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NEWSLETTER

JANUARY-FEBRUARY 2017

Contents

1. The substantive provisions of the new Excise Tax Act will become effective in April

As one of our previous newsletters indicated, the excise duty regulations are significantly changing in 2017.

Instead of 1 January 2017, as earlier proposed, due to another amendment at year-end last year, the substantive provisions of the new act (Act LXVIII of 2016) will become effective on 1 April 2017, and pursuant to the transitional provisions, the deadline for filing the relevant declarations is changed to 28 February 2017. Pursuant to this provision, excise (bonded) warehouse license, registered merchant license, registered dispatcher license, registered user license, or excise license holders who received their license under the former Excise Tax Act, and whom wish to continue their operations after 31 March 2017, must file a declaration by not later than 28 February 2017, making a statement, amongst others, as to how they wish to pursue their operations in the future, how they wish to comply with the mandatory disclosure obligations, how they will calculate and provide the guarantee for payment of the excise duty and by when, and on what type of disclosure they will provide regarding the dispatch of free circulation excise goods, following the issuance of their new license, as of 1 April 2017.

2. The official availability of business entities to be registered in the Disposition Register

Pursuant to the Act on the general rules for electronic administration and trust services (E-administration Act), economic operators are required to register their availability for electronic contact, i.e. the so called "official availability" in the Disposition Register, by not later than 31 August 2017.

The official availability must be a contact address that is suitable for a clear and unique identification of the business entity, suitable to provide an electronic confirmation on the date of dispatch and receipt, to identify the recipient, to guarantee that documents are received intact, to administer failed deliveries, and to provide receipt confirmations.

Business entities may comply with this mandatory reporting obligation by registering their official availability for electronic contact in the Company Register.

Parallel with such changes, the Companies Act also got modified, according to which as of 1 January 2018, the Company Register will include the official availability of business entities in line with the E-administration Act, however, business entities may register their official availability in the Company Register at any earlier date.

3. New rules for the mandatory contents of invoices

As of January, the relevant provision of Act CXXVII of 2007 on Value Added Tax applicable to the mandatory information to be stipulated on invoices is changed. Previously the law stipulated that in cases when the amount of VAT payable by the purchaser of the goods / recipient of the service exceeds HUF 1,000,000, and provided that the seller of the goods / the service provider is a resident business entity in Hungary, or has a permanent address or habitual place of residence in Hungary, the invoice had to indicate the purchaser's/recipient's tax number. This threshold is not lowered from HUF 1,000,000 to HUF 100,000. The new rule shall be applied to invoices issued on or after 1 January 2017. Issuers failing to comply with the new rule may be fined, and the recipient of a non-compliant invoice will fail to meet the technical pre-condition set for tax deduction.

4. Modified tax base for non-wage benefits and certain individually defined benefits

As of 1 January 2017, the tax base for certain individually defined benefits not qualifying as non-wage benefit, and for non-wage benefits, is calculated as 1.18 times the benefit amount, pursuant to Act CXVII of 1995 on the Personal Income Tax. Earlier, the multiplier applied was 1.19. As for promotions, the amendment is relevant for cheap promotional gifts, giveaways, and corporate gifts, in which case the basis for calculating the personal income tax is the normal market value of the product/services times a multiplier of 1.18, as of January 2017.

5. GVH fined Magyar Telekom Nyrt. HUF 600 million

The Hungarian Competition Authority (GVH) fined Magyar Telekom Nyrt. for an infringement of comparative advertising rules, and for misleading customers.

The supervision proceedings were opened in relation to a campaign including the slogan "largest size 4G network", and GVH established that Telekom provided a comparative analysis of the 4G network coverage of Telekom and its competitors, by infringing the rules of comparative advertising, given that according to GVH, the fact that in any given moment the network coverage of a specific mobile operator is the largest, shall not be deemed to be an impartial comparison - even if such information is true and correct when provided - if, by taking into consideration the specific nature of 4G mobile services, it can be clearly established that this situation is not sustainable, due to a fast space network roll out.

The other subject covered by the supervision proceedings was the statement made by Telekom in the same campaign, using the term "up to 150 Mbit/sec speed" and "up to 150 Mbit maximum speed" in relation to network download via specific communication devices, in relation to which VGH established that the implied meaning of such term, in the context of available download speed, is suitable to mislead the customers. During the investigative proceedings GVH established that advertising promises including the term “up to” would be lawful - amongst others – if the term “up to” would not only represent a theoretical possibility, but a realistically available option, however, in this specific case under investigation, the 150 Mbit/sec was not supposed to mean an available option for customers.

The authority evaluated the fact that the infringement was related to goods (4G services) yet unknown to the large population, and that given the 1-2 year loyalty schemes offered to customers, the infringement might have long terms effects, as major aggravating circumstances.

According to Telekom, the statement made is verifiable and objective, therefore, Telekom stated that it intends to request a judicial review of the resolution.

We call your attention to that the purpose of our newsletter is general information, its content by no means qualifies as legal advice or opinion in single cases. If you have any question, observation concerning the above, please, contact Dr. Pánszky Gyula through the e-mail address gyula.panszky@panszky.hu , or by phone, on the telephone number +36-1-200-3416. Thank you.

Budapest, 23 February, 2017

Pánszky Law Firm