

News Flash

February, 2017



Giftng to private individuals in Hungary? You must calculate with these tax burdens!

Business gifts to private individuals in Hungary? You must calculate with these tax burdens!

It often happens that private individuals receive gifts during representational events, or receive other benefits that are not necessarily related to specific events, occasions (and neither have to be related with purchasing). Benefits granted to private individuals have a very wide range, therefore in our current brief summary we are going to give a short overview about the most important details of these possible benefits and also about their taxation.

But what does 'gifting' mean?

It is worthwhile to start with understanding the relevant legislation. According to the Act CXVII of 1995 on Personal Income Tax, we consider acquired assets from others (in any forms, including cash, equivalent cash-settled instruments or non-cash) as the income of private individuals. Non-cash class applies to especially to vouchers, valuable things, waived and assumed debts and discount interests. Regarding to the differing legislations in law, these three main categories can be laid down:

1. Benefits with general taxation
2. Benefits with preferential taxation
3. Tax free benefits

Benefits with general taxation

Those benefits are subject to general taxation, which can be classified neither as preferential nor as tax-free.

Taxation on these kinds of benefits is always determined by the basic underlying relationship in force between the parties. Therefore, if we give non-tax-free and non-preferential benefits to our employees, then it has to be subject to the same taxation as their salary. If this benefit is given to private individual with engagement contract, the taxation rules of self-employment should be accepted. If there is no relationship between the paying party and the beneficiary, then the rules of other incomes must be accepted to the benefit.

Benefits with preferential taxation

This category mostly contains the so-called certain defined benefits specified in section 70 of Act CXVII of 1995 on Personal Income Tax, but there might be other ones what we consider as preferential taxed benefits by other reasons.

Tax burdens on these benefits granted under this title always shall be charged to the paying party.

Tax burden on the below mentioned items:

- On the 1.-4. items: 15 percent personal income tax and 22 percent healthcare contribution after the gross value of the benefit multiplied by 1.18
- On the 5. item: 15 percent personal income tax after the gross value of the benefit multiplied by 1.18

The following benefits can be classified as benefits with preferential taxation:

1. Representation

Representation is related to the payers' activity on catering and other event related services at business-, official-, vocational-, diplomatic- and faith events and also on national- and religious holidays.

It is important to mention, that if the circumstances and documents showing that the purpose of the event was rather entertainment than business, the benefit cannot be considered as representation.

2. Business gift

Business gift is -regardless of the occasion and value limit- is relating to the payers activity on gifting (product or service given for free or at a reduced price as well as any voucher for these) at business-, official-, vocational-, diplomatic- and faith events.

3. Low-value gift

We consider every product and service as a low-valued gift if its price does not exceeds the 10 percent of the actual minimum wage (in 2017, HUF 12.750) and only can be given three times a year. One main condition of this benefit, that the payer must keep records in favor of the application of this preferential taxation. The list must contain the type of the gift, the price, the day of 'handover' together with the info about the presented party. Attention: basically only can be given to employees and their close relatives, union member and their close relatives and certain apprentices during their internships. Exceptions are allowed only in special circumstances, when the beneficiary does not acquire any other income from the payer during the tax year.

4. Preferentially taxed business policy benefits

Preferential taxation shall be applied on those benefits too which neither can be considered as business gifts nor as a tax-free business policy benefits, but undeniably serving advertising purposes. These are usually those benefits, which cannot be connected to any payment. E.g. gift raffle from among Facebook page likers. However if these benefits are subjected to the Act XXXIV of 1991 on the organization gambling, preferential taxation cannot be applied to them.

5. Gift raffles

The Section 76 of the Act CXVII of 1995 on Personal Income Tax allows preferential taxation to gift raffles, which can be organized without permit. Gift raffles can be organized without permit under these conditions:

- the organizer of the raffle is selling products or services
- only those product or service purchasers can participate in the raffle
- the purchasers participating in the raffle they got during the purchase the product or the service
- the selection of winners is taking place during a public drawing
- the prize is not cash.

In case of gift raffle, the rules of Section 76 of the Act CXVII of 1995 on Personal Income Tax has to be applied, therefore 15 percent personal income tax have to be paid after the gross value of the benefit multiplied by 1.18, but there is no healthcare contribution paying obligation towards the payer.

Tax free benefits

Under certain conditions tax free benefits can be given to private individuals, which can be in the nature of samples of goods specified by law or as business policy benefits.

The law on personal income tax considers as **sample of goods** those small units which serve only to demonstrate a particular product and which in view of their size or value cannot be used permanently. Sample of goods are often given to introduce a product to the audience.

This is one of the most common **benefits given by the purpose of business policy**, what can be given tax free under the following conditions:

- Must be subjected to purchase
- Must implement business policy or advertising purposes
- Must be advertised in wide-ranging publicly for private individuals under the framework of a campaign (is sufficient, if it appears on the website of the organizing company)
- Must be a prize, discount, refund or other allowance given as a benefit
- Shall not be a quiz, contest or gift raffle under the rules of Act on the Organization of gambling

The following promotions, benefits given by the framework of events and gifts can be given tax free for private individual business partners:

- Sport events in the payers reserved or used sports facility
- Ticket for sport event
- Voucher given for cultural services
- Tax free benefits given by non-profit organizations, charitable fundraising events, gift given by the church once a year up to HUF 5000

Corporate tax and Value added tax consequences

According to the general rules of the Act on Value added tax, if a company gives over a product as a business gift or as a promotion for free and they deducted the related VAT during the acquisition, then their VAT shall become chargeable. The only exceptions, if the product given away considered as a low-value product (its individual value does not exceeds HUF 5000) as a sample of goods, as their giveaway is not regarded as product sales, therefore it does not entail any VAT paying obligation.

However, from the perspective of corporate tax benefits recorded as business gifts, business policy benefits and benefits for advertising purposes are still considered as recognized costs.

Advertising tax on small business gifts

If the taxpayer advertising its own product, service, activity, name or appearance then the taxable base shall be the directly incurred expenses, what are not necessarily the same as the definition of direct own-cost price defined in the Act on the Organization of gambling. Every expense falls within the scope of directly incurred expenses, which emerge during the publication directly such as the costs of ad materials or the costs of commercial production, editing and publishing.

The viewpoint of the National Tax and Customs Administration of Hungary (NTCA) about small business gifts is the following:

- Every printed business ad materials (brochures, catalogs and advertising posters) are taxable
- Furthermore we can consider every material as an advertising carrier where is an ad been printed such as promo shirts, banners, advertising pens, journals, pins or armbands regardless of their material

Although, if a company using its name/logo in order to identify itself and it does not serve any advertising purpose (for example name/logo on letter paper, business card, bill, envelope, work clothes or company car) then showing the name/logo on printed material (sort of publishing) does not result taxable situation.

News Flash | Accace Hungary | Gifting to private individuals in Hungary? You must calculate with these tax burdens!

If your company spends considerable amount on gifts and other benefits as described in this newsletter, we suggest that the practice should be revised from a tax point of view.

If you need further help, please feel free to contact us, our professional tax advisors at Accace would pleased to help you.

Disclaimer

Please note that our publications have been prepared for general guidance on the matter and do not represent a customized professional advice. Furthermore, because the legislation is changing continuously, some of the information may have been modified after the publication has been released. Accace does not take any responsibility and is not liable for any potential risks or damages caused by taking actions based on the information provided herein.

News Flash | Accace Hungary | Gifting to private individuals in Hungary? You must calculate with these tax burdens!

About the author

Gabor joined Accace in 2016 and took over the leadership of the tax consultancy division at our Hungarian branch. He started his professional career in 2005 at the merger & acquisition team of KPMG and from 2006 for 10 years he had been working as the tax consultant of BDO, in the last 3 years as a manager and the leader of the tax consultancy team.

Gábor has acquired an in-depth knowledge in the fields of all major direct and indirect taxes during his 12-year professional career. He has exceptional knowledge in the international income taxes, value added tax, business promotions and contests, company transactions and financial due diligences.

Contact

Gábor Kertész

Tax Manager

E-Mail: gabor.kertesz@accace.com

Tel: +36 141 235 47



About Accace

With more than 330 professionals and branches in 7 countries, Accace counts as one of the leading outsourcing and consultancy services providers in Central and Eastern Europe. During past years, while having more than 1400 international companies as customers, Accace set in motion its strategic expansion outside CEE to become a provider with truly global reach.

Accace offices are located in Czech Republic, Hungary, Romania, Slovakia, Poland, Ukraine and Germany. Locations in other European countries and globally are covered via Accace's trusted partners network.

More about us on www.accace.com

