

# Rödl & Partner

NEWSLETTER HUNGARY

MUTUAL SUCCESS

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Latest news on law, tax and business in Hungary

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## → Introduction

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Dear Readers,

We wish a happy Christmas and a successful new year 2021 to you and your families.

With our present Newsletter, we would like to inform you amount major tax modifications in Hungary regarding the upcoming year 2021 among which some were passed already in Summer 2020.

Kind Regards from Budapest



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## → Corporate tax

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### Definition of the permanent establishment

For the existence of a corporate tax permanent establishment, it will be sufficient in the future if a foreign company provides services in Hungary through its employees or other persons who are in a business relationship with the company for a period of more than 183 days within 12 months. In the course of the assessment of the fact whether there is a permanent establishment, the projects being related to each other shall be taken into consideration as a unit.

The determined definitions of a permanent establishment according to the existing double taxation treaty regarding the areas of profit tax and property tax have priority over the Hungarian legislation. This means that if a permanent establishment results from the definition of a double taxation treaty this shall be applicable for the corporate tax treatment in

Hungary, even if something different results from the Hungarian tax law.

### Creation of investment reserves

The creation of investment reserves can be used to reduce taxes up to the amount of the profit before taxes of the business year. So far, there has been a general maximum limit of HUF 10 billion.

### Irrecoverable claims against affiliated companies

If there are irrecoverable claims against affiliated companies these shall not be reported by using separate forms in the future but instead, in addition to the economic reasons, the company must keep separate internal records of the reasons regarding the tax-reducing approach of these items.

## → Small business tax (KIVA) and small taxpayers' itemized lump sum tax (KATA)

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### KIVA

The tax rate for small businesses will be reduced to 11 per cent and the threshold for applying the KIVA-rules will be increased from HUF 1 billion to HUF 3 billion regarding the balance sheet total and the sales revenues. Companies that already apply the KIVA-rules can continue to use this taxation form up to an annual sales revenues of HUF 6 billion (previously HUF 3 billion). If there are affiliated companies, the sales revenues shall be added in order to calculate the threshold.

The KIVA-tax replaces the corporate tax, the employee's part of the social security contribution and also the training contribution. The assessment basis are the personal withdrawals and the decided distributions. The tax

burden of the payment is reduced from 17 per cent to 11 per cent.

### KATA

From 2021, the consequences will increase in case of the improper application of the KATA-regulations. If a company purchases services or products from a company using the KATA-regulations with a value of more than HUF 3 million the tax rate shall amount to 40 per cent. The special tax does not apply to KATA-companies but to customers/contractual partners, unless the customer is a foreign company. The assessment basis of the special tax is the share of sales revenues that exceeds the value of HUF 3 million.

## → Business tax

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### Business tax returns

Business tax returns can no longer be submitted to the competent regional authorities in the future but these shall be submitted to the competent tax authority in electronic way by indicating the affected regional authority (seat, branch office etc.) and the amount to be paid – by using the specified and standardized forms. This results in a significant administrative relief for the companies that have several branch offices and that have had to fill in and submit differently compiled tax returns for each municipality. The possibility of submission via the electronic tax return system of the tax authorities has been possible also previously but it has been used only to a limited extent. However, as before, the tax debt shall be transferred to the individual local authorities.

### Business tax liability for temporary activities

From 2021, there will be no business tax liability for temporary construction works lasting up to 180 days.

If the period of 180 days is exceeded the period from the date of commencement of the activity until the handover of the performance shall be calculated by the principal.

### Tax prepayments

For business years beginning in 2021, the obligation to top up tax prepayments before the turn of the year will be deleted.

### Business tax assessment base

If the corporate tax assessment base is adjusted due to the used intra-group transfer prices this shall be taken into account also in the course of the determination of the business tax accordingly.

## → Income tax

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### Recreation card (SZÉP-Card)

From 2021, the maximum amount that can be granted in the public sectors will be increased to the level of the private sector (HUF 450,000.-/year). In case of an employment of less than a year, proportional benefits are possible.

### Recreation card (SZÉP-card), Covid-19 increase

The tax-privileged maximum amount of payments by the employers to the sub-accounts of the SZÉP-card has been increased from HUF 450,000.- to

HUF 800,000.- due to the Covid-19 pandemic.

This regulation was originally valid until 31.12.2020 but it has now been extended until the end of June 2021. There are still no social contributions to be paid regarding these benefits.

### Vaccinations, Covid-19 Test

If an employer reimburses/pays the protective vaccinations, Covid-19 tests for his employees, these benefits shall be exempted from tax. The expenses do not increase the tax base for the employee.

## → Value added tax

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### Online trading

In the course of the legal alignment with the EU law, the tax treatment of the online trading will be harmonized and the possibilities of tax avoidances

are to be restricted as a result of this. The new legal regulations are to be applied from 1. July 2021. The legal provisions are very exhaustive/detailed and make differences between the deliveries from/to the EU and to third country/ies and can be

presented in the present newsletter only as an excerpt:

- For cross-border transports within the EU, the value added tax shall usually be paid in the country in which the customer has its seat (destination country) and where the delivery and the final consumption/use take place.
- In order to keep the administrative expenses of internet distributors within the limits, the EU-based distributors delivering to other EU countries to persons being not being subject to taxes (especially private persons) can choose in case of a good value of less than 10,000.- euros/year that they declare and pay the tax in a country in which the goods were posted or in which the loading took place.
- EU-based distributors shall not necessarily have themselves register for tax purposes in case of cross-border activities in every countries. The tax returns and payments can also be carried out through the central tax accounting system of the EU "OSS". In this case, the taxpayer shall indicate the tax base and the tax to be paid in the VAT return for each target country. The Value Added Tax to which the target countries are entitled will be transferred from the "domestic tax authorities" to the local authorities in this case.
- If the trade takes place via an internet platform operated by a third person, the business transaction shall be divided into 2 transactions in a fictive way. There will be a sale on the platform that carries out a sale to the customer/recipient. In these cases, the internet platform shall be deemed as a taxable entity.
- The previous tax exemption of transports with a value of up to 22 euros will no longer apply.

## Value added tax grouping

The new regulation enables the tax groupings and

the affiliated companies to freely choose the time of registration, deregistration of the grouping and the entry and exit from the group. Switching to another VAT grouping has also been made easier.

## Irrecoverable claims against private persons

If it turns out that a claim against a private person cannot be recovered the company can correct the VAT in its VAT return and it will receive a refund up to the amount already paid using the amount in the tax return. A prior written notification at the debtor – as it is the case regarding the business customers – is not necessary. The regulation applies retrospectively from 31. December 2015.

## Transactions to be notified online

From 01. January 2021, the business transactions (issued invoices) with foreign customers and domestic private persons must also be reported.

## Reduced value added tax on newly built apartments

The value added tax rate on newly built apartments will be reduced to 5 per cent until 31. December 2022. This applies to residential units the usable area of which does not exceed 150 m<sup>2</sup> per apartment in multi-family houses and 300 m<sup>2</sup> in single family houses. The reduced tax rate applies to constructions notified until 31. December 2022 or to building permits granted until this date and can be taken into consideration regarding property-related expenses incurring until 31. December 2026.

## Temporary employment – reverse tax liability

The applicable reverse tax liability for temporary workers will only apply from 2021 to the area of construction and assembly activities, independently from the fact whether a building permit is necessary for the execution or not.

## → Rules of taxation

### VAT registration

It is planned that from the second half of 2021, the competent tax authority will send a VAT registration to the affected companies on a monthly basis

according to the information being available to the tax authority which shall be controlled by the taxpayers and if necessary it shall be corrected and submitted by them.

## → EKÁER

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From 01. January 2021, the transport of goods that are considered to be “risk-free” according to the

EKÁER regulations are no longer subject to notification.

## → Other taxes

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### Vehicle tax

From 2021, the governmental tax authority will be responsible for the tasks related to the vehicle tax and the income will flow to it and not to the local authorities/municipalities.

### Covid special tax of the credit institutions

The covid special tax introduced in 2020 due to Covid-19 which is charged to the credit institutions can be applied by the credit institutions in the following 5 business years in the same amount of the bank tax to be paid in form of a tax retention.

## → Accounting act

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### Disclosure of income and expenses

From 2021 (optionally already for the business years beginning in the calendar year 2020), the net statement of the results from certain business transactions have to be also reported. This affects i.a. the sale of items from the property and the transfer of receivables. If e.g. self-used vehicles are sold from the fixed assets only the result of the transaction is to be reported under the income or expenses.

retained earnings and no longer through the profit and loss statement.

### Tax liabilities in case of the transformation of companies

If the legal successor has tax debts during the transformation of the companies through the transaction these shall be booked as tied reserves if no disclosure is made/required.

### Distribution of profits

If a shareholder subsequently waives the payment of a profit distribution that has already been resolved the booking shall be made directly to the

Contact for further information

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