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FOREWORD

In this issue of our newsletter, we present the special tax for retail trading that has recently been introduced in Hungary, which is intended to help finance the consequences of the COVID-19 pandemic. The relevant government decree (109/2020. (IV.14.)) was published on 14 April 2020 and comes into force on 1 May 2020.

SPECIAL TAX FOR RETAIL TRADING

Taxable persons

According to the above-mentioned government decree, from May 2020 the new special tax will apply to all **retail companies** whose activity falls into the following economic sectors according to the statistical classification of the European Community (NACE, in Hungary TEÁOR' 08) and that realise their retail sales domestically, whereby both domestic and foreign companies are equally treated.

This concerns the following branches of the economy as per the NACE and TEÁOR' 08:

NACE/TEÁOR' 08 No.

- 45.1 Sale of motor vehicles
(except of the wholesale of vehicles and trailers)
- 45.32 Retail trade of motor vehicle parts and accessories
- 45.40 Sale, maintenance and repair of motorcycles and related parts and accessories
(except of the wholesale and maintenance of motorcycles)
- 47.1 – 47.9 Retail trading
(except of the trade of motor vehicles)

NACE/TEÁOR numbers 47.1 to 47.9 cover almost the entire retail sector from pharmacies to hardware stores, grocery chains and petrol station operators to textile retail chains, regardless of whether trading is carried out via shops, stores, markets or on the Internet.

Tax assessment base

The base of tax assessment are the revenues generated in the financial year in accordance with the Accounting Act or other relevant statutory requirements, determined pro rata for the period from 1 May 2020 until the end of the crisis situation.

Important: If the expected sales figure in a month does not reach at least 60 percent of the figure in the same month of the previous year, a proportional reduction of the advance tax payment can be applied for.

Tax rate

The special tax is progressive and increases in proportion to the taxpayer's net sales revenues.

In the event of a split-off or split-up of affiliated companies or the transfer of assets between companies that carry out a taxable activity happening after the entry into force of the government decree, the sales revenues of the affiliated companies must be aggregated and this will create the basis for determining the special tax for these companies. The tax liability of the individual company then results from its share in the total turnover of the companies to be taken into consideration, or in the retail sales revenues to be taken into account of the companies belonging to the group of companies. This rule applies if the split-off, split-up or the transfer of assets is carried out for the purpose of tax evasion and there is no real economic reason.

Tax rates:

Sales revenues from – to in HUF	Tax rate*
- 499.999.999	0.0%
500.000.000 - 29.999.999.999	0.1%
30.000.000.000 - 99.999.999.999	0.4%
100.000.000.000-	2.5%

*graduated tax rates

Key procedural rules

Taxpayers must report their monthly advance tax payments to the tax authority by 31 May 2020.

The monthly amount of the advance tax payment corresponds to the amount that results from the per-month sales of the last completed/reported tax year that ended before the decree entered into force.

Taxpayers have to pay the tax for the entire calendar month for each month in which the crisis situation existed for at least one day.

If the amount of sales revenues in a month does not reach at least 60 percent of the same month of the previous year, the advance tax payment amount can be reduced at the request of the taxpayer in proportion to the decrease rate of its sales revenues.

REMARKS TO THE SPECIAL TAX

Similar special taxes were introduced for the retail sector e.g. in 2010 though these did not affect the entire retail sector at the time but only targeted certain fields of activity, in particular the retail trade of food.

Back then, multinational retailers filed a lawsuit against the special tax with the European Court of

Justice because they believed it was a discrimination against multinational retailers. However, the Grand Chamber of the European Court of Justice dismissed the action. The Court has pointed out that Member States are free to apply progressive taxation on the sales revenues of companies or groups of companies, since the amount of revenues is a neutral distinguishing criterion and an indicator of the performance level of taxpayers. No discrimination against foreign based companies was established.

For some businesses that engage in both wholesale and retail trading, the sales revenue has to be precisely allocated first in order to determine the special tax.

If you have any questions about special tax discussed above, please contact our colleagues in our relevant departments who stand at your disposal at any time. We will continue to inform you of further selected events and topics.

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