay corporate income tax at 19% rate on the positive tax base deriving from January 1 to June 30, 2010, while the positive tax base of the second half-year shall trigger 10 per cent corporate income tax up to HUF 250 Million calculated proportionally, and 19 per cent in excess thereof.

The companies applying a business year other than the calendar year shall calculate their corporate income tax obligation based on the regulations being in force on the first day of their business year.

## Transfer tax exemption connected to real estate holding companies

As from January 1, 2010, the acquisition of quotas (shares) in a company holding real estate(s) amongst its assets is subject to transfer tax at a rate of 2% up to a market value of HUF 1 Billion (approximately EUR 3,6 Million) and at 4% rate in excess thereof provided that the shareholding of the acquirer is equal to or over 75%. The amount of transfer tax, however, is capped at HUF 200 Million (approximately K EUR 714) per immovable property.

Within the meaning of the latest amendments, if the transfer takes place between affiliated parties, the acquisition shall be exempted from transfer tax.

## Increase in the tax burden of financial institutions

Most of the tax regulations initiated by the new government are aimed at the easement of tax burden thus supporting the taxpayers and stimulating the business, however, the financial institutions shall be subject to considerably higher tax than they used to be. The tax base and tax rate is determined in a different way depending on the type of the financial institution.

Regarding credit institutions the adjusted amount of total assets shall serve as a tax base and up to HUF 50 Billion 0,15% tax rate, in excess thereof 0,5% tax rate shall apply. The tax base for insurance companies shall be the premiums earned less the fee of reinsurance and the tax rate will amount to 6,2%. The financial undertakings' tax base shall be the result from interests, fees and commissions which will be taxed at 6,5% rate while the investment undertakings shall pay tax at 5,6% rate on their adjusted net sales revenues. Nearly the same regulations shall prevail for the taxation of the stock market.

The law declares that the above institutions will be subject to HUF 200 Billion (approximately EUR 714 Million) tax payment obligation in 2011, and futher details on the tax payment obligation for 2012 will be regulated within the framework of a separate act.

## Local taxes

For simplification purposes, the draft law intended to abolish taxes of less importance such as community tax and city tax on holiday apartments. However, according to the latest amendments only the community tax imposed on businesses shall be abolished as from January 1, 2011.

## Wealth tax

The wealth tax was an unexpected and controversial novelty of the tax package of 2009 which was intended to be imposed on real estates and vehicles (cars, vessels and aircrafts) of large value.

The wealth tax on real estates was abolished due to the decision of the Hungarian Constitutional Court, however, the tax on vehicles entered into force on January 1, 2010. Nevertheless, the latest amendments have entirely abolished the Wealth Tax Act, ie. the wealth tax levied on high-value assets shall not be applicable in the future.

## Special levy on private individuals related to outbound payments from the public sector

The newly adopted regulations impose a special levy on private individuals related to payments performed upon the termination of their employment relationships concluded with public sector organs. The basis for this levy shall be the payments performed and benefits provided to such employees exceeding the amount of regular allowances calculated for 60 days. The above defined payments do not serve as a tax base up to HUF 2 Million (approximately EUR 7,140). The applicable tax rate is extremely high, 98 per cent and the payments will also trigger health care tax at 27% rate.

## Changes related to inheritance tax and gift tax

In order to decrease the tax burden imposed on private individuals, tax exemptions were introduced related to heritage and gifts if acquired by dependant relatives (parents and grandparents, children and grandchildren).

## The reduction of the payable value added tax (still under debate)

In line with the current VAT regulations, the taxable person shall pay the amount of VAT charged to its business partners without regard to the fact whether the invoice is settled by the business partner or not. The current regulation resulted in serious problems in the liquidity of companies and in many cases led to a practice not being in accordance with the VAT Act in order to bypass financing problems.

The proposal would enable the taxpayers to decrease the amount of VAT payable by the amount of VAT charged but not yet paid by the business partner. If the invoiced amount is paid partially, then this right would also be open on a pro-rata basis, however, if either of the parties' tax identification number is suspended, this reduction could not be applied.

In fact, the above reduction right might be implemented in the form of a tax-deferral: the taxable persons would be entitled to defer the payment for a 90-day-period calculated from the performance date. Any longer deferral would also be possible under special circumstances at the tax-payer's own risk. The above rules would not apply to affiliated party transactions.

*The above amendments (except for VAT changes) have been already adopted by the Parliament and also promulgated by the newly elected Hungarian President, however, the law itself stipulates different dates for the entry into force. According to experts, some of the newly enacted regulations may raise the question of conformity with the Constitution of Hungary and the European Community legislation, thus further adjustments might be expected in order to remedy potential deficiencies.*




**For further information please contact:**
Lilla Stricca, Head of Tax, Tax Advisor / Auditor (lilla.stricca@luther-lawfirm.com)
or dr. Lilian Sándor, Tax Advisor / Attorney at Law (lilian.sandor@luther-lawfirm.com)
Address: Hungary - 1051 Budapest, Roosevelt Square 7-8., 5th floor
Telephone: +36 1 270 9900 ■ Fax: +36 1 270 9990 ■ E-mail: gobert.fest@luther-lawfirm.com ■ www.gobertfest.com