

## **Chips tax and product quality and - Regulations and practical issues**

The health product tax - although it does not only affect salty products - has entered the public consciousness in Hungary primarily as a chips tax, a type of tax that affects foods that are labeled by law as significantly unhealthy or less healthy.

### 1. When can products fall under the chip tax obligation?

For salty foods, the tax applies to products that are considered salty snacks and are baked, extruded or roasted, flavored and suitable for immediate consumption, made from cereals, potatoes or oilseeds, if the salt content exceeds 1 gram of salt per 100 grams, but only for pre-packaged products.

However, the summary designation "Salzgebäck" does not refer to the trade name or food classification of the products, but - via the tax - the customs classification is decisive here.

This means that when deciding whether a particular product is subject to chip tax, it is primarily a question of whether it falls into the category of taxable products according to the customs definition attached to the - general or individual - interpretation the customs tariff numbers.

### 2. When does chip tax have to be paid?

The obligation to pay the chip tax therefore exists if the product a) falls under the category of taxable products under customs law b) its salt content reaches the specified level.

The customs classification for products that do not clearly fall into one of the categories based on the definition can be decided on the basis of the recipe or other legal interpretation or consultation with the customs authorities - if the classification is unclear, a thorough procedure is important for both the tax payment obligation and its fulfillment.

### 3. Food composition - double quality and the potato chips tax

The chip tax in this form and under these conditions is a Hungarian phenomenon and its purpose is to protect health from a preventive point of view.

At the same time, the Hungarian consumer protection regulations that come into force in 2022 also stipulate that the same product may not be sold in Hungary in a different quality than in other European Union countries, i.e. as a product

with the same name and presentation, i.e. to give the consumer the impression of product identity, must not be of lower quality than what is marketed in other countries of the Union.

A breach of this provision results in the payment of a consumer protection fine, and the consumer protection "scandals" of recent years - according to which Foreign manufacturers have brought products of lower quality to the market in Hungary, such as In Western Europe, they have been brought to life.

For many manufacturers, the question arises as to whether the product is in breach of the regulations if it is marketed with a lower salt content to reduce the high salt content, which is subject to the health product tax.

The answer also depends on the individual assessment of the product, but in general it can be said that the higher salt reduction in the product solely for the purpose of health protection is unlikely to result in the quality between the product with lower salt content and the basic product creates a double quality, i.e. less salt on the Hungarian market can make a product marketed with a salt content mislead consumers as to the quality of the product.

*Do you need advice on food law and/or consumer protection law? Please contact our law firm, our lawyers will also be happy to provide you with comprehensive advice in these areas of law.*