

Advertisement tax

The rules of the advertisement tax are defined by the 2014. XXII. Act on Advertisement Tax (hence "Act on Advertisement Tax" or "Act"). Though the Act itself was altered several times since it was introduced, it's implementation still raises many questions, given that the Act is imprecise and incomplete a several times.

The purpose of our current informative is to present the general rules of practice of the Advertisement Tax; at the same time, we would like to emphasize that the Advertisement Tax obligation of each transaction shall be inspected individually – considering the unique circumstances.

I. RISE OF THE OBLIGATIONS

Based on the Act on Advertisement Tax the publication of advertisement

- in media services;
- in press products, which are mostly in Hungarian language, and published or distributed in Hungary;
- on outdoor advertisement media specified by the 2008. XLVIII. Act on Advertisement (hence "Act on Advertisement");
- on any vehicle, printed material or real estate;
- on the Internet – mostly in Hungarian language or on a website mostly in Hungarian language; and – aside from the certain bellow mentioned exceptions – orders for advertisement, shall be taxable.

By publishing, the Act means the dissemination of advertisements either to the general public or to a single recipient.

Nevertheless, it will not result in advertisement tax paying obligation if the company or its employee uses the logo or the contact data of the company only in order to identify itself and do not for the sake of popularization.

II. SUBJECTS OF THE TAX

The Act describe two type of taxpayers: the publishers and the advertiser of the advertisement.

1. Publisher of the advertisement

If the advertising becomes taxable based on the chapter I., then the followings will become the subjects of the tax, irrespective of their tax residency:

- the media content providers, which are established in Hungary;
- those media content providers – not covered by the previous point – which make available Hungarian language media content within the territory of Hungary during at least half of their daily broadcasting time;
- publishers of the press products;
- persons or organizations which utilize outdoor advertising media, any vehicles, printed material or real estate with the aim of advertising;
- in case of Internet advertisements, the publisher of the advertisement.

2. Advertiser of the advertisement

As we have previously mentioned the ordering of the advertisement are liable to Advertisement Tax, except any of the following cases:

- the advertiser is in dispose of the publisher's declaration, about the publisher:
 - will fulfil his obligation to declare and pay taxes;
 - has no tax liability on the publication of the advertisement during the tax year;
- the advertiser can credibly demonstrate the fact that he requested the declaration, but did not receive it within 10 working days from receiving the invoice or accounting document; and subsequently he notifies the Tax Authority about the failure of complying with his request, along with the name of the publisher and the value of the publication;
- the advertiser orders the advertisement from a publisher who is in the Tax Authority's register at the time of the ordering.

The above mentioned Tax Authority register – containing the name and tax-number of the taxpayers – is available on the Authority’s webpage – and the taxpayer shall be registered in it upon request if

- they fulfilled their tax declaration obligations and their tax payment obligations in due time without deficits;
- they submit a statement to the Tax Authority about not being subject of the Advertisement Tax in the current year (“no debt statement”).

In case if the taxpayers do not wish to be part of the Tax Authority’s register, then they can make their declaration about fulfilling their obligations or about their no debt statement on the invoice, on accounting document or on any another document – especially on the contract about the order – for its partners related to the affected transaction.

III. THE BASE AND RATE OF THE TAX

1. Tax base and rate for publishers of the advertisement

The tax base shall be calculated differently depending on whether it was published for other customer or for own purposes.

In the first case, the base of the tax payable by the publisher shall be the net sales revenue originating from the taxable activities in the tax year. If the taxpayer is in contract for publication with an advertising agency considered as a related party, a special tax base increasing item need to be applied as well.

In case of publishing for his own purpose, the base of the tax shall be the actual cost directly incurred in relation to the publication of the advertisement, that is such as the cost of advertising material, the cost of preparing or producing the advertisement or communicating the advertisement, etc.

The sum of the net sales revenue originating from advertising and the cost directly incurred are liable to tax rates as follows:

- 0% after the portion of the tax base falling below HUF 100 million;
- 5,3% after the portion of the tax base exceeding HUF 100 million.

2. Tax base and rate for ordering of the advertisement

In case of ordering the advertisement, the base of tax will be the part of the monthly aggregated consideration for publication of advertisement exceeding HUF 2,5 million – in respect of which no conditions exist for exemptions mentioned in II./2.

The applied rate of tax shall be 5% of the tax base.

IV. THE DECLARATION AND PAYMENT OF THE TAX

1. In case of publishers of advertisement

Advertisement tax is settled on an annual basis, which is to be asserted, declared and paid in each tax year. The taxpayers shall declare their tax liability, by way of self-assessment, by filling the form provided for this purpose.

If the taxpayer is not liable to pay taxes, then it is not obligated to declare tax, tax advance and top-up amount, and also not obliged to file zero liability tax returns.

a) Tax advance

Taxpayers who are liable to pay Advertisement Tax are obliged to pay tax advance, which needs to be declared until the last day of the 5th month.

The tax advance for the current year shall be declared on the same form as the year-end tax return for the previous year, and shall be paid in two instalments, until the 20th day of the 7th and 10th month of the tax year.

The amount of tax advance is calculated based on the previous year as follows:

- if the duration of the previous tax year was 12 months, the amount is calculated on the basis of the tax base originating from all the taxable activities;
- if the previous year was shorter than 12 months, the amount is calculated on the basis of a calculated 12-months tax base;
- if the taxpayer commenced its taxable activity in the current tax year, then it shall use the anticipated tax amount for the current tax year as the base of tax advance;

- if the taxpayer established by reorganisation, merger or de-merger from a legal predecessor, the amount of tax base is calculated from the proportionate amount obtained by the newly established taxpayer from the legal predecessor's tax base originating from taxable activities (until the reorganisation, merger or de-merger).

Apart from the already existing sanctions, from 2017 the Tax Authority will introduce further strict provisions in order to make the taxpayers comply with the regulations of the Act on Advertisement Tax.

Should you have further questions regarding this topic, do not hesitate to contact me!

b) Tax supplement

Apart from declaring and paying tax advances the tax payers are obliged to supplement ("top-up") the tax advance. The taxpayer liable to tax advance supplement shall submit a tax return on the difference between the expected tax liability and the advances already paid for the tax year until the 20th day of the last month of its tax year. The taxpayer also needs to pay the differences until this deadline.

c) Annual return

The taxpayer is liable to submit an annual return until the last day of the fifth month in the year following the tax year (this is the return, where it also can declare the tax advances of the current year).

2. In case of ordering the advertisement

If the clients incur a tax liability, they shall declare and pay the tax monthly, aggregated each month, until the 20th day of the month following the receipt of the invoice.

V. SANCTIONS IF FAILING TO COMPLY WITH THE OBLIGATIONS

In case if the advertisement tax is failed to be declared, or declared, paid late, the provisions of the Act on Taxation shall be applied:

- in case of the late payment of the tax, the Tax Authority will impose default surcharge, which calculated daily from the double 1/365 of double the effective central bank base rate for each calendar day;
- in case of failing to pay the taxes, the Authority will impose tax penalty which is the 50% of the missing amount;
- furthermore, failing to declare or submit the returns could result in a maximum HUF 500 000 default penalty.

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