Executive summary
A number of amendments to the Hungarian personal tax law in 2015, including the tightening of anti-avoidance laws, suggest that Hungarian employers should carefully evaluate their pay and benefits practices to ensure they remain tax efficient and compliant.

The applicable tax rate will stay at its relatively low rate (currently 16%) but the scope of benefits that are subject to beneficial tax and social security treatment has been narrowed further. The high social security rates (27% employer and 18.5% employee contributions) remain unchanged.

Among other changes, the annual amount of non-wage benefits that are subject to preferential tax and social security treatment has been lowered, the range of tax-free life insurance is to be tightened and the period of social security exemption for third country national assignees that have been on assignment in Hungary since 1 January 2013 has been extended by six months until 1 July 2015.

Personal income tax

Anti-avoidance principles
The long existing anti-avoidance principles have been supplemented with a specific new provision. The tax changes reinforce the principle that items or remuneration to which an individual is entitled pertaining to his or her employment (or self-employment) must be taxed as ordinary employment (or self-employment) income. For example, it is not possible to characterize these items as tax free income or benefits in-kind even if they formally meet those specific rules.

However, this principle does not concern those compensation elements for which beneficial tax treatment is determined by law (such as “non-wage benefits” – “béren kívüli juttatások” or “other specified benefits” – “egyes meghatározott juttatások”). As yet it is unclear where the line should be drawn. A commonly mentioned bad practice is the provision of tax-free housing aid by employers in lieu of bonuses (housing aid is tax-free up to HUF 5,000,000 – approximately, EUR 16,000 – over a five-year period). This is not possible under the anti-avoidance principles.

In-kind benefits
As of January 2015, the annual limit for non-wage benefits, with a reduced overall tax liability of 35.7%, will be HUF 450,000 instead of the current HUF
500,000.

- The HUF 450,000 limit may consist of two main benefit buckets: SZEP card (a specific non-wage benefit which has three separate ‘pockets’; namely, accommodation, hospitality and recreational activities) and additional non-wage benefits as listed by law (e.g., meal vouchers, season tickets for local travel, school starting allowances). Within this overall cap, the annual amount of additional non-wage benefits is limited to HUF 200,000.
- Non-wage benefits exceeding the limits set in the law should be considered as ‘certain specified benefits’ and are subject to a 51.17% overall tax liability.

**Employee share plans**

- As of 2014, there is no mandatory registration requirement for qualified employee share plans. However, as of 1 January 2015, businesses organizing employee share plans are liable to provide the Tax Authority with specified information about the plans by the 20th day of the month following the start date of the mandatory holding period of shares or options.

**Whole life insurance policies with redemption value**

- According to the current legislation, regular premiums paid by companies for whole life insurance policies which do not qualify as risk insurance under tax legislation and prevailing only in the event of death (‘WL insurance’) are tax exempt in Hungary.
- After 31 December 2017, such insurance premiums will cease to be tax exempt and will qualify as ‘certain specified benefits’ and be taxed accordingly, similarly to premiums paid for other types of taxable insurance premiums.
- In the three-year transitional period (before 1 January 2018), employers may conclude WL insurance for individuals, of which the regular premium is tax exempt until 31 December 2017. However, these insurance premiums will be subject to tax after this date, regardless of whether they were concluded before 2018.

**Social security and social contribution tax**

- Under the legislation in effect before 2015, third country nationals who are considered non-resident from a social security perspective and are assigned to Hungary by a foreign employer on or before 1 January 2013 are exempt from Hungarian social security obligations until 1 January 2015.
- Third country nationals are defined as those of states outside of the member states of the European Economic Area, Switzerland and states with which Hungary has a social security treaty in place.
- This deadline has been extended until 1 July 2015.

**Next steps**

- Anti-avoidance principles: Labor law considerations are key in determining the tax treatment. In light of this, we highly recommend reviewing Hungarian employers’ compensation and benefit practices (including policies and employment contracts) from a labor law perspective.
- In-kind benefits: Employers should review cafeteria policies to assess the tax costs in light of the modified tax rules, and to ensure that the terms and the related administrative processes comply with the new legislation.
- Companies organizing qualified employee share plans have to set up processes in order to provide the mandatory information to the Hungarian Tax Authority.
- Companies need to review the insurance policies they currently have in place to determine future tax costs. Benefit policies which include WL insurance also need to be reviewed.
- Companies at which non-resident third country assignees (e.g., US citizens) are carrying out activities should be aware of the extension of the social security exemption period and inform home companies about the fiscal consequences.

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HR and tax alert