

## Information on legislative changes in 2021

Dear Partner,

**Our Office aims** to keep you informed of any changes regarding taxation and business activities. Taxation in 2021 and the relevant regulations will be determined by Act CXVIII of 2020 on the amendment of specific tax laws, published at the end of 2020. The primary purpose of this letter is to present the provisions of the Act, as well as a number of other important changes preceding or following the adoption of the Amending Act. In consideration of the large scope of the changes, in the sections below they are presented according to tax categories and tax areas.

### I. Changes regarding the personal income tax

**Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):**

a) Between 01/01/2021 and 30/06/2021, the **annual recreational budget of SZÉP Card benefits** is HUF 800,000. Until 30 June 2021, these benefits are combined with an exemption from the social contribution tax. The budget for the second half of the year reverts to HUF 450,000.

The applicable rules are those in force at the time the benefit is granted; pro-rating is not permitted. E.g.: if an employer allocates only HUF 400,000 to the accommodation sub-account in the first half of the year, in the second half of the year it will only be able to allocate – up to the applicable budget at that time – benefits in kind up to HUF 50,000 to the hospitality or the leisure sub-account (any amount granted above that limit will be regarded as 'specific defined benefit'). On the other hand, the total budget of HUF 800,000 can be exhausted and allocated to any of the three pockets in the first half of the year (and accordingly, no benefits in kind can be granted for the second half of the year).

It is important that, as of 01/07/2021, the amounts of SZÉP Card benefits provided by more than one employer must be added up when calculating the available budget.

b) If, in the given case, the social contribution tax is payable by the natural person (for example, because the income does not derive from the payer, or the tax or the tax advance cannot be deducted from the benefit), **87%** of the assessed income will be taxable income (instead of the previous 85%).

c) Due to the state of danger, epidemiological screenings have also become **tax-exempt** (in addition to already tax-exempt vaccinations, medication, masks and disinfectants supplied in order to prevent the spread of the contagion).

### II. Changes regarding the social security contribution, social contribution tax (SZOCHO) and vocational training contribution (SZAKHO)

**Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):**

a) If an employee receives **infant care allowance** ('CSED'), with respect to the social security contribution the previously applicable payment obligation on the minimum contribution base – i.e. 30% of the minimum wage – no longer applies (as of 01/07/2020 already).

b) The employer is no longer required to pay – in relation to the 30% of the minimum wage – the social contribution tax (SZOCHO) on its **CSED**-recipient employees (as of 1 July 2020).

c) **Vocational training contribution** must be paid on a broader scale (e.g. also in the case of other incomes, fringe benefits, other specific benefits). If the taxpayer is not subject to social contribution

tax – SZOCHO – liability, the obligation to pay vocational training contribution will not apply. The scope of taxpayers subject to the payment liability also changes.

d) In hospitality, SZOCHO is no longer imposed on the **service charge**.

e) **If Hungary has no taxation rights based on an international treaty or convention** (for example, pursuant to a treaty for the avoidance of double taxation), the **base of SZOCHO** will be the basic salary, but at least the average gross monthly earnings of full-time employees determined by the Hungarian Central Statistical Office (HCSO) at the level of the national economy for the month of July of the year preceding the tax year. If the basic salary or the average monthly salary is less than the above amount, the base of SZOCHO will be the income received in the current month – in the case of employment, income recognised for the current month – as a consideration for the activity (applicable retrospectively from 1 July 2020).

f) The monthly amount of **healthcare contribution** paid on the taxpayer's own right changes to HUF 8,000 from HUF 7,710.

g) A new medical certificate is introduced for **incapacity to work**.

h) As of 01/07/2021, **CSED**-recipients will receive 100% of their daily income.

### III. Changes regarding small taxpayers

#### 1. KIVA (small business tax)

##### Please note! – Applicable as of 01/01/2021:

a) The rate of **small business tax (KIVA)** is reduced to 11%.

b) The **revenue thresholds** for entering and exiting KIVA have been increased (to HUF 3 billion and HUF 6 billion, respectively). Other conditions, such as the 50-person statistical headcount limit remained in place.

c) The rules of the transition **from KIVA to corporate income tax** have been also refined.

d) Under the modification, if the tax liabilities do not exceed HUF 1 million, the KIVA taxpayer status can be maintained provided that the undertaking concerned pays its debt in full before the tax authority's decision on the termination of the taxpayer status becomes final.

#### 2. KATA (small taxpayers' itemised lump sum tax)

##### Please note! – Applicable as of 01/01/2021:

a) From 2021, a **natural person** may only have small taxpayer status in an entrepreneurial form.

b) For this period, **attorneys who have temporarily suspended their activity** may be exempted from their KATA tax payment liability.

c) **The payer is required to assess, report and pay a 40% surtax** by the 12th day of the month following the current month if it has paid to the **same** KATA entrepreneur an income in excess of HUF 3 million in the same year. The amount subject to the tax liability is the portion exceeding the HUF 3 million threshold.

d) **Likewise, the payer is required to assess, report and pay a 40% surtax** by the 12th day of the month following the current month if it has paid revenues to an affiliated KATA enterprise (irrespective of the threshold, not only on the portion above the HUF 3 million).

e) **If a KATA taxpayer receives revenues from a foreign affiliated business partner**, it is required to pay a 40% surtax on 71.42% of the revenue (not only on the portion above the HUF 3 million) by the 12th day of the month following the month of receiving thereof.

f) **If a KATA taxpayer receives from the same foreign payer revenues above HUF 3 million in the current year, it is required to pay a 40% surtax on 71.42% of the revenues above the HUF 3 million threshold.**

g) In relation to the above, both payers and KATA entrepreneurs have new **information provision and reporting obligations**. For example, if the KATA taxpayer concluded a contract with the payer prior to 1 January 2021 and the partnership is still maintained in 2021, the KATA entrepreneur is required to notify the payer of its small taxpayer status by 15 January 2021.

Our practical advice: you should require the small taxpayer enterprise to indicate on its invoice whether the aggregate amount of the transactions carried out for the same payer has reached the threshold for the 40% surtax. This information must be communicated to the accounting office by the 10th day of each month as the payer is required to submit the relevant return by the 12th of the given month.

It is also recommended to obtain the entrepreneur's statement regarding the KATA status as soon as the offer is made; i.e. before – and not upon – contract conclusion.

#### IV. Changes regarding the corporate income tax

**Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):**

a) The corporate income tax base can now be reduced by the **development reserve, without limitation**, up to the amount of pre-tax profits and accordingly, from 2021 the corporate income tax may be even reduced to zero.

b) If an undertaking does not have a physical presence in Hungary but provides services through its employees or natural persons, the company will be **deemed to have a permanent establishment** in Hungary, provided that the duration of the service provision exceeds 183 days (related projects should be taken into account on an aggregate basis). For example, even in the absence of a physical site, a person's provision of project management services in Hungary for a period of more than 183 days will generate a permanent establishment.

c) **Tax allowance for investments and renovations serving energy efficiency purposes** may no longer be applied upon the purchase of passenger cars and electric passenger cars (except, for example, for passenger cars with large load compartments). This does not affect the drawdown of grants obtained via tendering; it is the corporate tax relief that has become unavailable.

d) Foreign persons that are tax residents or have a branch office in countries qualified as non-cooperating – 'black-listed' – states for taxation purposes are no longer exempted from the '**controlled foreign corporation**' status.

e) **A new corporate tax base reducing item has already become available as of 27/11/2020:** pre-tax profits in the tax year can be reduced by the derecognition of income from dividends and participation received (due) from controlled foreign corporations and by the profits arising from the derecognition of participation in controlled foreign corporations.

f) The obligation to report **bad debts from affiliated companies** on a separate form has been eliminated (the taxpayer is still required to maintain the relevant records).

g) **Dividends waived** are no longer recognised as **other income**; they should be stated in the books as an increase in retained earnings. As a result, the **item reducing the corporate tax base** has been eliminated. However, if the **owner waiving the dividend** is an affiliated undertaking or a controlled foreign corporation, its **tax base must be increased**.

h) The taxpayer is permitted to pay the **'exit tax'** (as specified in Section 16/A of the Corporate Income Tax Act) in instalments not only if the place of effective management is relocated, but also when the assets or the business activity performed by domestic branch offices are relocated. Therefore, the exit tax is primarily imposed in relation to the transfer of an undertaking's place of management or assets to a location in a foreign country. Upon the transfer, taxpayers are required to increase their tax base by the amount by which the market value of the transferred assets and activities exceeds the calculated book value – or a value corresponding thereto – as at the transfer (the tax levied on that amount is the exit tax).

i) A change came into effect **as of 27/11/2020** regarding the tax credit received for **supporting spectator team sports**: sponsorship certificates can be issued for 100% of the grant under the title 'amounts granted for costs associated with the state of danger'.

## V. Changes regarding the value-added tax

**Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):**

a) **Once again, the VAT rate on the sale of new residential property has become 5%.** The chargeable event must fall between 01/01/2021 and 31/12/2022.

The 5% VAT is also applicable to chargeable events by 31/12/2026 if the building permit became final by 31 December 2022 or the construction activities were declared by no later than 31 December 2022.

b) In the case of **bad debts**, the option for retrospective tax base reduction is extended to outstanding receivables from non-VAT subject buyers if the debtor is released by court from paying the debt. Moreover, in cases where the **limitation period** of the claim is less than one year, the condition that at least one year must elapse from the due date of the debt may be waived.

c) A specific future effective date can be now defined for the formation or termination of a **VAT group**, or for joining or leaving a VAT group.

Moreover, the new rules allow the undertakings concerned to remain VAT group members without interruption.

d) The tax exemption of **passenger car sales** cannot be applied in cases where the VAT deduction ban would have been otherwise relieved if the acquisition took place for reselling purposes (in other words, when a taxpayer buys a passenger car for reselling purposes, upon selling the vehicle the taxpayer will now have to pay VAT in any case).

e) As of 27/11/2020, the **negative consequence of VAT number cancellation to the right to deduction has been eliminated.**

If the taxpayer's VAT number is reinstated by the tax authority, the taxpayer may deduct input VAT – under previous rules, **negligible** – generated before the cancellation of the VAT number (even retrospectively, within the limitation period). **Please contact us to reclaim VAT that you believed lost.**

f) The **VAT reverse charge rules of temporary staffing** remain applicable – not only in the construction sector – until the publication of the relevant amending act.

This is expected in the first half of 2021; thereafter, the reverse charge mechanism will be limited to temporary staffing in construction.

g) As of 27/11/2020, in the case of **termination with a legal successor**, in its closing VAT return the legal predecessor is entitled to reclaim the input VAT which could not be refunded to the legal successor in the absence of a domestic VAT number.

These cases should be viewed as termination without a legal successor; in other words, the legal predecessor may state the refundable VAT in its closing VAT return irrespective of the refund limit.

h) The **rules of VAT refund to non-resident taxpayers** have been refined.

Besides the date of the chargeable event, the invoice's date of issue will also be important to consider.

i) The rules of the **special VAT refund procedure** have been supplemented.

In certain cases, taxable persons may request a VAT refund also by citing the principle of tax neutrality (e.g. for example, where the taxable person charged VAT in error, the buyer failed to pay the consideration – including VAT –, and the buyer was terminated).

j) A number of significant changes have been introduced in relation to **data disclosure and invoicing**:

Information must be provided on 'free' product sales and service provision that qualify as taxable sales and service provision. The seller/service provider must also report whether the buyer of the product/user of the service will reimburse the VAT.

It must be reported within 15 days if the value of distance sales conducted by a taxable person to another Member State of the EU reaches the relevant threshold.

The issuer must disclose data on all invoices that are subject to Hungarian invoicing rules (including invoices issued to non-taxable natural persons, non-taxable organisations, on intra-Community and exports sales, on transactions subject to the reverse charge mechanism). The above obligation does not apply to users of the mini one-stop shop (MOSS) system and users of the OSS system to be set up from 01/07/2021.

The tax authority provides a penalty-free grace period for any omissions in this regard until 31 March 2021.

The data reporting obligation pertaining to separate invoices issued instead of the use of online cash registers (PTGSZLAH) has been eliminated.

Clients engaged in antiques trading should note that in the future, in addition to stating on the invoice that the sale is subject to differential VAT, the nature of the sold object (work of art, collectors' item, antiquity, second-hand good) must also be indicated in accordance with Schedule 8 to the VAT Act (individual invoicing programmes offer different solutions in this regard). The classification of goods sold into these categories is a professional task. We will issue a separate guide to assist you in this task during the appraisal.

Previously, exemption from invoicing was conditional upon the simultaneous presence of the seller and the non-taxable buyer. This condition no longer applies.

k) In the case of **intra-Community purchase transactions**, in accordance with the provisions on change reporting, taxable persons are required to report to the tax authority (NAV) if they exceeded the EUR 10,000 threshold.

l) **eVAT**, the draft VAT return generated by NAV will enter into force on 01/07/2021.

For a valid VAT return, the data of the draft returns will have to be finalised, accepted and filed (NAV is unable to 'dispose over' the deductible VAT instead of the taxpayer).

m) Under the new rules, **electronic interfaces** (e.g. portals/platforms, webshops, online market-places) are subject to VAT.

The rule will only apply to persons using the electronic interface for the distance sale of goods imported from third countries, and to sellers not established in the Community using the electronic interface to sell EU products to non-taxable persons. According to the relevant regulation, the sale transaction can be split into two parts: the taxable person seller sells an item to the electronic interface, and the electronic interface sells the item to a final buyer through its own sale transaction. By default, the sale of goods to the electronic interface is not subject to VAT liability or it can be offset by VAT deduction, whereas the electronic interface is subject to VAT in the buyer's Member State.

n) From 01/07/2021, due to the new definition of **distance sales**, different rules will apply to intra-Community distance sales and to the distance sale of goods imported from third countries.

In line with the changes, **a new one-stop shop (OSS) system will be set up**, whereby those engaged in the above activity will be able to declare and pay the VAT due to a single Member State's tax authority. Registration for the OSS will be open from 01/04/2021.

Consequently, the mini one-shop stop (MOSS) system previously available only for (telecommunications, electronic, radio-audiovisual broadcasting) services that could be also provided in the context of distance sales, will be extended and applicable to:

- all services provided to non-taxable persons that are subject to VAT liability in the Member State of consumption;
- distance sale of goods;
- sale of goods to certain non-taxable persons.

o) Moreover, in accordance with the new e-commerce regulations, as of 01/07/2021, customs rules will change for the **imports of low-value consignments**, and the VAT exemption for the imports of small consignments (up to EUR 22) will be **removed**.

p) From 01/07/2022, the sale of agricultural and steel industry products as well as the trading of greenhouse gas emission allowances will **no longer be subject to reverse taxation**.

## VI. Changes regarding the EKAER (Electronic Trade and Transport Control System) rules

### Please note! – Applicable as of 01/01/2021:

a) The **EKAER registration obligation** remains applicable only for high-risk products (the relevant product list is currently included in NGM Decree No. 51/2014).

b) The **obligation to provide risk guarantee** has been modified for taxpayers engaged in the intra-Community acquisition of goods and in the first domestic supply of goods subject to value-added tax.

c) The EKAER obligation now applies to transportation by all motor vehicles, **not only those subject to toll**.

d) **EKAER-exemptions** conditional upon weight and value remain in force.

e) Voluntary **EKAER notification** has become available – in such cases, the risk guarantee obligation does not apply.

f) EKAER-related **default penalties** have been eased.

## VII. Changes regarding local taxes

**Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):**

a) As of 01/01/2021, the **local business tax of micro, small and medium-sized enterprises and sole proprietors has been reduced to a half** (including advances for 2021).  
The enterprises concerned need to fulfill a declaration and reporting obligation in this regard **by 25/02/2021**.

b) From 2021, taxpayers can comply with their **local business tax return** obligation by **filing a single local business tax return with the National Tax and Customs Administration (NAV)** on a standard form.

c) **Temporary business activity** is no longer subject to local business tax. Activities lasting more than 180 days continue to generate a permanent establishment.

d) For the local business tax, as well, an obligation has been introduced to apply **arm's length prices** for determining the tax base.

This applies when the transaction between affiliated undertakings affects net sales or the costs reducing net sales revenues (rules for affiliated undertakings under the Corporate Income Tax Act).

e) The rules of **tax base allocation** for the local business tax have changed. With respect to long-term motor vehicle rentals and leasing, the asset value must be recognised in proportion to the personnel expenses incurred at the registered office or premises.

f) The rules of factoring in **significant or non-significant errors** for the calculation of the local business tax base have been modified.

If it is adjusted as a result of the tax authority's tax audit or by the entrepreneur's self-revision, the tax base of the fiscal year when the error was detected should be determined in consideration of that adjustment.

g) The local building tax imposed on **advertising media** has been eliminated (as of 15/07/2020).

h) From 2021, tax administration tasks related to the **vehicle tax** have been taken over by the state tax authority from local municipalities.

The vehicle tax for the first half of the year is payable by 15 April 2021. Taxpayers will be informed in a NAV resolution as to the number of the NAV's vehicle tax collection account and the amount of the tax payable (NAV resolutions will not be sent in the future unless there is a change in the tax liability).

## VIII. Changes regarding duties

**Please note! – Applicable as of 01/01/2021:**

a) From 2021, **duties** on administrative proceedings have been reduced and the duty payment obligation has been eliminated in relation to numerous administrative proceedings at first instance.

b) As of 01/01/2021, the acquisition of a home's title and ownership share through the Home Purchase Subsidy Scheme for Families (CSOK) is **exempt from duties**.

## IX. Changes regarding the tax procedure, tax administration rules and enforcement procedures

### Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):

- a) If new undertakings were established during their operation of **group taxpayers**, the reliable taxpayer status of the group may not be revoked even if the newly founded member(s) would not otherwise qualify as a reliable taxpayer.
- b) Default penalty rules have been eased with respect to **transfer prices** and the record-keeping and file retention obligation for **controlled foreign corporations**.
- c) Where **reliable taxpayers** were granted automatic payment relief, the upper cap on the tax liability is raised to HUF 3 million from HUF 1.5 million.
- d) Natural persons may apply for **payment in instalments** for 12 months for tax liabilities as high as HUF 1 million (instead of the former limit of HUF 500,000).
- e) As regards the sanctioning of **reliable taxpayers**, the upper cap criterion has been repealed. **The fine imposed shall be 50% – or, in severe cases, 200% – of the tax arrears.**
- f) Corporate taxpayer groups may no longer request a **payment relief**.
- g) Applications for **extended conditional tax assessment** have been eliminated.
- h) In the procedures opened by the tax authority, **mandatory professional representation** can be assumed by a suitably qualified employee of the organisation.
- i) If, in the taxpayer's opinion, the tax authority **has missed the deadline of an audit**, the taxpayer may lodge a complaint with the superior body after the expiry of the deadline calculated by it.
- j) Similar to appeals, it is not permitted to present new facts or cite new evidence – other than nullification – in the **request for supervisory measure**.
- k) In the case of administrative proceedings, **exemption from the non-aggravation rule** is extended to proceedings conducted by the superior body (the second instance decision may be more severe).
- l) **Enforcement objections** may be lodged within 15 days of becoming aware of the measure or a lack thereof.
- m) **Applications for continuation with justification** may be submitted if the applicant was unable to lodge an enforcement objection.

## X. Changes regarding the Accounting Act

### Please note! – Applicable as of 01/01/2021 (unless otherwise indicated):

- a) The accounting date of any **changes in the capital reserve** – similar to the recognition of changes in subscribed capital – is a date chosen by the undertaking or the date of company registration, whichever is earlier.
- b) **Tied-up reserves** must include a margin to cover tax liabilities that arise directly from the transformation of the undertaking and are borne by the legal successor (e.g. asset revaluations).
- g) **Dividends payable waived** by the owners are recognised as an increase in retained earnings instead of **other income**. The recipient continues to recognise the waived receivable as an expenditure.
- d) The **assignment of receivables** must be accounted for on a net basis (only the profit or the loss must be booked). In the case of **receivables purchased** (stated under current assets) the difference between the receivable and the book value must be recognised under other incomes or other expenditures from financial transactions (already applicable to financial statements for 2020).

e) In the case of **intangible assets and tangible assets**, gross accounting is replaced by netting (already applicable to financial statements for 2020).

The gains or losses arising from **their** sale, or from their transfer under a property swap contract; or from their transfer in exchange for deregistered shares, partnership shares and other participating interests upon a capital reduction by disinvestment must be recognised as other income or other expenditure, respectively.

f) The difference between the book value of **terminated shares** and the cost value of shares acquired in an undertaking created by transformation, merger or demerger must be recorded in the books as of the day following the day of transformation, demerger or merger.

## XI. Miscellaneous changes

### Please note! – Applicable as of 01/01/2021:

a) Restaurant and accommodation services subject to the 5% VAT rate – which are provided as intermediated services under the VAT Act but not according to the rules of margin taxation – have been removed from the range of services subject to the **tourism development contribution**.

b) **Sole proprietors' applications for registration with the Chamber of Commerce** can now be submitted to the National Tax and Customs Administration (NAV) concurrently with reporting the commencement of their activities to NAV.

c) As of 01/01/2021, Act CXXIII of 2020 on **Family Farms** lays new foundations for the rules pertaining to primary agricultural producers, primary producer family farms and family-owned agricultural undertakings. [For more detail, please contact your account manager.](#)

d) The merchants specified in NGM Decree No. 48/2013 are required to provide consumers with the **option of electronic payment** and ensure the continuous availability thereof.

e) An overview of the consequences of **BREXIT** – the UK's exit from the European Union

- From 01/01/2021, passenger traffic and commercial vehicles will be subject to border control between the EU and the UK.
- Commercial shipments must be declared at the border, and their customs clearance initiated.
- An export declaration form must be submitted for all tradable goods exported from the EU, and the exit of the goods must be requested at the customs frontier.
- Customs formalities must be carried out for excise goods, and the electronic system applied for moving excise duty-suspended goods may not be applied between the EU and the UK.
- Under the free trade agreement, a zero-rate duty is applied (subject to the importer's adequate verification of the customs origin of the imported goods); however, import VAT liability is still imposed on imports which, by default, is payable when the goods are released for free circulation.
- A customs declaration is required both for exports and imports, which can only be carried out through the electronic systems designed for this purpose. In most cases, the participation of a customs representative is required for this process.
- Business associations that are established in the United Kingdom but do not have a tax number in the EU need a financial representative to carry out the customs formalities and fulfil the tax obligations.

**Please note that the digitisation process commenced by the tax authority in recent years continue in 2021 and as a result, the tasks performed by accountants will change. A new**



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**task will be to ascertain that the undertaking has complied with its significantly expanded data disclosure and reporting obligations and that all invoices have been received by the tax authority. Another task will be to state the differences between certain data disclosures and returns and to consult with the authority on an ongoing basis in this regard (even the slightest deviation may raise the attention of the tax authority).**

**Should you have any questions regarding the above, feel free to contact your account manager.**

**Yours sincerely,**

**The staff of Bergmann Iroda**

