

## **Payment of contribution and social contribution tax by business partnerships, business partners and managers of business organizations**

**2022**

This information booklet contains the following information:

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### **I. CONTRIBUTION**

#### **1. Definition of „business partnership” and „business partner”**

The term “business partnership” is used as a generic term in the Act on Social Security Benefits<sup>1</sup>

##### **1.1 According to SSC Act “business partnership” shall mean<sup>2</sup>:**

- a general partnership;
- a limited partnership;
- a private limited-liability company;
- a joint venture<sup>3</sup>;

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<sup>1</sup> Act CXXII of 2019 on Entitlements to Social Security Benefits and on Funding These Services (henceforth: SSC Act).

<sup>2</sup> Point 20 of Section 4 of SSC Act.

<sup>3</sup> According to Paragraph (5) of Section 9 of Act CLXXVII of 2013 on transitional and empowering regulations related to the entry into force of Act V of 2013 on the Civil Code Paragraph (7) of Section 333 of Act IV of 2006 on Business Associations (Gt.) shall be applied regarding joint ventures. According to the referred Act new joint venture cannot be founded after 1 July 2006. Joint ventures already registered or being registered on the day of

- a professional association, including European economic interest groupings;
- *the business partnerships listed above, also when functioning as pre-companies;*
- a patent agency firm or patent agents' office;
- a private driving school;
- an association of private educators;
- a law firm or notaries' office;
- a court bailiffs' office.
- a sole proprietorship.<sup>4</sup>

The CC<sup>5</sup> regulates the forms of business associations (general partnership, limited partnership, private limited-liability company or limited company) and mergers.

### **1.1.1. A patent agency firm or a patent agent's office**

In a patent agency firm or patent agent's office **the patent agent** may act on the basis of membership status or as an employee. As an employee his/her insurance prevails according to regulations concerning employment or contract work.

### **1.1.2. A law firm or notaries' office, a court bailiffs' office, a private driving school, an association of private educators**

Concerning the social security scheme of members of such business associations – from the beginning till the end of the membership – only the regulations on business associations shall be applied (other form of insurance is not possible).

### **1.1.3. A sole proprietorship**

The regulations on sole proprietorship are defined by a separate Act<sup>6</sup>, however, in the case of questions not regulated by this separate Act, the general rules on legal persons and common rules on economic associations defined by CC. shall be applied.

The sole proprietorship is managed by its executive officers or – upon a membership status – by the member itself.

If the member fulfils the management function, this activity may be performed as a business partner.

## **1.2. "Business partner"<sup>7</sup> shall mean:**

- the general partner and the limited partner of a limited partnership,
- any member of a general partnership,
- members of any private limited-liability company,

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entry into force of Gt. shall further operate according to regulations effective on 30 June 2006 of Act CYLIV of 1997 on economic associations.

<sup>4</sup> Subpoint 12 of Point 20 of Section 4 of SSC Act.

<sup>5</sup> Act V of 2013 on the Civil Code (henceforth CC).

<sup>6</sup> Act CXV of 2009 on Private Entrepreneurs and Sole Proprietorships.

<sup>7</sup> Point 21 of Section 4 of SSC Act.

- joint venture,
- professional association and
- member of any European economic interest grouping

if they take an active part in the company's activities (including when functioning as pre-companies), by means other than employment or service contract (membership).

### 1.3. Moreover, a “business partner” is:

- any member of a patent agency company, a patent agents' office, if they take an active part in the company's operations;
- any member of a law firm,
- a notaries' office,
- a court bailiffs' office,
- a private driving school or
- an association of private educators;
- the owner of a sole proprietorship<sup>8</sup>;
- any natural person who is a member of a limited partnership, general partnership or private limited-liability company, who manages the company by means other than a contract of employment, except if treated as a business partner according to Point 1.2.<sup>9</sup>

## 2. Insurance obligation<sup>10</sup>

In order to decide on how to pay contribution after each member of the business partnership, the most important is to know these persons are working following **what kind of legal status**.

It is important to mention that if the general partnership, the limited partnership, the private limited-liability company, the joint venture or the professional association operates as a pre-company, the same rules shall be applied related to the members than following the registering with the Companies Registry.

When assessing the insurance obligation of business partnerships, the majority of problems arise concerning the members of economic associations that is why a detailed summary can be found below regarding this issue.

The member of a business partnership (economic association) **may work for the association on the basis of three legal statuses**:

- employment,
- contract work,
- membership.

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<sup>8</sup> Subpoint 4 of Point 21 of Section 4 of SSC Act.

<sup>9</sup> Subpoint 5 of Point 21 of Section 4 of SSC Act.

<sup>10</sup> Act CXLVII of 2012 on the Fixed-Rate Tax of Low Tax-Bracket Enterprises and on Small Business Tax (Kattv.) regulates the insurance status of persons registered as small taxpayers, and small taxpayer companies and persons are – in this capacity – not falling under SSC Act.

However, difference has to be made according to the fact whether the member is a manager of the economic association.

## 2.1 Insurance liability of managing directors

### 2.1.1. Managing directors are:

- one or more members of the general partnership and the limited partnership entitled to management<sup>11</sup>
- one or more executives – natural persons – of the limited liability company<sup>12</sup>
- management of a grouping shall be carried out by the director as manager or the board of directors as a body within the framework of the resolutions of the partnership agreement<sup>13</sup>

The manager may perform this task – according to an agreement with the association –

- in a contract relationship or
- as an employee.

### 2.1.2. Assessment of insurance liability of managing directors and their social security status

**Natural person members** of a limited partnership, a general partnership and a limited liability company **are considered as business partners** if they manage the association in a relationship other than employment. An exception for that is if – regarding participation in personal capacity – the manager is considered as business partner.

If the **manager of the business association not considered as business partner** has a related income exceeding 30% of the minimum wage or 1/30 part of the minimum wage on a daily basis, then this person is considered as insured.<sup>14</sup>

The member who becomes a business partner and **his/her main responsibility/activity is being a managing director** shall not be obliged to pay a contribution after at least the guaranteed minimum wage. In their case the social security contribution has to be paid after at least the minimum wage<sup>15</sup>.

Of course, the association may pay **more than the guaranteed minimum wage or the minimum wage** for performing the managerial responsibilities, e.g. participation in personal capacity of the executive may entail a higher amount. In this case, this amount will be the basis of payment of contribution.

Therefore, from social security contribution point of view the managerial status entails either employment or business partnership or elected managerial status.

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<sup>11</sup> Section 3:144 of CC.

<sup>12</sup> Section 3:196. of CC.

<sup>13</sup> Section 3:373 of CC.

<sup>14</sup> Paragraph (2) of Section 6 of SSC Act.

<sup>15</sup> From January 2022, the social security contribution shall be paid for at least HUF 200,000.

## 2.2. Non-executive positions

Non managerial members (e.g. limited partner) and those members who are working for the company beyond performing managerial tasks, may act:

- **in employment status**, if they are working on the basis of a contract,
- **in contract relationship** if they have a management contract in line with the CC.,
- as a **business partner** (membership status) if they are not working as employees or on the basis of a management contract.

## 2.3. Insurance obligation of a business partner<sup>16</sup>

The business partner is considered as insured

- in the case of a member of a business association, a grouping, a patent agency firm or patent agents' office from the beginning to the end of the **actual personal participation obligation**, in the case of a **member of a sole proprietorship**, from the beginning to the end of the membership,
- in other cases from the beginning of **membership in the business partnership** or the beginning of the **managing status** until its cease.

Therefore the first day of the actual **personal participation** of the member shall be considered as the beginning of personal participation as defined in the company agreement. If this day cannot be defined, then the date set in the company agreement is normative, otherwise the beginning of personal participation shall be the day when the association may start its activities according to CC.

**The insurance obligation of a member of a sole proprietorship prevails from the day of becoming a member of a sole proprietorship till the end of its cease.** A member of a sole proprietorship is considered as business partner by law, therefore, in this case it does not have to be examined whether he/she is actually and personally involved in the activities of the association.

If the member is considered as business partner regarding his/her responsibility as manager, there is an insurance obligation starting **from the day of acquiring a managerial status** at the business partnership until its cease.

Nevertheless **the insurance status or any related changes<sup>17</sup>** shall be communicated using **the form 'T1041**. In the monthly tax and contribution return<sup>18</sup> when choosing the form of employment, the employer shall enter the relevant code according to SSC Act concerning the legal status – possibly to be modified.

If the association establishes an employment or contact relation with its member, the insurance obligation shall be assessed according to rules on persons being in employment or other legal relationship with the aim of working.

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<sup>16</sup> Section 11 of SSC Act

<sup>17</sup> Point 3 of Annex 1 of Act CL of 2017 on the Rules of Taxation (Art.)

<sup>18</sup> On the basis of Section 50 of Art.

### **From social security point of view the business partner can<sup>19</sup>**

- be a full-time worker,
- have so called multiple statuses, including a regular full-time attendance at an educational establishment for secondary or higher education having also an employment relationship of 36 hours a week,
- carry out ancillary activities.

## **3. Contribution**

### **3.1. The amount of contribution related to the insured<sup>20</sup>**

The insured

- shall pay 18,5% of social security contribution.

### **3.2. Contribution securing early retirement**

As of 1 January 2015 the system of early retirement was excluded from SSC Act<sup>21</sup>, thus separate contribution for securing early retirement shall not be paid. Following the due date, regarding incomes subject to mandatory contributions paid before 1 January 2015 Section 20/A (effective on 31 December 2014) of the *Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for These Services shall prevail.*

### **3.3. Health care services contribution**

As of 1 July 2020 the business partnership is not obliged to pay health care services contribution after the business partner carrying out ancillary activities.

## **4. Contribution payment obligation**

### **4.1. Contribution payment obligation of business partners<sup>22</sup>**

Insured business partners are required to pay social security contributions based on the income comprising part of the contribution base received from the partnership for **participation in a personal capacity**. The base for social security contribution shall be at least the minimum wage (henceforth: minimum limit of paying contribution).

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<sup>19</sup> Legal status of a member registered as small taxpayer contributing to the activities of the association by a small taxpayer falling under Katv. is regulated differently by Katv.

<sup>20</sup> Point a) of Paragraph (1) of Section 23 of SSC Act

<sup>21</sup> on the basis of Point 3 of Paragraph (2) of Section 221 of Act XCIX of 2014.

<sup>22</sup> Section 39 of SSC Act

Minimum wage is:

- the obligatory minimum amount of the basic monthly salary set out for full-time employees effective on the first day of the reference month, and
- according to regulations about payment of contribution by the insured business partner the guaranteed minimum amount of the basic monthly salary set out for full-time employment effective on the first day of the reference, if the main activity of the business partner requires at least school certification at secondary level or specialised secondary education.<sup>23</sup>

The obligation to pay contributions **shall be assessed on a monthly basis** and shall not be cumulated using a monthly average. For instance, in January 2022 there is no revenue gained from personal participation and the contributions shall be paid based on at least the **minimum limit of payment of contributions**. While in February, HUF 300.000 is paid to the business partner which will be the basis of payment of contributions.

In the case of a manager who performs his/her tasks according to a contract and consequently becomes a business partner, the **amount received for management duties** shall be considered as remuneration of personal participation.

For example a manager who receives a monthly management fee of HUF 200.000, shall pay contributions after HUF 200.000 as a business partner.

The lower limit of the contribution base **shall be proportionately reduced** by any period during which the business partner:<sup>24</sup>

- was drawing sick pay, benefits for accident-related injuries, infant care benefits, adoption allowance, or child-care benefits,
- was drawing child-care assistance benefits<sup>25</sup>, child-raising benefit, child home care benefits or nursing allowance, except if he or she continues to engage in business activities in a personal capacity while receiving child-care assistance benefits, child home care benefits, and/or nursing allowance;
- was drawing infant care benefits, adoption allowance, child-care benefits or child-care assistance benefits simultaneously;
- was serving in the military as a voluntary reservist;
- was detained;
- has suspended his or her membership in the relevant association as an attorney, patent agent or notary public.

If the above circumstances do not exist throughout the whole calendar month, when calculating the minimum limit of payment of **contributions 1/30<sup>th</sup> part of the above mentioned minimum wage shall be calculated for one calendar day**. This rule shall also be applied when the insurance status of the business partner started or ceased during the month.

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<sup>23</sup> If the activity of a full-time business partner is not linked to secondary education, social security contribution for at least HUF 200,000 per month is payable from January 2022. If the main activity of the business partner requires at least secondary education or secondary vocational qualification, the base of the social security contribution is at least HUF 260,000 per month from January 2022.

<sup>24</sup> Paragraph (3) of Section 39 of SSC Act

<sup>25</sup> The term child-care assistance benefits shall mean childcare allowance if the eligibility started before 1 January 2016.

If the business partner did not receive any remuneration in the reference month and the amount of contribution actually borne in the reference year – until the reference month – is less than the amount of contribution calculated after the minimum limit of contribution, **the business partnership shall advance the amount of contribution calculated after the minimum limit of contribution instead of the business partner** and pay it before the deadline prescribed by law.<sup>26</sup>

The employee is considered as business partner as main occupation – and not an employee – if he/she is **on unpaid leave**.

#### **4.2. Payment of contributions in connection with more than one relationship<sup>27</sup>**

If the business partner is at the same time

- employed – by one or more employers – in **at least 36 hours a week altogether**, or
- **pursuing full-time course of study** in a public education institution, vocational institution or higher education institution in one of the Member States of the European Economic Area or in Switzerland in secondary or higher education institution in full-time status, then

the social security contribution of 18,5% shall be paid after the **actually earned income being the contribution base**.

If the person insured as business partner participates in personal capacity or is a manager in more economic associations, the contribution after the minimum limit shall be considered once on the basis of a choice and a declaration made once in a year. The business partner **shall communicate his/her choice** to the business **partnership before 31 January** of the reference year.

If the business partner establishes a business partnership status with new insurance but has no more choice, the new economic association shall be informed about the earlier choice.

**If the business partner is a private entrepreneur as well**, then contribution shall be paid after the the actually earned income. The private entrepreneur shall notify the business partnership by way of a statement made out before 31 January of the current year concerning his intention to fulfill his contribution payment obligation at least on the contribution payment lower threshold in his capacity as a business partner for the entire tax year. Based on this option, contributions shall be paid on the contribution base in connection with his private entrepreneurial activities and with any other partnerships.<sup>28</sup>

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<sup>26</sup> Paragraph (6) of Section 77 of SSC Act

<sup>27</sup> Section 42 of SSC Act

<sup>28</sup> Paragraph (8) of Section 42 of SSC Act



**Attention!**

**If the person registered as small taxpayer according to Katv. is ensured as business partner or private entrepreneur**, then the regulations mentioned can not be applied.

This means that the small taxpayer (natural person) who is at the same time ensured as business partner according to SSC Act – if not having also an employment status of 36 hours a week or not pursuing full-time course of study in a public education institution, vocational institution or higher education institution in one of the Member States of the European Economic Area or in Switzerland in secondary or higher education institution in full-time status – **shall be considered as business partner as main activity**. Consequently he/she has to meet his/her obligation to pay contribution according Point 4.1. However, in this case he/she as **small taxpayer is not considered as either having full-time status** or insured.

**4.3. Person engaged in auxiliary activities<sup>29</sup>**

The business partner is engaged in an **auxiliary activity** if pursuing a gainful activity being a pensioner on his/her own right, receiving widow's pension who has reached the relevant retirement age and who qualifies as a private entrepreneur or business partner, even if own-right retirement pension or dependent's benefit payments are suspended. The business partner person engaged in auxiliary activities in **not insured**.

Own-right pensioner<sup>30</sup> shall mean any natural person,

- who is receiving retirement pension benefits on his or her own right under Paragraph a) of Subsection (3) of Section 5 in the application of Act LXXXI of 1997 on Social Security Pension Benefits and/or international agreement, old-age pension established by a State that is a party to the social security agreement, retirement or invalidity aid (old-age pension) provided under the government decree on benefits provided by the Hungarian Creative Art Foundation, pension benefits provided by an ecclesiastical legal entity, or receiving old-age allowance, occupational disability benefits; or,
- who is receiving own-right retirement pension in accordance with European Union regulation on the coordination of social security systems and the implementing regulations, and/or with the laws of an EEA Member State, even if pension payments are suspended.

**4.3.1. Contribution obligation of business partners engaged in auxiliary activities**

The business partnership **shall not be obliged to pay health care services contribution** after business partners considered as engaged in auxiliary activities **from 1 July 2020**. Moreover, the business partner engaged in auxiliary activities **shall not be obliged to pay 10% of pension contribution after his/her income from 1 July 2020**.

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<sup>29</sup> Point 11 of Section 4 of SSC Act

<sup>30</sup> Point 17 of Section 4 of SSC Act

**Attention!**

The regulations mentioned can not be applied in the case of a person registered as small taxpayer according to Katv.

**If the member is a pensioner on his/her own right**, then he/she is exempted from the obligation to pay insurance and contribution even if he/she is employed by or has a contract status with the association.

## 5. Reporting and record keeping obligation of business partnerships

### 5.1 Reporting obligation<sup>31</sup>

The business partnership shall electronically **notify the competent NTCA directorate** by using the standard form prescribed for this purpose (‘T1041’) - indicating its tax identification number, name, corporate name, registered office, place of business, including the predecessor’s name and tax number - on the forename and surname, tax identification code and date of birth of **insured persons in their employment**, as well as the date of commencement and termination and the code of the insurance relationship, the length of any period of suspension of insurance, the weekly work time, the FEOR code, Social Security Number, (‘TAJ code’). If the insured person does not have a tax identification code, the insured person’s forename and surname at birth, place of birth, mother’s forename and surname at birth and nationality shall be reported as well.

The notification shall be sent:

- concerning the commencement of the insurance relationship, on **the first day of the insurance relationship** before the date of taking up employment at the latest, or if the insurance is evaluated subsequently, on the day following the day of the establishment of insurance obligation;
- **within eight days** following the date of termination of the relationship, the commencement and termination of suspension, and the opening and closing date for benefits provided after the termination of the insurance relationship.

**If the employer is terminated by succession**, by the successor employer or payer shall submit the notification in respect of the affected insured person (employee, other working relationship, elected officer, etc.) by the deadlines described above.

The notification shall indicate the name, corporate name and tax number of the predecessor, the fact and date of succession, as well as the name, corporate name and tax number of the successor, and the date of incorporation of the successor.

Employers **shall issue a certificate** concerning the notification within three working days at the request of the insured person indicating the information contained in the notification and the date when it was filed.<sup>32</sup>

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<sup>31</sup> Point 3 of Annex 1 of Art.

<sup>32</sup> Paragraph (4) of Section 66 of SSC Act

## 5.2 Record keeping obligation<sup>33</sup>

Employers shall keep records of the data of insured persons participating in their activities in a personal capacity, of which the private individual concerned shall be given a certificate, to provide facilities **to access the information required by law** from the beginning of employment (activity).

Any employer failing to keep such records shall be subject to a penalty in accordance with the Art., **separately for each person not registered**. Records shall contain the insured persons' name and personal data, social security number, employer's data, information relating to the insured period and service time, the base and amount of contributions deducted from insured persons.

The employer **shall issue a statement of verification** - attached to the income certificate - containing the data of the register before 31 January of the year following the year to which it pertains to the insured person regarding the beginning and end of the insured period in that year, the amount of contributions deducted for the year or for any other period, and the family contribution allowance deducted from the contributions payable. If the insured contractual relationship is terminated during the year the statement shall be issued in priority.

The employer shall - at the time of paying the monthly wages - **inform** the insured person qualifying as employee **in writing** concerning the amount of health insurance contributions deducted from the insured person's wages, as well as the family contribution allowance deducted from the contributions payable, and the amount of contribution refunded (transferred) due to overpayment.<sup>34</sup>

This regulation shall be applied in the case of social security paying agents responsible for taxable social security insurance.

## 6. Declaration and payment of contributions

The assessed monthly contribution shall be declared and paid **before the 12<sup>th</sup> day of the month subsequent to the reference month**.<sup>35</sup>

The business partnership shall electronically submit a declaration on a monthly basis before the 12<sup>th</sup> day of the month subsequent to the reference month using the **declaration form 2208**

- about every tax – except for tax on interest income – related to payments and benefits allocated for natural persons entailing an obligation to pay taxes or social security,
- contribution
- and/or data defined by Section 50 of Art.

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<sup>33</sup> Sections 74-75 of SSC Act

<sup>34</sup> Paragraph (5) of Section 77 of SSC Act

<sup>35</sup> On the basis of Point 4.2.1. of Annex 3 of Art.

## II. SOCIAL CONTRIBUTION TAX<sup>36</sup>

The business partnership – as a paying agency – is obliged to pay social contribution tax.

### 1.1. Social contribution tax shall be paid in the following cases:

- a) all incomes taken into account for the calculation of the tax base to be included in the consolidated tax (tax advance) base according to Act CXVII of 1995 on Personal Income Tax (PIT) shall be subject to social contribution tax.
- b) scholarships paid on the basis of scholarship agreements and membership fees withheld for (paid to) employee representation bodies
- c) incomes from self-employment and non-self-employment activities as determined by the PIT in default of tax (tax advance) base as determined by the PIT, all incomes paid to persons qualified as insured constituting a part of the contribution base pursuant to Paragraph b) of Subsection (1) of Section 27 of the SSC Act and Section 30 of the SSC Act shall be liable to tax payment.
- d) from the incomes which are taxable separately according to the PIT, the amount of
  - non-wage benefits [Section 71 of PIT];
  - certain specific defined benefits other than non-wage benefits [Section 70 of the PIT];
  - the income arising from interest rate discount [section 72 of the PIT]

determined as part of the tax base according to the PIT shall be subject to tax.

- e) In addition to the above:
  - the income withdrawn from an enterprise [Section 68 of the PIT];
  - the income from the lending of securities [Section 65/A of the PIT];
  - the dividend [Section 66 of the PIT] and entrepreneurial dividend base [Section 49/C of the PIT];
  - the income from exchange rate gains [Section 67 of the PIT]

with respect to their respective part that is taxable in Hungary, shall be subject to tax.

Regarding income according to Point e) the natural person or **business partner** gaining the income is considered as person obliged to pay tax.

In the cases of income defined by Point e) the tax shall be paid until the income of the natural person defined in Points a)-c) and e) reaches the so-called **ceiling for paying tax** which is 24 times as much as the amount of the minimum wage.

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<sup>36</sup> Pursuant to Act LII of 2018 on Social Contribution Tax (SCT Act).

Incomes determined in Points a)-e) shall be subject to social contribution tax also in the case of **non-monetary benefits**.

There is no obligation of paying tax according to Points a)-c) – related to the income gained from this activity or status –

- of the business partnership regarding the business partner carrying out ancillary activities,
- of the paying agent regarding its employee being pensioner on his/her own right.

## 1.2. The base of tax to be paid by the business partnership:

The base of tax to be paid by the business partnership is the income defined in Subpoints a)-d) of Point 1.1.

Participation in personal capacity by a member of the business partnership and activities of the manager **are not considered as self-employed activity**.

All income gained by the member related to this activity e.g. fee, benefit for participation in personal capacity are considered as **income from non self-employed activity**, regarding which the association shall pay the social contribution tax. For example, if the manager considered as business partner gains an income of HUF 250.000 forming the basis of tax advance, then this amount will be the tax base.

## 1.3. Special rules for the tax payable by business partnerships<sup>37</sup>

With respect to its members, the **base of the tax** payable by a general partnership, a limited partnership, a private limited-liability company, a joint venture, a professional association, including European economic interest groupings, a patent agency firm or patent agents' office, a law firm or notaries' office, a court bailiffs' office and a sole proprietorship (business partnership), **shall be not less than 112.5 per cent** of the mandatory minimum wage.

If the legal relationship resulting in the tax liability does not exist on each day of the month, the tax base shall be not less than a 1/30 fraction of 112.5 per cent of the mandatory minimum wage calculated for each day of existence of the legal relationship.

For business partnerships, the term minimum wage means

- the monthly amount of the guaranteed minimum wage for full-time employment on the first day of the reference month, if the main activity of the business partnership requires at least school certification at secondary level or specialised (vocational) secondary education, or
- the monthly amount of mandatory minimum wage effective on the first day of the reference month, if the main activity of the business partnership does not require school certification at secondary level or specialised (vocational) secondary education.<sup>38</sup>

<sup>37</sup> SCT Act 8. §-a.

<sup>38</sup> When determining the social contribution tax base of a business partner whose main activity does not require secondary education, the amount of the minimum wage valid on the first day of the month in question must be

The special rules shall be applied if – for example – the business partner **does not have an income** taking into consideration his/her participation in personal capacity, **or the amount of income does not exceed 112,5% of the minimum wage**. In this case the tax shall be paid after at least 112,5% of the minimum wage.

#### 1.4. Exemption from the application of the special rules<sup>39</sup>

The business partnership is exempted from paying tax for **those days when the business partner**

- receives sick pay benefit, accident sick pay, infant care benefits, adoptive parent's benefits or child-care allowance;
- receives child-care assistance benefits, child-rearing allowance, home child-care benefits, attendance allowance, except when during disbursement of the child-care assistance benefits, home child-care benefits, attendance allowance a member carries out his personal contribution;
- concurrently receives infant care benefits, adoptive parent's benefits, child-care allowance and child-care assistance benefit;
- performs military service as voluntary reserve soldier;
- is detained.
- Law offices, patent attorney offices, patent attorney firms and notary public offices, when establishing the base of the tax burdening them for the legal relationship with their members, shall not take into account the day of the month when the professional activity of its members as lawyers or the bar membership of patent attorneys or notaries public is paused.

The special rule shall not be applied, thus the association shall not pay the tax after 112,5% of the minimum wage for those days when the business **partner is engaged in an employment for at least 36 hours per week**, or **pursues full-time studies** in a public education institution, vocational training institution or higher education institution or a medium or higher education institute in a Member State of the European Economic Area or Switzerland.

Studies pursued in an EEA Member State or Switzerland in a public education institution, vocational training institution or higher education institution or a medium or higher education institute shall be certified according to Paragraph (11) of Section 42 of SSC Act

If more than one employment relationships exist concurrently, **the working times prescribed for the individual employment relationships** shall be summed up when establishing the 36-hour employment. In this case the association shall pay tax after the actual tax base.

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taken into account, i.e. the social contribution tax must be paid on at least HUF 225,000 (112.5 percent of HUF 200,000). However, if the main activity of the business partner requires at least secondary education or secondary vocational training, the social contribution tax base is calculated on the basis of the monthly amount of the guaranteed minimum wage applicable on the first day of the month in question for the full-time equivalent of the work. This amount is HUF 292,500 (112.5 percent of HUF 260,000) from 1 January 2022.

<sup>39</sup> SCT Act 9. §.

In the case where the circumstances determined above **do not exist throughout the entire calendar month**, then, when calculating tax liability for a day, a 1/30 fraction of the tax base determined in Subsection (1) of Section 8 for companies shall be taken into account.<sup>40</sup>

The special rules shall not be applied on those days either, when the business **partner is engaged in business partnership status at another association**, provided that the other payer takes into account this day when assessing the tax base related to the legal relationship with this member.

In practice, this means that the tax after at least 112,5% of the minimum wage **shall only be paid by one association** and the other shall pay the tax after the actual tax base according to a declaration (by the member).

**If the business partner is a sole entrepreneur as well**, then he/she can decide whether the tax after at least 112,5% of the minimum wage is paid by him/her, or regarding his/her membership status it is the association that pays this amount and in the other relationship the tax base will only be the actual income. However, the natural person shall inform the association about his/her decision to make the association meet the obligation to pay tax after the minimum tax base by **submitting a notification related to the whole fiscal year before 31 January** of the reference year.<sup>41</sup>

The above shall only be applicable if the natural person makes a statement to the association about the existence of his/her employment relationship of at least 36 hours per week, his/her course of study, or his/her legal relationship with an other payer falling under the special rules of assessing the tax base.

The natural person **has to make a new statement immediately** to the payer in case of any changes. The statement shall contain jurisdictional facts of the natural person as well as his/her tax identification number – or in the lack of this the type and number of his/her identity document – and his/her address.

The payer may require the natural person failing to make the statement to pay the related **tax arrear and its legal consequences**. If the tax arrear caused by not making the new statement cannot be enforced from the payer, **NTCA may oblige the natural person failing to make the statement by issuing an order**.

### **1.5. The rate of social contribution tax and related benefits**

**The rate of tax is 13%<sup>42</sup> of the tax base**. The payable amount of the tax shall be the tax calculated from the tax base using the tax rate in force at the time of the payment decreased by the amount of tax allowances the person liable to pay the tax is entitled to pursuant to the provisions of SCT Act.<sup>43</sup>

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<sup>40</sup> Paragraph (6) of Section 9 of SCT Act

<sup>41</sup> In the case of small taxpayers registered according to Katv. the rules mentioned shall not be applied.

<sup>42</sup> Modified by Section 10 of Act XLVI of 2020. The tax rate of 15,5% shall be first applied for incomes declared for July 2020 [Paragraph (4) of Section 2 of SCT Act].

<sup>43</sup> Paragraph (1) and (3) of Section 2 of SCT Act

The business partnership is entitled to a tax benefit on the tax payable<sup>44</sup> with respect to its member, if

- pursuant to the complex evaluation of the rehabilitation authority, the member's state of health is 60 per cent or less; or
- on 31 December of 2011, the member was entitled to invalidity benefit or accident-related disability benefit of group I, II or III<sup>45</sup> and receives invalidity benefit or rehabilitation benefit<sup>46</sup>.

The partial allowance/benefit is the tax base assessed by the payer with respect to the member of the business partnership for the tax assessment period, but no more than 13 percent of twice the minimum wage.

As from 10 June 2021<sup>47</sup>, the basis of the social contribution tax benefit for persons with reduced capacity to work will be determined in the same way as of those for the other benefits.<sup>48</sup> This means that income stipulated in Section 1 (4)-(5) of the Act on Social Contribution Tax cannot be taken into account when determining the basis for the tax benefit.

The beneficiary can claim the tax benefit by presenting a valid document certifying the complex qualification or an administrative decision certifying the payment of benefits to persons with reduced capacity to work. If the conditions for claiming the tax benefit are no longer met, the tax benefit cannot be claimed anymore from the month following the month in which the eligibility ceases.

## 1.6. Payment of tax, declaration and making records

The social contribution tax is assessed monthly according to Section 50 of Art and declared and paid before the 12<sup>th</sup> day of the month following the reference month.

The amount of tax shall not be included on the verification issued for the natural person. If the natural person taxpayer has a benefit or assistance related to his/her employment, then the declaration obligation according to Section 50 of Art shall be fulfilled in a way that the title, basis and amount of **the benefit or assistance can be personally identified from the data of the tax return.**

**Natural persons liable to pay the tax** shall assess and pay the tax concurrently with the payment of the personal income tax or personal income tax advance with the stipulation that the tax shall be declared either in the tax declaration prepared without the assistance of NTCA or using the draft tax declaration prepared by NTCA.

The tax advance shall be accounted for and the difference paid by the time limit for submitting the tax declaration in the personal income tax declaration prepared without the assistance of NTCA or using the draft declaration prepared by NTCA. On the use of the

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<sup>44</sup> No tax benefit is eligible when fulfilling the tax liability under point 1.1.

<sup>45</sup> Assessed based on Act LXXXI of 1997 on Social Security Pension Benefits.

<sup>46</sup> Pursuant to Sections 32-33 or Section 19 (1a) or Section 38/C of Act CXCI of 2011 on Benefits for Persons with Reduced Capacity to Work and on Amendments of Certain Acts.

<sup>47</sup> Point f) of Section 88 of the Amending Act.

<sup>48</sup> Section 13 of SCT Act



amount of overpayment an instruction shall be given in the appropriate field of the tax declaration.

**Natural persons not liable to pay an advance for personal income tax**, shall assess and declare their personal income tax in their personal income tax declaration or by using the draft tax declaration prepared by NTCA by the time limit determined for the tax declaration, and pay the tax by the time limit determined for submitting the tax declaration.<sup>49</sup>

**The taxpayer obliged to assess, declare and pay tax** shall keep such records, on the basis of which the base and amount of tax and the amount of exemption or benefit taken into consideration when assessing it, moreover the day of paying tax can be audited. This record keeping obligation shall be met by payers falling under the law on accounting with the adequate itemization of its records (accounting), and by other payers with keeping a separate record according to the PIT or the act on simplified business tax.

More detailed information on the social contribution tax may be available in Information Booklet no. 49 on the website of the tax administration ([www.nav.gov.hu](http://www.nav.gov.hu)).

### III. HEALTH CARE CONTRIBUTION

The SCT Act effective since 1 January 2019 includes rules on health care contribution, thus the Act LXVI of 1998 on Health Care Contributions (Eho tv.) ceased to have effect on 31 December 2018.

This means **that on the income, which fell under the obligation to pay healthcare contribution, a social contribution tax shall be paid.**

Health care contribution liabilities incurred before 1 January 2019 have to be fulfilled on the basis of the provisions in force until 31 December 2018.

### IV. ACCOUNT NUMBERS

The actual list of account numbers and types of taxes related to the taxation activities of the NTCA can be found at the following link <https://nav.gov.hu/en/main-tiles/LISTACCOUNTNR> on the website of the organisation.

The valid list of IBAN account numbers and types of taxes to be applied in cross-border payments can also be found on our website at the same link: <https://nav.gov.hu/en/main-tiles/LISTACCOUNTNR>

**National Tax and Customs Administration**

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<sup>49</sup> Section 27 of SCT Act