

Amendments to the environmental protection product fee

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Dear Clients,

The rules relating to the environmental protection product fee are refined and supplemented by the legislators from year to year. 2016 will not be an exception. As a result of the legislative amendments published on 13 November 2015 in the Hungarian Official Journal, new (detailed) rules, clarifications will be added practically to all areas. Some of these changes (for instance, individual waste management) represent significant modifications to the entities concerned. This Newsletter is to inform you about these changes, but we are not addressing minor refinements to the wording.

The amendments discussed will, without exception, come into force as of January 2016.

Change in the rules relating to individual waste management

An area perhaps most affected by the amendments taking effect in 2016 will be the practice of **individual waste management**. From 2016, the quarterly tax returns will be replaced by **annual returns** which are to be submitted until 20 April of the following year. Contrary to previous years' practice, the tax return shall be filed based on **actual utilisation rather than on the data supplied for utilisation**. The certification for the latter must be submitted by the entity that received the waste materials for utilisation until 31 March of the following year (up to now, until 20 February).

Waste managers who are subject to the new regulations will also be affected by the product fee advance to be paid and submitted until 20 December of the current year. It will amount to 95% of the previous year's product fee.

Other modifications on individual waste management:

- The fees amend according to Appendix 3 of the Act and it cannot be changed during the current year.
- There will be a change in the minimum rates of waste recycling (2014: 75%, 2015: 55%) and of energy recovery ((2014: 25%, 2015: 45%)

Change in the rules relating to packaging, (commercial) packaging materials

The unpacking of the packaging of products brought to Hungary from abroad (as use for own purposes) has already been subject to product fee under the current rules, but the entity liable to payment was not defined clearly in the law. It is provided in the law that from 2016 the first domestic holder of the packaging waste will be liable to pay the product fee. It is also clarified that product fee payment obligation will only arise if the product fee has not been paid yet or it was refunded in the meantime.

Another important change is that for the sake of reducing administrative burden, **as of 2016, it will no longer be mandatory to indicate a prescribed product fee-related text on invoices when either packaging materials or paper-based advertisement materials are put on the market.**

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The definition of packaging is completed with a number of new elements in order to ensure compliance with a government decree on packaging waste management. This is the reason for adding new definitions to the law, such as the components or parts of packaging. The definition of commercial packaging materials will also be clarified which makes it clear that their built-in closures are also subject to the fees relating to commercial packaging materials. If closures are put on the market as part of the packaging, then the product fee paid as a fee for the commercial packaging material can be reclaimed.

Lump sum payment on taxable vehicle parts

The distributor and user of vehicles and the entity that records the products in its stock will be entitled to opt for **lump sum product fee payment for taxable products built in cars and motorbikes** (e.g. batteries, rubber tyres) without any weight limit. The detailed fees will be listed in the new Appendix 4. This is however only an option for the taxpayers concerned, they may continue to apply item-by-item payment. As opposed to other lump sum payers, those who choose the aforementioned lump sum payment will be entitled to reclaim the product fee, and thus may indicate the relevant text on their invoices.

Rules regarding distance sales, chain transactions

Exemption for chain transactions where goods are delivered abroad will be extended. Starting from 2016, no product fee liability will arise if products subject to product fee are sold domestically and then directly delivered to a foreign purchaser. In 2015 exemption could only be granted if the transportation was arranged by the first domestic seller. From 2016, **product fee payment obligation will also be extended to the sale of additional products transported from abroad to Hungary.** According to the legislation effective in 2015, product fee payment obligation for a product transported directly to Hungarian buyers from abroad arises only if a Hungarian taxpayer buys the product from another Hungarian seller and sells it in Hungary. The rule could be circumvented by foreign economic operators registered for Hungarian VAT by movement of their own products. From next year, the above fact will give rise to product fee payment obligation.

Amendments relating to packing materials

No product fee is to be paid under the current rules if **re-usable packaging materials that are brought to Hungary from abroad** are returned abroad within the return period (quarter of the year) in question. This could give rise to payment obligation for pallets received on the last days of the quarter. From next year, there will be 365 days for returning these pallets, however, following that product fee payment obligation will arise.

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Revised inspections and penalties

The rules for inspections and penalties relating to product fee liability will be **better harmonised with the Act of the Rules of Taxation**. We summarise them as below:

- It is laid down (partly based on earlier practice) that, as a general rule, the provisions of the Act on the Rules of Taxation will be applicable for the product fee due, for the reduction and remission of penalties, as well as for fines, late payment penalties and default penalties.
- The special rules (such as product fee penalty) set forth in the Act on Environmental Protection Product Fee will continue to be applicable.
- Starting from 2016, late payment penalty can be levied even in the event of the unauthorised use of budgetary subsidy.

A change designed to enhance legal security is that the definitions of product fee deficit, product fee difference and product fee debt are added to the law.

Inspections relating to wastes of products subject to product fee payment will be affected by the following changes:

- Deadlines will be governed by the Act on the Rules of Taxation.
- The legal consequences relating to the amount of subsidy claimed unlawfully and to waste management not realised (lawfully) by individual waste managers cannot be mitigated or remitted.

Changes regarding notifications

Starting from 2016, if entities choose to operate their own waste management, to record products in their stock or to pay lump sum fee, there will be no excuse for failure to meet the notification deadline either in case the application is submitted at the time of the notification or later within the framework of notification of change.

Changes to contracts on the assumption of product fee obligation

The entity assuming product fee obligation is obliged to report the relevant contracts to the Hungarian Tax Authority, with regard to valid contracts on the assumption of such obligation not only an amendment or cancellation request is to be filed but also the possible succession is to be registered.

Other amendments

- The range of products subject to product fee payment will change minimally, but only a few customs tariff numbers will be affected (for instance, certain chipboards will become exceptions).
- The regulation according to which record-keeping obligation is to be met with a quarterly breakdown will become null and void.
- From next year, it will be possible to set up industrial product fee warehouses even for the manufacture and assembly of products not subject to product fee if products subject to product fee are built in them. In 2015 such kind of warehouses could only be established for manufacturing, processing, preparing for re-use and placing in stock of products subject to product fee.

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- As of 2016, if a public benefit organisation, possibly a government or municipality body orders from a printer a (product fee-exempt) publication that falls within its basic activities, then the given organisation is required to make a declaration to that effect in order that the product should not be classified as paper-based advertisement material.
- An administrative type of amendment is that placing a product in stock will become an individual title to product fee obligation in case of first domestic sale and use for own purposes. This has already been the practice applied so far.
- Several waste management terms will be removed from the law. Instead, the definitions set forth in the Act on Waste will be applicable for all terms concerned. The definitions of „construction product“, „handicraft product“ and „large-scale stationary industrial tool“ will be included in the law as exception.

For further information, please contact:

Siklós Márta
T +36 1 279 29-30
E marta.siklos@leitnerleitner.hu

Jancsa-Pék Judit LL. M.
T +36 1 279 29-46
E judit.jancsa-pek@leitnerleitner.hu

dr. Rácz Nóra
T +36 1 279 29-48
E nora.racz@leitnerleitner.hu

Juhász Márta P LL. M.
T +36 1 279 29-36
E marta.juhasz@leitnerleitner.hu

dr. Menczel-Kiss Gellért
T +36 1 279 29-30
E gellert.menczel-kiss@leitnerleitner.hu

Balázs Péter
T +36 1 279 29-30
E peter.balazs@leitnerleitner.hu