



# OrientTaxPress

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## Tax Law Changes in 2018

Personal Taxes  
Corporate Taxation  
Indirect Taxes  
Tax Procedura





## Tax Law Changes in 2018

Most of the significant tax law amendments were already enacted in June 2017, subsequent to which the Hungarian Parliament passed further tax changes in November 2017 as well. In our newsletter we shortly summarize the changes introduced by the spring tax bill alongside with the most significant modification of the November tax package.

Most notably, from 1 January 2018 an entirely new tax procedure legislation will come into effect. There are no significantly new rules, although, the regulation has become more fragmented and extensive.

The other modifications are of a smaller-scale, with the purpose of easing the tax administration, extending the tax incentives and expanding online tax administration. This latter expressly aims to further reduce tax evasion.

Below we summarize the most important changes that will enter into force as of 1 January 2018 (if the date of effect differs from this date, we will highlight it).

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## Personal income tax

### Easier personal income tax return filing

Since the tax authority makes draft personal income tax returns for individuals, preparation of tax returns by the employers becomes unnecessary. Accordingly, in the future, individuals can fulfill their personal income tax return filing obligation by approving/correcting/supplementing the draft tax return prepared by the tax authority, or alternatively, they can prepare and file their tax return on their own.

### New 1% donation rules

As of 1 January 2018, the procedure of donating 1% of the personal income tax to churches will change. The declaration made by the individual will be considered to be applicable indefinitely, and 1% of the personal income tax will automatically be transferred to the designated church on a yearly basis until the taxpayer withdraws/changes the declaration.

### Short-term rent of real estate

Individuals who let their apartments for short-term hospitality and tourism may opt to fulfil their tax obligation by paying a flat yearly tax of HUF 38,400 per room. As of 1 January 2018, this flat tax can be paid not only for one apartment, but for maximum of 3 apartments. Thanks to this modification, the tax payment obligation and administration cost will significantly reduce for individuals who let 2 or 3 apartments (e.g. via Airbnb).

### Tax free housing rental support to employees

- In order to enhance mobility of the employees, employers may already reimburse a certain portion of the rental costs to employees free of tax. As of 1 January 2018, the cap of this tax free support will be raised as follows: 60% of the statutory minimum wage in the first 2 years (currently it is 40%), 40% in the next 2 years (currently it is 25%), and 20% in the 5th year of the employment relationship (currently it is 15%).

- In the future, the tax free rental support may be provided to employees with fixed-term employment contracts as well (currently, it only applies to indefinite term employment contract).

## Social contribution tax and health tax

- According to the original plans, the social contribution tax rate would be 20% from 2018. However, this rate will be further cut by 0.5 percent, which means that the tax rate will be 19.5% from 1 January 2018, instead of the current 22%. This modification will affect the effective tax rate of certain defined benefits in kind, which will decrease to 40.71%.
- 14% health tax currently payable on rental income exceeding HUF 1 million will cease.

## Simplified contribution

- In line with the reduction of the social contribution tax rate, the rate of simplified contribution will also be reduced to 19.5% as of 1 January 2018.
- Employer's part of the simplified contribution should not be paid on professional sportsmen's remuneration. The modification is applicable on payments made after 1 September 2017. The tax already paid may be reclaimed by self-revising the respective tax returns.



# Corporate Taxation

## Corporate Income Tax

### New corporate income tax allowances

#### Establishment of electric car charging stations

The new rule aims to support the establishment of new electric car charging stations; in the tax year putting the investment into operation, the investor will be entitled to decrease its corporate tax base by the value of investment exceeding the potential profits to be realized from these stations in the next 3 years (to be revised based on factual figures after year 3). As a limitation, the amount of effective tax saving may not exceed EUR 1.8 million per filling station (meaning the tax incentive can be maximized for investment of EUR 20 million per filling station, taking into account the current tax rate of 9%). The change will be applicable for investments starting after 30 June 2017.

#### Building rental apartments

In order to further encourage the mobility of employees, a new tax benefit will be introduced besides the already existing ones. As of 1 January 2018, the cost of long-life structure rental apartments built for employees (and their closed relatives) may be double-deducted from the corporate tax base in the year of the investment (i.e. a tax base deduction may be utilized on top of the depreciation). The incentive is applicable to renovation as well.

#### New titles in the development tax credit scheme

Starting from next year two further types of investments will entitle the taxpayers to development tax credit:

- an investment with a present value of at least HUF 6 billion (EUR 20 million), or



- a job creating investment with a present value of at least HUF 3 billion (EUR 10 million)

The new tax incentives will only be available for large companies operating in the Central Hungary Region (e.g. Alsónémedi, Cegléd, Gödöllő, Dunaharaszti, Vác, Vecsés, etc.) implementing a product diversification or process innovation investment.

In order to apply the tax credit the company will have to increase the average number of employees by 50 or the annual wage cost by at least three hundred times of the minimal wage.

The new rules are effective as of 24 November 2017.

#### Changes to tax incentives related to supporting theatres, film productions and popular team sports

- New popular team sport

As of 17 June 2017, volleyball (besides football, handball, basketball, water polo and ice-hockey) will also qualify as popular team sport, and thus become entitled to taxation benefits. In other words, taxpayers granting donations against their corporate income tax payable (either directly or via the tax authority) will be entitled to support volleyball teams and exercise the tax incentives already in 2017.

- Late tax payment and tax allowance

Under the tax credit system, the tax authority will transfer the designated part of the sponsor's corporate income tax liability to the preferred organization despite of late payment of tax, provided that the tax advance (or tax payment) is fully paid and the delay is no longer than 15 days. In this case, however, the corporate sponsor will have to file a special request with the tax authority to make the transfer. The new rules are applicable for the declarations submitted after 24 November 2017.



## Other changes

- As of 1 January 2018, the 10% shareholding threshold currently applicable in order to benefit from the participation exemption will be abolished (the preferential rules of participation exemptions will be applicable to shareholding without limit).
- The employment of at least one R&D personnel will not be required in order to qualify as a start-up company.

## Financial institutions' surtax

Financial institutions that qualify for the corporate tax incentive scheme for supporting popular team sport has become entitled to claim surtax allowance (up to 50%) provided that they do not utilize such allowance for corporate income tax purposes. Under this surtax allowance scheme, the purposes of the sponsorship are somewhat limited compared to those for corporate tax purposes.

Another important difference is that if a financial institution supports popular team sport from its surtax, the supplementary support does not have to be paid.

Applying the tax allowance from the surtax excludes application of such corporate income tax allowance.

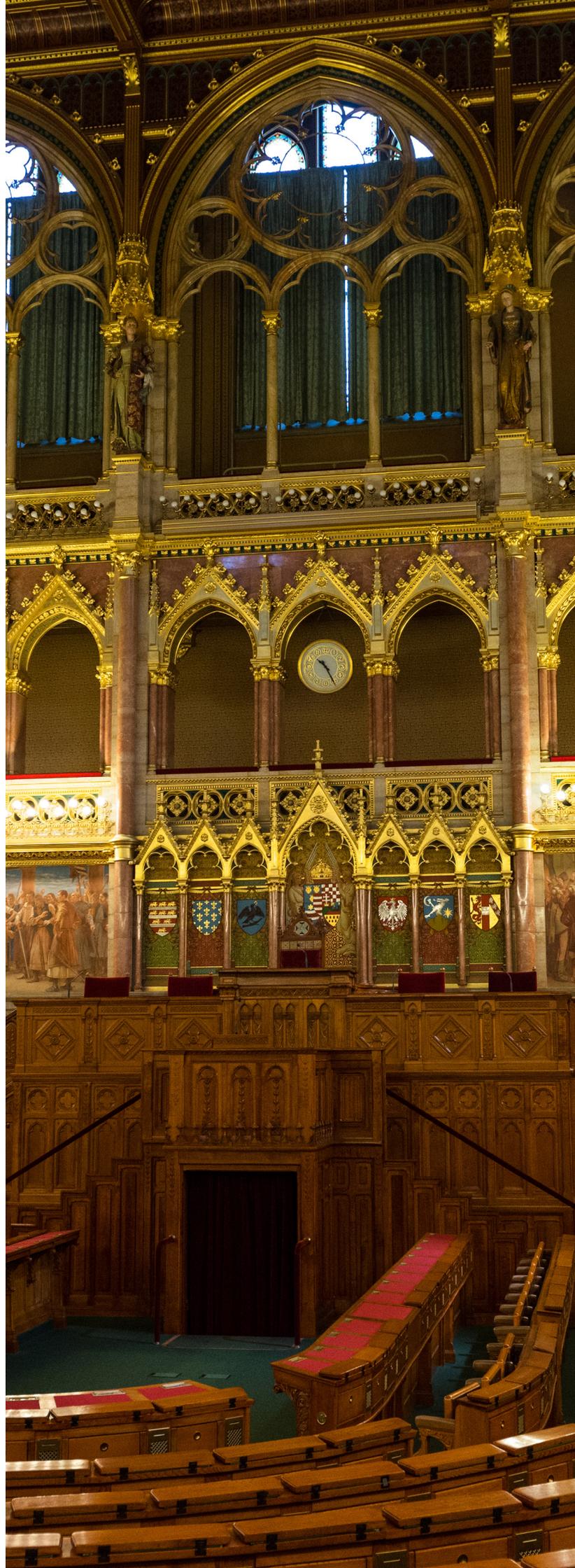
The new rule is applicable in the tax year 2017 already, and surtax payers could utilize the tax credit by self-revising their 2017 tax return by 10 December 2017.

## Energy suppliers' surtax

In line with the modifications of the corporate income tax, energy suppliers will also be able to claim tax allowance from their surtax with regard to the set-up of electric charging stations, i.e. the cost of investment in electric charging stations will also be deductible from the energy suppliers' surtax base. As an additional incentive, energy suppliers will be entitled to decrease their surtax base by the cost of such investments made by their related parties (if they are not able to utilise it from corporate income tax).

## Local taxes

- One-stop-shop registration will be extended to local municipalities, i.e. the data of the newly incorporated companies will be automatically forwarded to the local municipalities by the national tax authority.
- The determination of the net sales revenue for companies applying IFRS will be modified in order to harmonize the local rules with the IFRS changes effective as of 1 January 2018.
- As of 1 January 2018, local tax return may be submitted electronically even in lack of a specific regulation of the local municipality.





# Indirect Taxes

## VAT

### Decreasing VAT rate

- In line with the previously envisaged VAT rate decreasing trends, from 1 January 2018, the VAT rate of fish and certain pork products will be decreased from 27% to 5%, and the B2C internet services will be subject to 5% VAT instead of 18%.
- From 2018, the VAT rate of the services rendered in restaurants will decrease from 18% to 5% too.

### Domestic sales and purchase listing

From 1 July 2018, the threshold applicable to the invoice-by-invoice reporting would decrease to HUF 100,000, and taxpayers would be obliged to establish a direct data connection with the Hungarian tax authority in order to report sales invoices issued via invoicing software in real-time. However, these provisions - with the below modifications - , will finally not be regulated in the Act on Tax Procedure, but in the Act on VAT:

- The content of the invoices issued on a pre-printed invoice book has to be reported to the Tax Authority on an online platform if
  - the VAT exceeds HUF 100,000 (within 5 calendar days from the issue date),
  - the VAT exceeds HUF 500,000 (on the calendar day following the date of issue).
- Similar reporting obligation applies if the taxpayer modifies or cancels an invoice with the VAT amount exceeding HUF 100,000/500,000.

## Transfer tax

### Assessment of the fair market value

The methods of fair market value assessment – applied by the tax authority to establish the basis of the gift tax, transfer tax – has been re-codified. The rules will not change materially, however, the previously applied assessment methods will be enacted into law and the procedural rules will also be clarified.

As a general rule, the tax authority will assess the fair market value and the beneficiary will also have an opportunity to declare the fair market value. If the value was previously established in a binding court decision, the authority must not override it. The modification clarifies that the authority will have the opportunity to choose between multiple assessment methods, but it will be obliged to primarily aim to apply the comparative market value method.

The new Act on the Rules of Tax Administration and the new Act on Tax Procedure will enter into force on 1 January 2018.

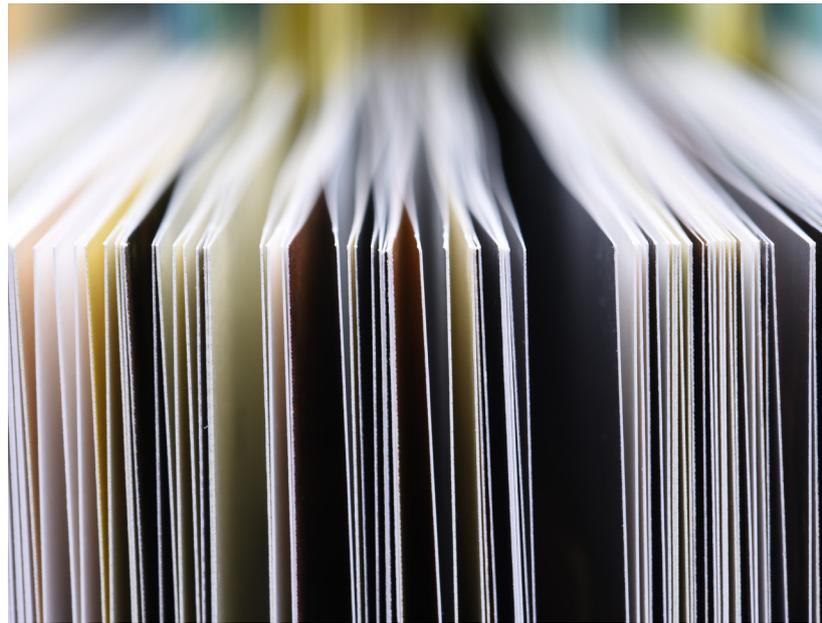
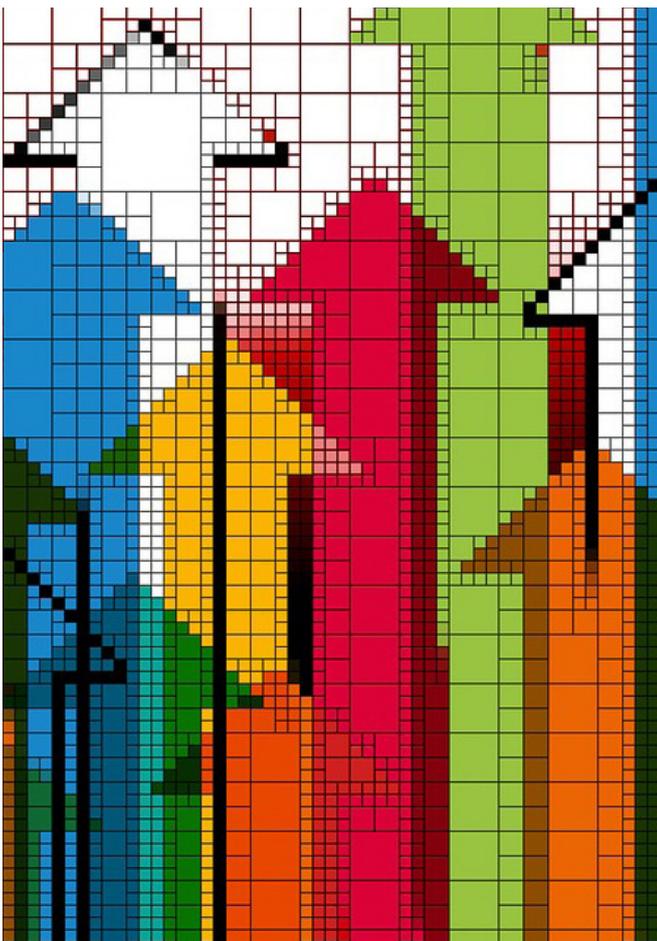
The Act on the General Rules of Public Administration will cease to be applicable in tax procedures, instead the Act on the Rules of the Tax Administration will regulate the general procedural rules of the tax administration (e.g. competence of the authorities, legal remedy, etc.). On the other hand, the new Act on Tax Procedure will include the procedural details of tax procedures (e.g. procedural rules of tax liabilities, sanctions, penalties, specific procedures etc.).

## “Client-focused tax authority”

- In order to support newly incorporated enterprises, the tax authority will provide them with a general information summary on their tax obligation within 30 days from the registration. Furthermore, the new enterprises will have an opportunity to take part in a voluntary 6-month mentoring program as well, in the course of which the tax authority will give hand in the compliance with the respective tax obligation.
- Further novelty is that a new online platform will be available to meet the reporting obligations towards the tax authority, and on the taxpayers’ request the tax authority will provide an editable tax account statement.

## Simplified self-revision rules

- Taxpayers may notify the tax authority that they intend to self-revise their tax obligation for a certain tax period. After making this announcement, the tax authority cannot start a tax audit regarding this specific tax obligation for 15 days. This opportunity is available only once with respect to the same tax period and tax type.



- A significant administrative burden will be abolished by the annulment of the obligation to prepare minutes on the self-revision.

## Changes to the tax audit rules

- The seven regular audit procedures will be replaced by only two: the regular tax audit and the compliance audit (the repeated tax audit will remain an exceptional procedure). The regular tax audit will be the ordinary course of audit of tax returns, upon completion of which the given tax period cannot be audited by the tax authorities again. The compliance audit will embrace – with a very limited exception – all other types of tax audits (e.g. tax audits before refunding, data gathering audit, etc).
- The deadline for the tax authority to finish the tax audit will be considerably lower, e.g. in case of the corporate taxpayers the tax audit should not be longer than 365 days (the deadline remains 180 days for reliable taxpayers).
- Under the current provisions, the tax authority may commence the tax audit only after delivering the letter of appointment. In the future, the tax audits will start with the delivery of the notice on the tax audit, and the first procedural steps may be taken before the delivery of the letter of appointment.

## Right to comment, legal remedy

- The deadline to submit comments to the minutes of the tax authority audit will increase from 15 to 30 days in the regular tax audits. In the case of the compliance audit – in line with the present rules – the deadline will be 15 days. A significant change is that these deadlines will be absolute.

- In the course of an appeal procedure the applicant will not be able to refer to new facts, evidences if the fact or evidence was known at the time of the conclusion of the first instance resolution, but the taxpayer did not disclose it at the request of the tax authority in the first instance procedure. Therefore, the prudent preparation of the comments to the first instance minutes will be crucial.

### Binding ruling procedure

- In the future, the procedural deadlines binding on the Ministry will not re-start if the Ministry requests supplementary information from the taxpayer. These modification are certainly welcome, since in the last two years binding ruling procedures tended to last unreasonably long time, many times making irrational the whole purpose of the procedure (i.e. that the taxpayer could learn the tax consequences of the transaction prior to its conclusion).
- Binding rulings cannot be requested if the question is exclusively accounting related.
- The submission of the request will only be possible electronically.

### Advance Pricing Agreements ("APA")

- The submission of the request will only be possible electronically.
- Similarly to the binding ruling procedure, the preliminary consultation will be subject to HUF 500,000 procedural fee.
- The determination of the procedural fee will be simpler than under the current provisions, i.e. the fee of the request will be HUF 2 million times the number of jurisdiction concerned.

### Sanctions, penalties

- Contrary to the earlier plans, if the tax shortage is related to the concealment of revenues, the falsification or destruction of documents, books or records, the tax penalty will not decrease to 100% of the tax shortage, but it will remain 200% in line with the current provisions.
- As a new legal institution, the conditional tax penalty will be introduced. The taxpayer will have to pay only 50% of the tax penalty provided that it waives the right to appeal against the first instance resolution of the tax authority, and pays the tax shortage in time. For reliable taxpayers this means that the tax penalty decreases to 12.5%.
- The authority cannot impose default penalty if one year elapsed since the authority has learned the infringement (e.g., in the case of a late submission of a tax return, the tax authority may only levy default penalty within one year from the submission of the tax return).
- The authority will not impose late payment interest if the amount does not exceed HUF 5,000 (the current threshold is HUF 2,000).
- The authority may not sanction the taxpayer if they can prove that their proceedings were in line with the guidelines available on the webpage of the authority.



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