

Essentials of **Doing Business in Hungary** 2021



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1. General Information

Hungary is situated in the Carpathian Basin – in the heart of Central Europe – and is completely landlocked. It is bordered by 7 countries, namely: Slovakia and Ukraine to the north, Romania to the east, Serbia, Croatia and Slovenia to the south, and Austria to the west. The majority of the landscape consists of plains and low mountains.

Hungary occupies an area of 93,000 sq. km (35,900 sq. miles), and consists of six distinct geographic regions: the Great plains (east), the Small plains (west), western Hungary (the lower Alps), the Transdanubian hills, the Transdanubian mountain range, and the northern mountain range.

The Capital is Budapest, located in the centre of the country. The city itself is split into Buda and Pest by the flow of the Danube River.

The climate is mild continental, with the average temperature of +8°C to +12°C. The warmest month is June with temperatures of 25°C to 32°C, and the coldest month is January with temperatures of -4°C to -10°C.

During the past 30 years, Hungary has witnessed a dramatic transformation from a centrally-planned economy to a well-functioning market economy. The successful economic reforms and favourable political and legislative environment have resulted in a stable macro-economic environment demonstrating strong economic growth.

Hungary joined the European Union on 1 May 2004, which has led to an adoption of the EU laws and harmonization of the Hungarian and EU standards. In December 2007, Hungary entered the Schengen Area, resulting in the removal of many business barriers.

Hungary's currency is the Hungarian Forint (HUF) or *Magyar Forint*, exists since 1946.

The official language is Hungarian. The sectoral structure of the country is similar to the other countries at the same level of development. The two-thirds of GDP comes from the service sectors, a quarter comes from industry sectors, remaining part belongs to the agricultural sector.

However, Hungary has especially favourable climate conditions for the agriculture and there are centuries-old traditions for the culture of wheat growing and vinification, too.

Within the service sector private services are highly developed. Significant part of the employees speak English, while in the Western part of Hungary many people speak German as well. With economic services (trade, tourism, finance and accounting services) performing particularly well worldwide, Budapest has a globally reputable economic climate for the shared service and business service centers.

2. Establishing a Hungarian Company

2.1. Types of Business Associations – Laws and regulations quick facts

From 15 March 2014 the new Civil Code (Act V of 2013, furthermore: “**Civil Code**”) includes the entire general system of rules of common law relationships in an integrated form, where the detailed rules of business associations are also handled. The new Civil Code incorporated the former *Act on Business Associations* (Act IV of 2006) as chapters of Book III.

The legal forms of companies and the associated regulations are similar to those used in the European Union member states.

The following possible legal forms of business associations exist:

- General partnership (abbreviated in Hungarian as “Kkt.”);
- Limited partnership (Bt.);
- Limited liability company (Kft.);
- Company limited by shares (Rt.).

Common governing rules must be applied for all business associations with special regulations relevant for particular types of companies

First and foremost, one natural person is allowed to have unlimited liability in only one business association, furthermore, neither a general partnership (Kkt.), nor a limited partnership (Bt.) are allowed to be a member with an unlimited liability.

A company limited by shares may be either a private limited company (Zrt.) or a public limited company (Nyrt.). Private limited form involves a company whose shares are not listed on any stock exchange. Otherwise the company’s legal form is that of a public limited company.

In practice, most foreign investors are likely to take their financial interest in either a **limited liability company (Kft.)** or a **private limited company (Zrt.)**. These legal entity forms correspond to the company forms most commonly used in the European Union.

	Limited Liability Company (Kft.)	Private Limited Company(Zrt.)
Number of shareholders / founders	Kft. may be established by both one single or by more, foreign or domestic, natural person(s), legal person(s), or business association(s) without legal personality. The number of owners is not limited.	Zrt. may be established by both one single or by more, foreign or domestic, natural person(s), legal person(s), or business association(s) without legal personality. There is no general requirement as to the maximum number of members.
Minimum capital	HUF 3,000,000 (or approx. EUR 8,333)	HUF 5,000,000 (or approx. EUR 13,889)
Minimum value per share	The minimum contribution per member should be HUF 100,000 (or approx. EUR 278)	There is no limitation on the nominal value per share

	Limited Liability Company (Kft.)	Private Limited Company(Zrt.)
Contributions	<p>In cash or in kind.</p> <p>The capital contributions should be made available <u>before</u> application for company <u>registration</u> as follows:</p> <ul style="list-style-type: none"> ▪ <u>Contributions in-cash:</u> the Deed of Association may establish a payment date later than the date of application for company registration, but in such case payment of dividends may be subject to restrictions; ▪ <u>Contributions in-kind:</u> total contribution should be made available, except if the contribution in-kind does not exceed 50% of the share capital. 	<p>In cash or in kind.</p> <p>The capital contributions should be made available <u>before</u> application for company <u>registration</u> as follows:</p> <ul style="list-style-type: none"> ▪ <u>Contributions in-cash:</u> min. 25% of each contribution in-cash (contribution in-cash should be at least 30% of total share capital); ▪ <u>Contributions in-kind:</u> total contribution should be available, except if the benefit in-kind does not exceed 25% of the share capital.
Valuation of in-kind contributions	<p>The Civil Code sets out no requirements as to the valuation of the contributions in kind.</p>	<p>All contributions in kind have to be valued by an external auditor. The audited value should be included in the Deed of Association at a value not exceeding the auditor's valuation.</p> <p>There is no need for separate valuation if the assets are traded on a stock exchange or their value is supported by audited financial statements with the period end not earlier than three months before the establishment date of the new company.</p>
Supervision	<p>The Civil Code's common regulation for the business associations renders setting-up of a Supervisory Board if the average number of full-time employees exceeds 200 persons and the Works Committee did not waive the employees participation in the Supervisory Board. The board should have at least 3 members.</p>	<p>The Civil Code's common regulation for the business associations renders setting-up of a Supervisory Board if the average number of full-time employees exceeds 200 persons and the Works Committee did not waive the employees participation in the Supervisory Board. The board should have at least 3 members.</p> <p>In addition, establishment of a supervisory board is obligatory if more than 5% of votes of members require it.</p>
Responsibility	<p>The members' obligations to the company extend only to the provision of their capital contributions and to other possible contributions as set forth in the Deed of Association.</p>	<p>The members' obligations to the company limited by shares extend to the provision of the face value or issue value of shares.</p>

2.2. Steps to register a limited liability company

Limited liability companies are regulated in Chapter XIII of the Civil Code. This legal form is similar to a Belgian *BVBA* or a German *GmbH*.

2.2.1. Deed of Association / Founding Deed

A limited liability company is founded by a deed of association signed by all partners; or a founding deed if the company is set up by a single partner. The founding documents have to be countersigned by a Hungarian lawyer.

Usually the Hungarian lawyer also assists the founders in compiling any necessary founding documents. During their interaction with the lawyer the founders must bring decisions at least on the followings:

- the corporate name and registered seat of the business association;
- members of the business association, indicating their name (corporate name) and address (registered seat), for legal persons and business associations lacking the legal status of a legal person - their (company) registration number;
- the business association's activities which the company intends to indicate in the Company Register;
- the subscribed capital of the business association, the financial contribution of each member, as well as how and when the subscribed capital is made available;
- the mode of representation and the method of signing for the company (joint, single); specimen of signatures will be taken by the Hungarian lawyer in the process;
- the name and address (registered seat) of the first executive officers appointed by the members (shareholders), and of the first appointed supervisory board members and auditor where applicable, and for legal persons and business associations lacking the legal status of a legal person their (company) registration number;
- the duration of the business association, if established for a limited period of time;
- the amount of capital contribution of each member;
- the split between share capital and capital reserve (if not the entire capital contribution is intended for share capital);
- the extent of voting rights.

2.2.2. Entry into the Company Register

The company is established by the act of the court of registration. All companies and sole trader businesses should be registered by territorially competent courts of registration based on the company's registered seat. The Hungarian lawyer in charge of company registration submits the application and any necessary documents to the court electronically. The court of registration issues an electronic certificate of registration.

As a part of the "one-stop shop" company registration the Court of Registration provides also the company's tax number and statistical code generated by the relevant authorities.

Foundation of a private limited liability company is exempt from state duty.

Time to complete:

- 1 day, if template founding documents are submitted (simplified registration). The template is laid down by a relevant regulation, has just a few options to choose from and may not be amended by any further details;

Or alternatively:

- up to 15 working days, if the company's founding documents are not fully compliant with the template (eg. include any provisions different from those of the template or is free-form).

2.2.3. Registration of a Client Gate (Hungarian: "Cégkapu") account

It is mandatory for companies to register a so-called Company Gate (Hungarian: "Cégkapu") account which is a company's own account on the Government's official website with all official communication and filing tax returns being processed via this account.

Whereas the company's managing director(s) have a full access to the Company Gate, different levels of access may be set up for employees and external service providers performing different functions. For example, an accounting services provider should be furnished with an access enabling it to file tax returns and annual financial statements. The precondition for anyone to obtain a Company Gate access is having their personal account with the Client Gate (Hungarian: "Ügyfélkapu" – a similar government services online portal for private individuals).

Further, as the communication is performed in the Hungarian language only, in the case of foreign national managing directors it may be recommended they grant a full access to the Company Gate to their accounting services provider who will keep in touch with the authorities in a timely manner.

2.2.4. Registration with the territorially competent Chamber of Commerce

Entities are required to register and to pay registration contribution to the appropriate chamber based on the *Chamber Act* (Act CXXI of 1999).

The registration fee of HUF 5,000 (or approx. EUR 14) should be paid within 5 days following the registration.

Following the year of registration, annual membership fee of the same amount should be paid until 31 March of that year.

2.2.5. Registration with the Hungarian Central Statistical Office

All business associations are obliged to register with the Hungarian Central Statistical Office (hereinafter: "Statistical Office" or "HCSO").

All companies are obliged to electronically file regular statistical reports related to their business activities (usually annually).

2.2.6. Opening a Bank Account

In Hungary it is mandatory for companies and private entrepreneurs to open at least one bank account immediately after the registration of the company or a private entrepreneur.

A legal person should submit below documents to a bank to have its bank account opened:

- Certificate of incorporation, and an extract from the Company Register (forwarded by the lawyer in charge of company registration);

- If the company is not yet registered at the Court of Registration: certificate about application for registration at the Court of Registration. The bank has to be informed about the registration immediately;
- Notarized deed of association / deed of foundation;
- Notarized specimen of signatures those with signatory authority on the company;
- personal identification documents of those with signatory authority on the company.

Many banks require the potential clients to upload the certificates of incorporation and an extract from the Company Register electronically on the bank's website before the actual appointment with the bank clerk. These files are provided to the companies by their lawyer in charge of company registration as soon as the company registration is approved by the court of registration.

A taxpayer has to file an application for registration with local tax authority within 15 days of obtaining a license for performing business activity. Businesses are obliged to disclose their:

- Name and registered seat;
- Tax number, statistical number and main activity
- Trade licenses / other licenses;
- Bank accounts;
- Data necessary for identifying local tax office of the taxpayer;
- Statutory body / other persons authorized to act on behalf of the company in tax issues;
- Representation of the company;
- etc.

All taxes must be paid in HUF, except local taxes all kind is paid to the Tax Authority.

Local taxes (including local business tax, building tax and land charge) are paid to the municipalities of the registered seat and sites, in shared manner.

Tax Authority continuously tightens the login process, a quite detailed check is performed on the owners.

3. Employing People in Hungary

3.1. Registration

Before the establishment of an employment relationship, the employer is required to complete a registration obligation toward the Tax Authority.

As part of the registration personal data of the employee and employment data (e.g.: the name of the position, working time per a week, first and last day of the employment relationship, qualification of the employees etc.) prescribed by the relevant regulation should be declared within the following deadlines:

- Relating to the commencement of the employment relationship, on the first day of the insurance relationship before the work being started;
- Within 8 days from the date of termination of the relationship.

3.2. Labour Contract

A labour relation is deemed to be established by a labour contract – entering into this contract is allowed only in written form. In the written contract (beside the personal data of the parties) at least the below two conditions should be indicated:

- the name of the position
- the salary of the employee.

Any other employment-related content can be indicated based on the agreement of the parties, if it is in line with the labour rules.

Labour contract should be concluded for definite or indefinite period. Probation period is applicable in relation to both types of contracts, but the period can not exceed 90 days.

Within 15 days from the starting date of the employment relationship, employer is obliged to inform the employee of the followings:

- the daily working hours;
- any additional elements of the remuneration;
- the way of accounting of the wages, the frequency and the payment date of wages;
- job description;
- the duration of paid leave, the way of the determining of paid leave and the rules of taking it out;
- the rules applied for the determining of the amount of notice period;
- whether the employee is under the scope of a collective agreement, and
- the person exercising the employer's rights.

3.3. Working Term Notes

3.3.1. Working hours

As a general rule, statutory number of daily working hours is 8 hours, weekly working hours is 40 hours in the case of a full-time employment. The number of hours worked per day may not exceed 12 hours and per week 48 hours including the overtime work. The maximum hours to be worked per week should be taken into consideration on average if irregular work schedule is applicable.

Overtime hours are overall limited to 250 hours per year. As of 2021 in addition to the above 250 hours an additional 150 hours extraordinary overtime hours can be ordered by the employer based on the written agreement of the employee and the employer.

3.3.2. Minimal wage

As in most EU member countries, in Hungary legal monthly minimum wages are set regularly. The minimum wage from 1 January 2021 is gross HUF 167,400 (or approx. EUR 465) per month for unskilled worker and gross HUF 219,000 (or approx. EUR 608) for skilled workers. However, the Hungarian minimum wage is independent of the industrial / commercial sectors and the individual's professional experience, it applies uniformly to all employees. The only aspect to be taken into account when we apply it is which category (unskilled or skilled) the individual belongs to.

The actual salaries are significantly higher. The average gross (monthly) salary amounted to gross HUF 449,400 (or approx. EUR 1,248) in December 2020.

3.3.3. Holiday entitlement

Employees shall be entitled to annual paid holiday comprised of basic and extra holiday.

The amount of basic holiday shall be 20 working days. This basic amount is increased in accordance with the years of age of the employee and reaches up to 30 working days for employees over the age of forty-five.

Furthermore extra vacation time is allowed for under certain circumstances (e.g. child care, "hazardous" work health conditions, etc.).

According to the general rule, vacation time should be taken in the respective year. There are only some strict reasons (e.g. illness, maternity leave) based on which paid holidays should be legally taken in the years following the respective year.

3.3.4. National holidays

Hungary has 14 national holidays. If a national holiday is on Tuesday, the day before, or if it is on Thursday, the day after is also considered as a day off, and instead of these additional day offs, employees – who are working under general working schedule – are prescribed to work on a specified Saturday.

New Year's Day	1 January
1848/49 War of Independence Memorial Day	15 March
Labour Day	1 May
Founding of Hungary – King Stephen's Day	20 August
1956 War of Independence Memorial Day	23 October
All Saints' Day	1 November
Christmas Days	24-26 December
Good Friday, Easter Sunday and Monday	Variable
Whit Sunday and Monday	Variable

3.4. Termination of Employment Contract

A labour relationship may be terminated by the below ways:

- mutual agreement;
- notice by any of the parties (general notice period is 30 days, however, this period is increased based on the years of the related employment relationship and it can be up to 3 months in case of notice by the employer or up to 6 months based on the agreement of the parties);
- notice with immediate effect by any of the parties (without indication the reason of it during the probationary period, but in any other cases only by the indication of the reason).

An employee shall be entitled to severance pay, if his employment relationship is terminated by the employer by notice or by the employee himself by notice with immediate effect.

3.5. Social Security and Health Insurance

An employer is obliged to declare, deduct and pay social security contributions both on behalf of an employer and on behalf of an employee.

The employer has to pay a social contribution tax, which is 15.5% of the gross salary of the employees. However, social contribution tax allowances are available if certain conditions are met (employment relationship with employees entering to the labor market (e.g. after their maternity leave); women raising three or more children, entering the labor market; employment of workers employed in agricultural jobs or in jobs not requiring professional qualifications, employees with reduced ability to work; persons in public employment, employment of research workers or in relation to research and development activity).

The levels of social security contributions:

	2021	
	Employee	Employer
Social security tax	18.50%	
<i>Pension contribution</i>	10.00%	-
<i>Health care contribution</i>	7.00%	-
<i>Labour market contribution</i>	1.50%	-
Social contribution tax	-	15.50%
Vocational training contribution	-	1.50%
Total	18.50%	17.00%

Employers with 25 and more employees are subject to rehabilitation contribution if the number of incapacitated employees is below 5% (mandatory employment ratio). The annual amount of rehabilitation contribution shall be calculated by multiplying the number of employees missing from the mandatory employment ratio by the amount of 9 times the minimum wage (9 × HUF 167,400 = HUF 1,506,600).

4. Accounting Practices and Audit Requirements

4.1. Form and Content of Accounts

4.1.1. Accounting rules

The *Act on Accounting* (Act C of 2000; furthermore: the “**Accounting Act**”) sets out the accounting rules which are harmonized with the relevant directives of the European Community and with international accounting principles.

Companies performing any activities subject to state regulatory function should primarily follow special accounting rules set out by relevant Government ordinances, whereas in the issues not covered by such special accounting rules the Accounting Act should be followed.

Companies may opt for the accounting rules under the IFRSs as adopted by the EU. Above that, preparing financial statements under the IFRSs as adopted by the EU is obligatory for any company whose shares are publicly traded on regulated markets of the European Economic Area (EEA) and any credit institutions, financial institutions subject to the prudential regulation.

Eligibility / obligation to keep books under the IFRS accounting rules

Type of companies	FY 2021
Credit institutions and financial enterprises subject to the prudential regulation	Required
Insurance companies and other financial service providers	Optional
Companies listed on the Hungarian Stock Exchange or on regulated markets the European Economic Area (EEA)	Required
Subsidiary companies whose parent company prepares the consolidated financial statements under the IFRSs	Optional
Other companies (except financial enterprises) subject to the audit requirement	Optional

4.1.2. Financial year

With respect to reporting, businesses may opt either for a financial year aligning with a calendar year, or for a financial year (of 12 months) other than calendar year. In the latter case, a notification should be filed with the Hungarian tax authority.

4.1.3. Functional currency

The functional currency for the general ledger is HUF, but the Accounting Act allows to use EUR or USD initially or from the first day of the next fiscal year (prior to that the founding documents should be amended accordingly).

Different currencies are also allowed under certain conditions defined in the Accounting Act.

4.1.4. Statutory financial reports

All entities registered in the Company Register are required to maintain a double-entry bookkeeping system.

All entities subject to double-entry bookkeeping requirement shall prepare statutory Financial Statements and a Business Report in Hungarian language based on the data of the accounting closing of the financial year.

The Financial Statements and the audit opinion (if the company is subject to the audit requirement) need to be filed with the Ministry of Justice before the last day of the 5th month following the balance sheet day (which is 31 May of next year in the case of a financial year corresponding with calendar year). After that the Financial Statements become publicly available on the website of the Ministry of Justice.

Consolidated Financial Statements (see below point 4.4) should be filed with the Ministry of Justice before the last day of the 6th month following the balance sheet day (which is 30 June of next year in the case of a financial year corresponding with calendar year).

The above rules are also applicable to the Hungarian branches of foreign companies with the difference that the Financial Statements and the audit opinion to be filed are those of their foreign company as prepared under the accounting rules in effect for that foreign company in the country of incorporation. The foreign company's Financial Statements and audit opinion should be translated into the Hungarian language. The filing deadline and public availability are the same as the above.

Companies are required to keep and preserve their accounting records, financial statements, annual reports and all of documents for an 8-year period. It means that all evidence and documents of the year 2021 have to be available until 2029. Any documents related to employment must be retained for 50 years.

4.2. Valuation of Assets under the Accounting Act

All intangibles, advances and prepayments on intangibles and value adjustments of intangible assets shall be recognized as intangible assets in the balance sheet. Rights and intellectual products can be modified by value adjustment when the market value is permanently and significantly higher than book value. Conversely, extraordinary amortization is allowed to record on these assets.

Capitalised value of foundation and reorganization and experimental development costs (which are not qualified investments and renovations) may be recognized as intangible assets if they are expected to generate profits in the future.

Fixed assets shall be recognized as tangible assets if they serve the company's operations, directly or indirectly, on a permanent basis (i.e. for more than 1 year). Furthermore, the advances and prepayments for the acquisition of assets of those in the course of construction, and the value adjustments made on tangible assets are included under tangible assets in the financial statements. Under value adjustments of tangible assets only the difference between the market value – in excess of the book value – and the book value may be shown for the tangible assets. Conversely extraordinary depreciation is allowed to record on these assets.

Fixed assets are those have been bought with the aim of producing profit for the company or reaching an influence through keeping shares. Initial measurement is at cost at acquisition, and depreciated during their useful life. Worthy to bear in mind that useful life may differ the real working term of an asset.

Investments are recorded at cost.

Current assets are inventories, receivables, securities, cash and such kind of assets that do not serve permanently the undertaking's operations.

Inventories may be valued either at average cost or First In First Out (FIFO) method. Last in First Out (LIFO) is not permitted.

Foreign Exchange gains and losses on year end valuation: monetary assets and liabilities have to be recognised without considering their amount, contrary to the International Accounting Practice. Losses and gains on monetary assets and liabilities can be recognised and are tax deductible.

Securities are valued on the basis of market value principles.

4.3. Financial Statements

The financial statements include:

- balance sheet;
- statement of profit and loss;
- notes to the accounts (including cash-flow statement);
- business report.

Revenues and costs, receivables and liabilities are shown in gross way in the financial statements, no netting is allowed by the law. This applies to assets and liabilities as well as to the P&L items.

4.4. Consolidated Financial Statements in Hungary

Any parent company does not need to prepare the consolidated financial statements as of a financial year when two of the following three thresholds do not exceed the following limits on the balance sheet date in two consecutive years preceding the financial year:

- the balance sheet total does not exceed HUF 6,000 million (approximately EUR 16.66 million);
- the annual net sales revenues does not exceed HUF 12,000 million (approximately EUR 33.333 million);
- the average number of employees of a year does not exceed 250 persons.

When determining the above thresholds, the total figures of the parent company, its subsidiary companies and jointly controlled entities prior to consolidation shall be taken into consideration. The figures of jointly controlled entities shall be taken into consideration in the percentage of capital share.

If any of the subsidiary companies or jointly controlled entities of the parent company did not exist in the financial year preceding the subject year, then the above thresholds shall be established based on average figures estimated for the subject year.

Companies listed on the Stock Exchanges of the European Union member states are obliged to prepare their consolidated financial statements in accordance with the International Accounting Standards / International Financial Reporting Standards (IAS / IFRS). Companies not listed on the Stock exchange are not obliged to apply the IAS / IFRS rules with regard to consolidation.

4.5. Audit Requirements

Generally, election of an auditor is compulsory for all companies having double-entry bookkeeping. There are exemptions from this requirement, but the company' supreme body may decide to assign an auditor to review its general ledger.

Those companies are exempted from the annual audit requirement, whose annual net sales do not exceed HUF 300 million (approx. EUR 833,333) and the average number of employees does not exceed 50 persons. The above thresholds shall be calculated based on the average of the two financial years preceding the financial year under review.

Notwithstanding the above, the audit requirement stands for the following cases:

- if so prescribed by the Accounting Act or by any other law;
- for the of companies subject to consolidation;
- for Hungarian branch office of a foreign company.

5. Corporate Taxation

The *Act on Corporate Tax and Dividend Tax* (Act LXXXI of 1996; hereinafter: “**Corporate Income Tax Act**” or “**CIT Act**”) distinguishes between resident taxpayers and non-resident enterprises.

A company shall be regarded as resident if it is incorporated under the Hungarian law or if its place of management is located in Hungary. The tax liability of resident taxpayers shall apply to their income earned both in Hungary and abroad (worldwide tax liability).

Non-resident enterprises are enterprises that shall not be deemed as resident based on their place of management. The tax liability of non-resident entrepreneurs extends only to their income from business operations performed through their Hungarian branches or to their income derived from the sale or withdrawal of shares in a company that owns real estate (limited tax liability).

Further, a non-resident should be deemed as having a Hungarian permanent establishment if it directly utilizes natural resources, or allows utilization for consideration of the followings: natural resources (or rights to such resources), property, land located in Hungary. Some other activities, especially sale for consideration or in-kind contribution of the mentioned assets also give rise to a Hungarian permanent establishment.

5.1. Corporate Income Tax Base

In Hungary, taxable income (i.e. tax base) is based on the financial statements. The profit before tax based on the financial statements shall be adjusted by tax base decreasing and increasing items determined by the Corporate Income Tax Act, i.e. increased by non-deductible expenses and decreased by non-taxable revenues.

Under certain conditions the calculated tax can be decreased by tax allowances regulated by the CIT Act.

5.2. Tax Calculation

The tax liability of a company is calculated as follows:

Profit before tax
- Tax Base Deductions
+ Tax Base Increases
= Calculated Tax Base
% Tax (9%) ¹
Tax Allowances
= Final tax liability

¹: see Paragraph 5.12.

5.3. Minimum tax

The minimum income shall be calculated as 2% of the total revenue adjusted by certain increasing and decreasing items. If the greater of the profit before tax and the corporate income tax base is still less than minimum income, then the company might opt to pay the corporate

income tax based on the minimum income. Otherwise (in the case of not opting to pay the tax on the minimum income) such company should make a statement in its corporate income tax return presenting its cost structure. By making the above statement, there is a risk that based on its risk analysis program the tax authority selects the company for a tax investigation.

5.4. Tax adjusting items

A non-exhaustive list of the corporate income tax base adjusting items is presented below:

Tax base increasing items	Tax base decreasing items
+ Depreciation and amortization of assets accounted for according to the Act on Accounting ¹	• Depreciation and amortization of assets according to the Corporate Income Tax Act ¹
+ Costs and expenses incurred not in the interest of business operations ²	• Losses carried forward from previous tax years
+ Expenses accounted for concerning the creating of provisions for expected liabilities and future costs	• Revenues accounted for concerning the release of provisions for expected liabilities and estimated expenses
+ Impairment of receivables	• Reversal of impairment losses
+ Rules on interest deduction limitation	• Dividend received (see under 5.8.)
+ Certain types of income of the controlled foreign company calculated based on the CIT Act as if the CFC would be a resident	• 50% of the profits of royalties (see under 5.9.)
+ Receivables waived against related parties	• Development reserve for future capital investments
+ Transfer pricing adjustments (see under 5.5.)	• Transfer pricing adjustments (see under 5.5.)

¹ A distinction needs to be made between depreciation for tax and for accounting purposes. At initial measurement all assets have a depreciation / amortization key that reflect their useful lives. This key is determined by the Company. Depreciation for tax purposes is more strictly regulated, the depreciation keys applicable are determined by the Corporate Income Tax Act. The general depreciation key applicable for tangible assets is 14.5%. Higher keys apply to computers, IT equipment and certain industrial equipment (33%) and to vehicles (20%). For buildings the maximum rates set out by the CIT Act are 2%, 3% and 6% depending on the type and duration of the structures. A 5% tax depreciation rate may be applied to rented out buildings (if accounted for as tangible assets). A 30% tax depreciation rate may be applied to any other types of tangible and intangible assets leased out to customers. Land, works of art and assets (including intangibles, too) with undefined useful life are not allowed to be depreciated.

² In general, expenses made for non-business purposes are not recognised as expenses for tax purposes. The tax legislation provides a list of various costs and expenditures that are not seen as incurred in the interest of the business, and hence, should be treated as non-deductible items. Examples include certain entertainment expenses, final money transfers, goods' or services' transfers without consideration, book value of missing assets, consideration paid to a controlled foreign company, etc..

³ In order to comply with *Council Directive (EU) 2016/1164* laying down rules against tax avoidance practices that directly affect the functioning of the internal market, the thin capitalisation rules are replaced by the rules on interest deduction limitation as of 1 January 2019. Based on the rules of legal harmonisation, when determining the corporate tax base, from the net financing cost, a maximum of 30% of the EBITDA (earnings before interest, taxes, depreciation and amortization) or HUF 939,810,000 (whichever is higher) may be enforced as recognized cost. The amount of the net

financing cost exceeding the above threshold should be treated as a non-deductible expense for tax purposes (increasing the profit before tax).

5.5. Transfer pricing documentation

The Hungarian transfer pricing regulation contains more stringent requirements than the majority of the countries belonging to the European Union or OECD member countries. Pursuant to the Hungarian transfer pricing decree, the list of related party transactions subject to documenting requirement is fairly extensive. Generally, the transactions between affiliated companies need to be documented if the value (net of value added tax) of the transaction on a consolidated basis in the tax year exceeds HUF 50 million (or approx. EUR 138,889).

The Hungarian transfer pricing regulation endorsed the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations published by the *Organization for Economic Cooperation and Development* (hereinafter: “**OECD Guidelines**”). The OECD Guidelines provide a framework for analysing the transfer prices for intra-group transactions, which state that the prices set for intercompany transactions should be based on the “arm’s length principle”. The arm’s length price should be determined by any of the methods described in the OECD Guidelines.

The Hungarian transfer pricing regulation follows the OECD regulation, Hungary has also introduced the Country-by-Country (henceforth: “**CbC**”) regulation and the master file-local file transfer pricing documentation rule.

Under the general rule, the ultimate parent entity must file the CbC report to its local tax authority, if

- 1) the group is labelled as multinational group that means group members (companies, subsidiaries, permanent establishments) operate under two or more countries’ jurisdictions, moreover
- 2) the consolidated group revenue exceeds EUR 750 million in the fiscal year preceding the reporting fiscal year.

If the Hungarian company is only a subsidiary, it is probably not permitted to submit CbC report, only reporting the identification data of the affected entity (the ultimate parent company), which submits the CbC report, is required. The maximum default penalty can be HUF 20 million (or approx. EUR 55,555) if there is missing, delayed, erroneous, incorrect or incomplete compliance with the CbC reporting obligation. The taxpayer is exempted from the default penalty connected to omission, delay, erroneous, incorrect or incomplete fulfilment, change submissions, delivery of data, or failure to provide the data, if its conduct may be deemed reasonable under the given circumstances.

The required content of the master file and local file is in line with the OECD Guidelines. The Hungarian regulation is OECD compatible, with only some extra information (e.g. date of preparation) to be shown additionally in the transfer pricing documentation.

The master file, based on the Hungarian Transfer Pricing Decree, shall contain:

- information about the group’s organizational structure;
- a general introduction on the group;
- a depiction of the value chain of the group’s most significant products and an outline of its main geographic markets;
- a list of important service agreements concluded between related parties;
- a functional analysis showing the contribution of each member entity towards value creation;

- information regarding the group's intangible goods;
- information regarding the group's research and development activity;
- presentation of the group's intercompany financing activity (including significant financing agreements concluded with unrelated parties);
- the group's financial and tax position;
- a list and a brief presentation of the group's effective unilateral advance pricing agreements and other tax-related agreements on the distribution of income between countries;
- date of preparation, modification.

The local file presents the local taxpayer and the agreements between the taxpayer and its related parties. The local file, based on the Transfer Pricing Decree, shall contain:

- the organizational structure of the local entity;
- a description of the entity's activity and its business strategy;
- presentation of main competitors;
- information on controlled transactions;
- a copy of effective advance pricing agreements and other tax rulings to which the local tax jurisdiction is not a party and which are related to controlled transactions;
- a functional analysis showing the contribution of each member entity towards value creation;
- describe the regular transfer pricing methods;
- determining the arm's length price range;
- the connection between the arm's length price and the price that the company used;
- any litigations, jurisdictional issues connected to transfer prices;
- date of preparation, modification.

The local transfer pricing documentation has to be prepared by the date of actual submission of the corporate income tax return. The deadline of the preparation of the master file shall be the deadline applicable for the ultimate parent company, but not later than 12 months after the last day of the Hungarian taxpayer's fiscal year.

In the recent years, the transfer pricing documentation is within the scope of high-priorities of the Hungarian tax authority's audits. Based on our current tax audit experience, the Hungarian Tax Authority frequently challenges the transfer prices applied between affiliated companies. The transfer pricing documentation needs to be drafted carefully in accordance with the regulation, also taking into account the risk factors of a tax audit.

In the case of a tax audit, the Hungarian Tax Authority may levy default penalty up to HUF 2 million (or approx. EUR 5,556) per documentation per tax year for failure to prepare the documentation or for late preparation. In the case of repeated violation of the Hungarian transfer pricing rules, the Tax Authority may impose a penalty up to HUF 4 million (or approx. EUR 11,111) per documentation per tax year. In the case of repeated absence of the same transfer pricing documentation, the maximum penalty may be limposed amounting to 4-fold of the general default penalty (i.e. up to HUF 8 million; or approx. EUR 22,222) per documentation. Furthermore, if the transfer prices applied in the controlled transaction are not at arm's length, tax penalty up to 50% of the tax shortage and late payment interest (amounting the prime rate increased by 5 percentage points calculated based on the calendar days for the period of underpayment, but for a maximum of 3 years) may be imposed.

5.6. Tax allowances

The corporate income tax payment liability can be decreased by tax allowances granted by the CIT Law. The main categories of tax allowances are presented below:

- development allowance available for companies implementing investment projects;
- tax allowance for funding of filmmaking;
- tax allowance for sponsorship of spectator team sports;
- tax allowance for small and medium-sized entrepreneurs;
- tax allowance for energy efficiency improvement projects;
- tax allowance for live music services

Furthermore, there is a possibility to support filmmaking organisations or spectator team sports through allocation of tax advances which entitles taxpayers for a tax credit.

5.7. Withholding tax

Hungary does not impose withholding tax on dividends, interest or royalties paid to legal entities. Such payments made to a controlled foreign company are not recognised as an expense for tax purposes.

5.8. Participation Exemptions

5.8.1. Dividends

Dividends received are exempt from corporate income tax without any holding requirement with the exception of dividends received from a Controlled Foreign Company (CFC). The exemption is granted with the condition that the dividend is not accounted for by the company paying the dividend as an expenditure from its pre-tax profit.

5.8.2. Capital gains

Capital gains are in general included in the profit of ordinary activity of the company, thus taxed at the general corporate income tax rates unless the participation exemption applies. Participation exemption applies for any participations (without minimum proportion requirements) declared to the Hungarian tax authority within 75 days after acquisition of the participation. The participation declared shall be held by the taxpayer among its assets for at least 1 year prior to the sale or writing off as non-monetary, in-kind contribution. The above preferential tax treatment is not applicable for capital gains derived from participation in a controlled foreign company.

5.9. Preferential IP box regime

As of July 2016 the scope of the IP box regime has been significantly narrowed in order to be in compliance with the OECD's Modified Nexus Approach under BEPS Action 5. Accordingly, limitations apply to tax base allowances concerning the purchased registered intangible assets or intangible assets embodying rights to royalties, furthermore in connection with research and development services received from related parties for the production of such intangible assets.

The above limitations apply in relation to the tax base deductions on the following titles (detailed below) on the basis of the above intangible assets: royalties received, capital gains realised on the disposal of registered intangible assets or intangible assets embodying right to royalties or on the removal of such assets as non-monetary contribution from the books.

- **Royalties received:** According to the IP box regime 50% of the profits of royalties received may be deducted from the corporate income tax base. The deductible amount shall not exceed 50% of the pre-tax profit. The definition of royalty includes only profits from certain exclusive rights (patents, protection, software usage or application licences or from qualified drugs for rare diseases) or from the sale or the removal of such rights as non-monetary contribution, including the percentage of the profit from the sale of goods or services directly attributable to such exclusive rights.
- **Disposal of registered IP:** Capital gain exemption applies for the sale of registered IP (including the write-off from the books as non-monetary, in kind contribution) with the condition that the IP was registered at the Tax Authority within 60 days from its acquisition or production.
- **Disposal of IP embodying right to royalties:** Capital gain exemption is applicable for the sale of non-registered IP embodying rights to royalties (including write-off from the books as non-monetary, in kind contribution up to the amount transferred from the profit reserve to the tied-up reserve during the tax year. The above amount may only be released for the purchase of intangible assets embodying rights to royalties during the 5 years period subsequent to the tax year in which it was tied up).

R&D expenses are acknowledged expenditures for corporate income tax purposes. In addition, the CIT Act allows a further deduction of the direct cost of basic research, applied research and experimental development carried out within the taxpayer's own scope of activities, as a result of the above, double deduction might be applied in relation to the above R&D costs. The above deduction can be settled in the tax year where the costs are incurred or if the costs are capitalized, where the depreciation is claimed.

In connection with basic research, applied research and experimental development performed jointly by a taxpayer and an institution of higher education, the Hungarian Academy of Sciences, a research institution operated as a central budgetary agency or a research institution (research facility) established by either of them or jointly, as well as any research institution operating in a form of a business association under majority state ownership directly or indirectly, the taxpayer may claim three times the amount of the direct R&D costs.

The repatriation of Hungarian earnings is tax free, since there is no withholding tax on distribution of dividends under the Hungarian domestic law (see under 5.7.).

5.10. Loss Carry-Forward / Deferral of Losses

Taxpayers may apply the losses carried forward from previous periods, as a tax base decreasing item, up to 50% of the calculated tax base without carry forward loss.

Taxpayers are able to use annual losses generated in 2015 and thereafter the latest in the fifth tax year following the year when the loss was generated. As a temporary rule, losses generated in 2014 or before can be carried forward until 2030 at the latest.

5.11. Corporate Group Taxation

Corporate group taxation may be selected by domestic related enterprises which apply the same accounting rules (Accounting Act or the IFRSs) and balance sheet date, if there is at least 75% majority influence between them. The establishment of corporate group taxation is

subject to the approval of the tax authority. The group's tax liability is fulfilled by a designated group member as group representative.

As an advantage of corporate group taxation, the tax base of group members shall be calculated on a consolidated basis, which means that the tax base of loss-making group members with a negative tax base can be deducted from the tax base of profit-making group members with a positive tax base, however, this deduction might not exceed 50% of the calculated positive tax base of the profit-making group members. Transactions between group members, as a rule, are out of scope of the transfer pricing rules (i.e. tax base increase and documentation requirement are not applicable).

As another advantage of corporate group taxation, under certain conditions, group members can jointly use the tax benefits assigned to certain group members. The entitlement for the tax benefit, obtained prior to the group taxation status, remains after the establishment of the group taxation status if the group member continues to meet the conditions. Obtaining a new tax benefit is also possible if compliance with the tax benefit conditions is undertaken and actually met by a group member.

5.12. Corporate Income Tax Rate

The tax rate is 9% generally for the positive (calculated) tax base or based on the minimum income (see under 5.2.).

5.13. Tax Returns and Tax Payments

As a general rule, the tax year corresponds to the calendar year unless the taxpayer has opted for a business year different from the calendar year.

Tax returns must be filed by 31 May of the year following the relevant year. In case of taxpayers having a business year different from the calendar year the corporate income tax return shall be submitted by the last day of the fifth month following the last day of the relevant business year.

Companies have to pay monthly or quarterly tax advances during their financial year. The difference of the tax advances and the final tax liability has to be settled by the deadline of the submission of the corporate income tax return to the tax authority at the latest.

5.14. Double taxation relief

In the case of foreign source income derived from a non-treaty country tax credit is granted by the Hungarian legislation amounting up to 90% of the tax paid abroad or the tax calculated based on the average domestic tax rate.

Hungary has concluded treaties with more than 80 countries for the avoidance of double taxation with regard to income. Under the double tax treaties Hungary generally provides for an exemption of the foreign source income in order to avoid double taxation.

6. Personal Income Taxation

Hungarian tax liability is determined by a person's residency.

6.1. Tax Residency

Hungarian tax residents are taxed on their worldwide income, regardless of where they earn it. Non-residents are taxed on their Hungarian source income only. Taxpayers should check whether the taxation of their income taxation is regulated by a double tax treaty.

In order to determine the tax residency of a private individual several factors should be taken into consideration, for example:

- permanent residence,
- usual place of residence,
- centre of vital interests,
- nationality.

If a private individual is considered tax resident in more than one country, the double tax treaty concluded between the two countries should be examined for the determination of the tax residency.

After the determination of the tax residency, the regulation of the double tax treaty should be applied as to which country should tax the income concerned.

In order to avoid the double taxation, tax treaties include different types of double taxation avoidance techniques, for example applying income exemption in the resident country, if the income is taxable only in the source country, or using tax credits in the resident country if a treaty allows the taxation of the income concerned in both of the countries.

In the absence of a double tax treaty with the relevant country, the Hungarian domestic regulations should be applied for determining the tax residency, as well as the taxation of the specified income. The Hungarian domestic regulations provide both for elimination of tax avoidance and for reducing tax burdens resulting from double taxation.

The individuals who are not considered Hungarian tax residents based on the facts, are deemed Hungarian non-residents and are liable to pay Hungarian income tax only on their Hungarian source income.

In line with the most of Hungarian double tax treaties, withholding tax can be applied on some types of income (for example on interest and dividends), if the income is considered a Hungarian source income. In the most of the double taxation treaties the withholding tax deductible from a Hungarian source income is usually capped at 15% which equals the domestic personal income tax rate.

The income can be considered as a Hungarian source income, if it is derived from one of the following activities (non-exhaustive list):

- employment with a domestic employer;
- a legal relationship where the party that orders the work is resident in Hungary;
- activities exercised in Hungary;
- assets (any property value) located in Hungary.

6.2. Tax Base

The income of individuals in Hungary is split-up into two main parts with their own subdivisions. These two main parts are:

- Consolidated tax base income (income derived from employment relationship or freelance contracts);
- Incomes that are taxed separately (interest, dividends, capital gains).

Tax base of different types of income is determined by deduction of itemised costs or a flat-rate cost from the income, but sometimes cost deductions are not applicable.

6.3. Capital Income

Income from capital investments can be split up as follows:

- Interest income;
- Income from securities' lending;
- Profit realized on swaps;
- Dividend income;
- Capital gains;
- Income from stock exchange transactions;
- Income from permanent investments;
- Income on the capital withdrawn from enterprises.

6.4. Tax allowances

6.4.1. Tax-base allowances

The regulation provides a possibility for taxpayers to reduce the tax of the consolidated tax base or the payable tax. (*Should not be confused with the consolidated taxation of spouses which does not exist in Hungary*).

6.4.2. Family tax allowance

Private individuals can claim family tax allowance that means if they meet the conditions they can deduct the amount of family tax allowance from their consolidated tax base.

The family tax allowance is available to private individuals who are eligible for family allowance in respect of a child or children according to the *Family Assistance Act*.

The amount of family tax base allowance - depending on the number of dependants (in fact, school-age children raised in the private individuals's household) shall be:

- HUF 66,670 (or approx. EUR 185) in case of only one dependant (equivalent to HUF 10,000 – or approx. EUR 28 – reduction of tax);
- HUF 133,330 (or approx. EUR 370) if the number of dependants is two (equivalent to HUF 20,000 – or approx. EUR 55 – reduction of tax);
- HUF 220,000 (or approx. EUR 611) if the number of dependants is three or more (equivalent to HUF 33,000 – or approx. EUR 92 – reduction of tax);

for each beneficiary dependant per each month of eligibility.

6.4.3. First marriage tax allowance

A tax allowance deductible from one's personal income tax base, is available to first weds, i.e. the first marriage for at least one party to the couple. The amount of the tax base allowance which can be claimed by the married couple, is HUF 33,335 (or approx. EUR 93) on a monthly basis for two years' period from the date of the wedding. It is practically equivalent to a HUF 5,000 (or approx. EUR 14) reduction in personal income tax liability. First marriage tax allowance can be provided together with the family tax allowance if the requirements are met.

6.4.4. Health care tax allowance

There is tax allowance in connection with the payable personal income tax in case of special health problems or medical disabilities. If the employee are suffering from one of the health problems listed in the relevant regulation, having the entitlement to a monthly flat rate reduction (5% of the minimum wage: HUF 8,370; or approx. EUR 23) from the payable personal income tax on a monthly basis.

6.4.5. Tax allowance of the mothers raising four or more children

Starting from 1 January 2020 a new tax allowance has been introduced whereby women raising four or more – own or adopted – children are entitled to deduct from their personal income tax base any income earned on certain types of activities (basically employment or work assignments performed in personal capacity). Due to this tax allowance a mother's annual personal tax liability may be reduced to zero, if she earned income from employment or work in personal capacity only. Passive incomes such as income from property rent are out of scope of this tax allowance.

6.4.6. Unused personal income tax

Any tax allowances not used fully because they exceeded the calculated personal tax liability, may be taken over to the personal social insurance contributions due from the private individual's income.

6.5. Tax Rates

The personal income tax rate of all income is 15%.

6.6. Tax Returns

All individuals, both Hungarian tax residents and non-residents having any Hungarian taxable income are required to file a tax return using the form available on the website of the Tax Authority.

Tax returns must be filed by 20 May of the following year. The aforementioned date is also the due date of the tax payments.

Alternatively, the Hungarian Tax Authority prepares personal income tax return drafts for those private individuals on whose behalf their employer (or a legal entity payer under other types of assignments or economic transactions) deducted personal income tax in the course of the tax year and who have personal accounts on the state services portal ("Ügyfélkapu").

Private individuals should finalise such drafts by amending the amounts presented, or overwrite them by filing the full annual tax return mentioned above. If such draft is not finalised by the private individual or overwritten by a submitted annual tax return before the assigned deadline (20 May of the year following the tax year), then it becomes the private individual's final personal income tax return.

6.7. Tax Payments

The employer as a payer shall be required to pay the tax advance assessed by the 12th day of the month following the month when the income was paid and declare it in accordance with the Act on the Rules of Taxation.

Beyond personal income tax obligation, other social security contributions calculated as the percentage of the tax base, should also be deducted, paid and declared.

The amounts of taxes and contributions (in the percentage of the tax base) deducted by the employer from the employees' income derived from employment relationship are:

- 15.00% personal income tax,
- 18.50% social security tax, which includes the followings:
 - 10.00% pension contribution,
 - 7.00% health care contribution,
 - 1.50% labour market contribution.

The employer is liable to below taxes and contributions calculated as percentage of the gross salaries:

- 15.50% social contribution tax,
- 1.50% vocational training contribution.

If the private individual's income is not liable to tax deductions by the employer (payer), then tax-advances should be paid by the individual himself/herself on a quarterly basis by the 12th day of the month following the relevant quarter.

6.8. Social-security related self-employment schemes in Hungary

Foreign employers, who are not required to be registered under the Hungarian law (hereinafter referred to as "**Foreign company**"), are also required to pay social security contributions on income (subject to social security) paid to the private individuals employed in Hungary.

Foreign companies should perform report- and tax return-related obligations in relation to their employees, whose legal relationships are covered by the Hungarian social security system.

This obligation can be performed in the below ways ((a), (b), (c)):

- a) by way of representative of the foreign company specified in the Act on the Rules of Taxation (actually it is a Hungarian branch office or a financial representative), or
- b) in the absence of any specified representative – directly by itself.

In order to comply with these obligations by itself, foreign company has to meet a registration liability at Hungarian National Tax Authority as an employer.

If the foreign company – employing a person who is covered under the Hungarian social security system – does not have a representative in Hungary (a) or fails to meet the registration obligation (b), then the related obligations arisen in connection with the employment:

- c) should be performed by the employee, also bearing the consequences of failing to meet these obligations (excluding default penalty and tax penalty).

In Hungary, it is far the most common way that the employees perform the related obligations regarding this scheme in lieu of the foreign company, but under their own name.

The insured private individuals, who are employed by a foreign company should perform all the obligations arising in relation to their insurance relationship (contribution payment, registration, tax returns obligation).

Since the income of the employee is received from a foreign company, which does not qualify as a payer in Hungary, it is the employee, who has the obligation to pay personal income tax-advance (15% of the income) on his income on a quarterly basis by the 12th of the month following the relevant quarter. Personal income tax return shall be submitted annually by 20 May following the relevant year. The 15.50% social contribution tax, which is normally the employer's burden, in such case should also be borne by the private individual.

7. Value-Added Tax (VAT)

The Hungarian VAT legislation is harmonized with the European Community VAT legislation.

7.1. Taxable persons, obligation for registration for VAT purposes

A taxable person is a person who performs business activity, regardless its place, aim or result.

Taxable persons shall register in Hungary when performing taxable supplies of goods or services, intra-Community acquisitions or importation of goods with Hungarian place of supply or exceeding the threshold for distance sales to Hungary (with the exemption of transactions subject to the reverse-charge procedure).

7.2. Registration for VAT without having establishment in Hungary

The taxpayer must fulfil the registration obligation prior to the commencement of its business activity on the territory of Hungary, because carrying on taxable activities in Hungary (including holding inventory) is only allowed under a Hungarian VAT ID.

In order to be able to file for registration with the tax authority, foreign companies without a branch office on the territory of Hungary, i.e. with no independently operating business entity registered as a branch office in the Hungarian company register, must meet special conditions.

A foreign company is not required to establish a branch if **does not hire employees** in Hungary (including the assignment or hiring-out of an employee or agent employed in a foreign country to perform work in Hungary) and pursues any one of the following for-profit economic activities:

- teaching, research and educational activities provided at education institutions or at higher education institutions,
- arts-related activities,
- professional sports activity,
- **activities limited to the supply of domestic goods purchased by the company or the supply of services if this occurs without personal presence on the territory of Hungary** and through the use of a commercial card issued by it abroad,
- utilisation of real property and natural resources for a consideration, the transfer, sale or in-kind capital contribution of a right of property value related to real property and natural resources.

Registration (application for a Hungarian tax ID, EU tax ID) is performed by the submission of the following documents:

- registration form 'T201',
- certificate of incorporation in the foreign country (not older than 30 days). Hungarian translation is not needed if the original is in English, German or French (otherwise necessary),
- specimen signature,
- copies of personal identification cards or passports of those with signatory authority on the foreign company,
- tax residency certificate from the country of incorporation, and
- if the registration obligation is fulfilled retrospectively (after the commencement of the business activity), the starting date of the activity must also be provided. It should be noted that a retroactive registration may be sanctioned by a default penalty.

7.3. VAT rates

There are three tax rates under the VAT regime:

- a standard rate of 27%, applicable to most goods and certain services (general);
- a rate of 18% is to be applied for dairy products, bakery products, hotel services,
- a reduced rate of 5%, applicable to essential goods and services (pharmaceutical products, district heating services, books and newspapers), basic food products (swine, sheep, bovine, goat, poultry meat, eggs and milk), restaurant/dining services and internet access services.

7.4. Reporting obligations

VAT returns are due monthly, quarterly or yearly depending on the amount of the cumulated net VAT balance. The VAT returns and payment are due by the 20th day of the month following the respective tax reporting period.

According to the Hungarian VAT Act, Recapitulative Statement (reporting the intra-Community supplies and acquisitions of goods and services) must be filed monthly or quarterly. The Recapitulative Statement must be filed by electronic means by the 20th day of month following the respective reporting period.

As part of the regular VAT return a detailed domestic VAT summary report shall be submitted on the vendor invoices based on which input VAT was deducted.

Besides the above, as part of the regular VAT return a special detailed reporting obligation applies to supplies of goods subject to the domestic reverse charge procedure (e.g. cereal and grain products, iron and steel products).

Tax payers are obliged to submit Intrastat reports if their goods purchases from other EU Member States exceeds the threshold of HUF 170 million (or approx. EUR 472,222) or their sales of goods to other EU Member States exceed the threshold of HUF 100 million (or approx. EUR 277,777) in the last 12 months. Intrastat reports are due by the 15th day of the month following the month of the purchases or sales.

7.5. Invoicing

Invoices can be issued by using pre-printed invoice blocks or by invoicing software. Electronic invoices are also applicable (if the relevant legal requirements are met).

Invoices issued under the Hungarian VAT ID are required to be in strict sequential order, the sequential numbers being generated by the invoicing program or indicated on pre-printed invoice blocks. Invoicing is due immediately or within the reasonable period of time (not longer than 8 days) after the service is performed/goods are delivered.

In case of invoices issued by invoicing software the data of the invoicing software used shall be reported to the Hungarian Tax Authority, furthermore, the user documentation of the invoicing software containing all functions of the invoicing software used shall be retained within the statute of limitation. Should the functionalities of the application change (e.g. a new version of the software is released), the documentation must also be updated or an amendment or addition shall be added containing the change in functionalities.

7.5.1. Online invoicing

Data of any outgoing invoices (including B2B tax-exempt transactions, reverse charge, intra-Community and third country-related transactions and B2C invoices issued to non-taxpayer private individuals) issued by an invoicing software should be submitted automatically to the tax authority in a real time mode (immediately) in a predefined format.

The obligation to supply data covers all taxpayers resident for tax purposes in Hungary, consequently, all VAT registered taxpayers have to perform data-supply of their outgoing invoices. The data-supply requirement is independent of the geographic location where the invoice is issued. What should be taken into account is whether or not the invoice issuer is a resident (i.e. registered) taxpayer in Hungary. However, if both the taxpayer's seat and the fixed establishment most affected with the sale are not in Hungary (although the taxpayer may well have registered for VAT purposes in Hungary, too), the invoices issued for the sales with a non-Hungarian place of supply are out of scope of the data-supply requirement. Further, under certain conditions, distance sales from Hungary may also be out of scope of the data-supply requirement.

The invoicing softwares available in the Hungarian market are usually compliant with the legal requirements in effect, including the real-time data transmission requirement. Any other (foreign or own-developed) invoicing softwares should be properly amended, so that to meet the real-time data transmission requirement.

The penalty for those taxpayers, who do not comply with these regulations is up to HUF 500,000 (approx. EUR 1,389) *per invoice*.

7.5.2. Data supply requirement for invoices issued using pre-printed invoice blocks

If invoicing is performed by using pre-printed invoice blocks, then data is required to be reported manually through the website of the Tax Authority within 4 calendar days for invoices where the VAT charged does not exceed HUF 500,000 (or approx. EUR 1,389). If the VAT amount is equal or more than HUF 500,000, the data shall be provided to the Tax Authority within 1 calendar day.

7.6. Right to deduct VAT

According to the general rules, the input VAT charged on purchase of goods or services is deductible in so far as the goods and services are used for the taxable activity of the taxable person.

The input VAT charged on the purchase of the following goods or services is generally non-deductible:

- motor fuel and other fuel used for the operation of passenger cars;
- yachts, vessels suitable for sports and entertainment purposes;
- passenger cars, motorcycles above 125 cm³ capacity;
- residential properties and related purchase of goods or services, e.g. services ancillary to the construction or remodelling of residential properties (except if the taxpayer opted for taxation concerning the supply or rental of the properties);
- food and beverages;
- restaurant or catering services,
- taxi services;
- parking services;
- road tolls;

- 30% of input VAT charged concerning telephone and mobile telephone services and internet protocol based voice transmission services;
- 50% of the input VAT related to services used for the operation and maintenance of passenger cars.

As a general rule, the input VAT deduction right can be exercised within the statute of limitation (5 years from the last day of the calendar year in which the tax liability or the deduction right arose).

If the deductible input VAT exceeds output VAT for a certain period, the difference may be claimed by the taxpayer, or it can be carried forward for the next VAT period. A two-year time frame has been imposed for exercising the VAT deduction right. Accordingly, VAT can be deducted at earliest in the tax period when it arose, or in following tax periods, but not later than in the course of the next calendar year.

7.7. VAT refund

Foreign taxable persons established in other EU Member States can reclaim Hungarian VAT under the *2008/9/EC Directive* procedure. The refund application shall be submitted to the Member State of establishment at the latest on 30 September of the calendar year following the refund period (in electronic format).

The minimum reclaimable input VAT amount is:

- for a period of less than a calendar year, but not less than 3 months: EUR 400;
- for one calendar year, or the remainder of a calendar year less than 3 months: EUR 50.

Foreign taxable persons not established in an EU Member State are entitled to a 13th Directive claim if they are established in a recognized third country with reciprocity agreement. Currently, Hungary has reciprocity agreement with Switzerland, Liechtenstein, Norway, Serbia and Turkey. In the case of Turkey the scope of mutual VAT refunds is limited to the VAT on fuel for goods and passenger transport, road tolls, good and services related to vehicle maintenance, and on good and services purchased in respect to presence at trade fairs. Taxable persons established in recognized third countries shall submit the reclaim application directly to the Hungarian Tax Authority.

7.8. Special schemes

There are special schemes for groups of taxable persons established in Hungary (VAT Grouping), exemption for small enterprises (as of 1 January 2021 up to HUF 12 million, approx. EUR 33,333), travel agents, margin scheme for second-hand goods, works of art and collectors items and antiques, farmers, transactions with investment gold and one-stop shop for telecommunication, broadcasting and electronic services.

7.9. Domestic reverse charge procedure

Domestic reverse charge procedure has been introduced for between Hungarian registered taxable persons in line with Article 199 of the VAT Directive for the following transactions:

- handing over of constructed real estate which shall be registered in the real estate register;
- provision of construction or other similar works, which are treated as services supplied for the purpose of building, expansion, remodelling and any other form of alteration of a

property, provided that the construction is subject to authorization by the competent building authority or to the building authorities acknowledgement;

- hiring out of employees and supply of staff;
- supply of certain waste materials;
- supply of real estate property that would be in general exempt from VAT, provided that the seller opted for taxation (with exception of supply of building plots, buildings before first occupation or buildings with an operating permit not older than two years);
- supply of collateral between a debtor and creditor if the pledged property is used for the enforcement of the receivable.
- supply of tangible assets or supplies of goods or services where the net amount exceeds HUF 100,000 (or approx. EUR 277) performed by taxpayers under liquidation;
- transfer of allowances to emit greenhouse gases;
- supply of certain grains and cereal products;
- supply of certain iron or steel products.

8. Other Taxes and Special Compliance Rules

8.1. EKAER – Electronic Public Road Trade System

Road transportation in Hungary was entirely subject to the Electronic Public Road Trade Control System (Hungarian acronym is “EKAER”). By using EKAER the actual route of the goods can be tracked, because transport related data have to be registered in a central electronic system before starting the transport.

Under the regulations in force since 1 January 2021, the EKAER reporting obligation covers the following activities:

- intra-Community acquisition,
- intra-Community sale,
- import and export for other purposes, and
- first supply of goods subject to VAT to a non-direct end-user in Hungary,

ONLY IF any of the above-mentioned activities are carried out by road transportation (by any kind of motor vehicle) and so-called notifiable products are transported.

In the terminology of the new regulation, the range of notifiable products is the same as the range of the previous “risky products”, which are defined in *Decree No. 51/2014 of the Ministry for National Economy*.

The notifiable products are therefore entirely equivalent to the risky products in the previous terminology, and the range of these products has not changed: it has not expanded, nor has it narrowed. Under the new rules, there are “notifiable (formerly: risky) foods” and “notifiable (formerly: risky) other products” for which the tariff headings have remained unchanged.

In other words, for products that did not qualify for risky products before, the EKAER obligation has ceased: whatever is the means of transport for a non-notifiable product, whatever its weight or value, the taxpayer is not required to make a declaration under the rules of the EKAER.

Furthermore, although the scope of activities subject to EKAER has not changed, but, in contrast to the previous regulation, the reporting obligation already applies to all motor vehicles, regardless of the toll obligation or the total weight of the given motor vehicle.

At the same time, the rules of the EKAER exemption for previously risky products also remained in force, so, among other things, there is no EKAER obligation for transports from the same consignor to the same consignee with the same vehicle, as long as neither the product value exceeds HUF 1 million (or approx. EUR 2,777), nor the product mass exceeds 500 kg.

However, the new regulation also allows for voluntary declaration, i.e. when a taxpayer decides to meet the legal obligations of the EKAER regulation at his own (or his business partner’s) discretion, even if the new regulations would not otherwise oblige him to do so (because the taxpayer transports non-notifiable products). It is important, however, that if a taxpayer opts for the voluntary declaration option, he must comply with all the rules of EKAER, with one exception, otherwise he may be fined. That exception is the security, since in the case of voluntary declarations, taxpayers do not have to pay a security and thus cannot be penalized for failing to do so.

In the case of road transport of notifiable products, taxpayers are still required to provide a security for their

- Intra-Community acquisitions of products, furthermore
- first domestic supply of goods subject to VAT, not directly to the end user.

However, this obligation shall not apply to products listed in Annex 3 of the Hungarian VAT Act (products with VAT rate of 5% and 18%, e.g. dairy products, fish, other meats, etc.).

There has been no change in the amount of the security: it shall be continuously equal to 15 per cent of the combined, tax exclusive value of the products declared at the time of reporting and of the notifiable products determined during the 45 days preceding the given reporting. For taxpayers failing to do so, EKAER number cannot be issued.

The previous 40 percent EKAER default penalty can only be imposed if the taxpayer fails to comply with the EKAER reporting obligation or reports an incorrect quantity or value to the EKAER system. In the case of other, minor errors (e.g. misspellings, failure to close, etc.), legal persons can be fined up to HUF 500,000 (or approx. EUR 1,389), natural persons up to HUF 200,000 (approx. EUR 555) – per *product unit*.

When the EKAER sanction system was amended in the summer 2020, it was explained in the explanatory memorandum to the amending law that in the legislator's terminology *one consignor – one consignee – one route – one vehicle* is considered as *one product unit*, and the above mentioned sanction will be based on this. Consequently, companies transporting a large number of notifiable products must continue to exercise extreme caution when submitting their EKAER reports.

8.2. BIREG

In addition to the relaxation of the EKAER rules (see the previous chapter), a new administrative obligation was introduced on 1 January 2021: the pre-permit registration system (or "**BIREG**"). The stated aim of the BIREG system is to protect domestic road transport companies, but its detailed rules are not yet clear to the target audience, which is further complicated by the fact that no guidelines have yet been published by the legislator.

The rules of BIREG have been incorporated into a pre-existing government decree (*Government Decree No. 261/2011*; "**BIREG Decree**") with the help of a government decree published on 31 December 2020. The interpretation of the law is complicated by the fact that government decrees do not have a legislative justification, thus the exact meaning of certain terms of the BIREG Decree is not sufficiently clarified.

BIREG is essentially an obligation to register and upload data of transports, which carried out in the territory of Hungary

- with a lorry with a maximum permissible laden weight of over 3.5 tonnes engaged in international road transit for a fee or on its own account, furthermore
- with a lorry without weight limit in the framework of the so-called cabotage (i.e. performed by a non-Hungarian haulier).

In the case of the first point above, only those international transport companies are obliged to register, which are subject to the so-called ECMT-, or bilateral licensing.

The registration and the uploading of the data related to the transport must be done on the official webpage (<https://bireg.gov.hu>), which interface was created by the Hungarian Ministry of Innovation and Technology (abbreviated as “ITM”). In addition to the Hungarian language, the free interface is also available in English, German and Russian, but unlike e.g. the interface of the Online Invoicing System, the official BIREG website does not contain any additional information, nor has ITM yet issued a formal notice regarding the use of the BIREG system.

To register the transports, the transport company shall be registered first, then can be added in the system the specific transport tasks belonging to the given company, in real time:

- in the case of delivery to Hungary, before crossing the Hungarian border;
- in the case of loading in Hungary, before the start of Hungarian loading.

The BIREG Decree imposes a reporting obligation not only on transport companies, but also on the consignor (seller) and consignee (buyer) of the transport, but these two participants should not use the BIREG surface yet. In the case of loading in Hungary, the consignor, or, in the case of storage in Hungary, the consignee is obliged to examine the existence and the date of the permit required for the transport, the existence of the BIREG transport registration, and should document its process of inspection. If any of these documents are missing or inadequate, the consignor or consignee must notify the appropriate authority. From 1 July 2021, these participants will be also required to use the electronic interface of the BIREG system to fulfil their obligations.

After the expiry of the one-month grace period, i.e. since 1 February 2021, the incomplete or missing BIREG registration or data report may lead to a fine, the amount of which may be up to HUF 300,000 (or approx. EUR 833) in the case of consignors and consignees, and up to HUF 800,000 (or approx. EUR 2,222) in the case of transport companies (in the latter case, the operator of the lorries shall be liable).

BIREG has only partially replaced the EKAER system. It seems clear that the Hungarian legislator intends to make the deliveries of companies exempted from the administrative burden of EKAER traceable through BIREG (with this less VAT evasion is expected, consequently higher incomes for the Hungarian budget). However, in the case of notifiable (or formerly: “risky”) products subject to EKAER, BIREG should be applied in parallel with the EKAER system, i.e. the companies involved can expect increased administrative burdens.

8.3. Customs Duties

With Hungary’s accession to the European Union, the country’s customs authorities started to perform only limited routine customs checks of goods transferred across the EU internal borders.

Any trade within EU Member States is considered intra-Community trade and is not subject to routine customs checks or duties or other fees collected in relation to the import or export of goods. Customs procedures apply to goods moved from / to non-EU countries.

8.4. Excise Duties

Excise duties are due on import or production of excise goods, such as mineral oils, energy products and electricity, alcohol and alcoholic beverages, beers, wines, sparkling wines, intermediate alcoholic products and tobacco products.

Excise duties can be levied either as a fixed amount per unit of measurement of a product or as a percentage of the retail price, depending on the product under consideration.

Excise duties are single phase and are levied on the manufacturer, importer or wholesaler.

8.5. Local Business Tax

Business activities pursued on a local municipality's territory either on a permanent, or on a temporary basis are subject to local business tax (hereinafter: "**LBT**").

As of 1 January 2021, the concept of temporary business activity and the related LBT obligation ceased to exist.

It is important, however, that it continues to be a permanent establishment and thus subject to LBT in the event of a construction activity lasting more than 180 days in the area of jurisdiction of the municipality where the contractor carries out the construction activity. All calendar days of the period up to the date of the customer's acceptance of performance shall be taken into account.

The LBT liability arises with the commencement of business activities. All enterprises subject to local business tax are required to register with the local government authority within 15 days from the commencement of their activities.

The local business tax base shall be calculated based on the accounted net sales revenues (excluding the royalty revenues) reduced by the purchase value of goods sold, mediated services, subcontractor services, material expenses and direct costs of basic research and applied research and development. The sum of cost of goods sold and mediated services deductible from the tax base is limited to a percentage of the net sales revenue if the net sales revenue exceeds HUF 500 million (or approx. EUR 1,388,889), i.e. the decreasing item cannot exceed the following percentages of the net sales revenue within the following net sales revenue ranges:

- up to HUF 500 million (or approx. EUR 1,388,889) net sales revenue: 100%,
- between HUF 500 million and 20 billion (or approx. EUR 55,555,556): 85%,
- between HUF 20 billion and 80 billion (or approx. EUR 222.22 million): 75%,
- above HUF 80 billion: 70%

Related parties are obliged to calculate their local business tax liability on a consolidated basis if the aggregated amount of costs of goods sold plus mediated services exceeds 50 percent of their net sales revenue. As of 2017 the above consolidation of the tax base is only applicable for companies qualifying as related parties as a result of demerger following 1 October 2016.

The maximum rate of tax is 2.0% (determined by each local government individually).

In case of temporary business activity, the amount of tax per day can not be higher than HUF 5,000 (or approx. EUR 14).

8.6. Innovation contribution

Companies with Hungarian domestic establishment within the scope of the Hungarian accounting rule sare subject to innovation contribution whose tax base is equal to the LBT tax base. The rate of innovation contribution amounts to 0.3%. Small and medium sized entrepreneurs are exempt from the innovation contribution payment. Hungarian branch offices of foreign companies are also exempted from paying the innovation contribution.

8.7. Transfer duty

The acquisition of property in form of inheritance, gift or purchase may be subject to transfer duty. The general rate of the inheritance and gift transfer duty is 18%, in case of inheritance or free of charge acquisition of residential property 9%.

The acquisition of real estate property or movable property or rights specified in the law is subject to transfer tax. The general rate is 4% of the market value of the property acquired for consideration (up to the HUF 1 billion – or approx. EUR 2.78 million – of the property's market value; the part of the market value exceeding HUF 1 billion is subject to 2% transfer duty rate). The acquisition of a real estate or holdings in a company with holdings in real estate properties located in Hungary may be subject to transfer duty even if the supply takes place between foreign resident persons.

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