HUNGARY

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1. INTRODUCTION

a. Forms of Legal Entity

Form	Liability of shareholders	Minimum capital (HUF)	Minimum of founders and shareholders	Registration in commercial register
Limited liability company (Kft.)	Limited	3 million	One	Required
Joint stock company (Zrt. / Nyrt.)	Limited	5 million (private) 20 million (public)	One legal entity or at least two individuals	Required
Limited partnership (Bt.)	Unlimited and Limited		At least two (general and limited)	Required
Unlimited partnership (Kkt.)	Unlimited		At least two	Required
Sole proprietorship (Ec.)	Unlimited or Limited		One only	Required

Foreign investors may also engage in business in Hungary by establishing a branch office ("fióktelep"). A branch office is the Hungarian registered part of a foreign undertaking that operates in Hungary with economic independence but without legal personality. A branch office may carry on business activities, acquire property, exercise certain rights and assume liabilities in its own name.

b. Taxes, Tax Rates

i Taxes generally applicable for businesses

Tax	Taxable person	Subject	Tax base	Tax rate
Corporate income tax ("CIT")	Enterprise or partnership with a seat or place of management in Hungary; Hungarian PE of foreign entities	Business activity	Pre-tax profit ± adjusting items	9% (a minimum CIT is levied on the tax base amounting to 2% of the total adjusted income, which may be avoided by submitting a special declaration to the tax authorities)
Local business tax	Entrepreneur, enterprise	Business activities performed on the territory of a local municipality	Adjusted sales revenues (decreasing items: material costs, subcontractor costs, COGS, intermediated services, direct R&D costs)	Maximum rate: 2% (defined by the respective municipality)

Tax	Taxable person	Subject	Tax base	Tax rate
Small-sized enterprise tax ("KIVA")- optional	Small-sized domestic enterprises with an annual income or balance sheet total up to HUF 1 billion (approximately EUR 2.8 million) and less than 50 employees	Business activity	Adjusted cashflow balance increased by disbursement of personal costs	10% (if chosen, it replaces CIT, social contribution tax and vocational training contribution)
Value added tax ("VAT")	Individuals and entities (with or without legal personality) that carry on business activities	Supply of goods and services	Consideration received for the supply of goods and services	27% standard VAT rate 18% reduced VAT rate 5% reduced VAT rate

ii Employment taxes

Tax	Taxable person	Subject	Tax base	Tax rate
Taxes to be withheld from the individual				
Personal income tax	Private person	Income	Private individual's income (salaries, dividends etc.)	15% (tax allowances are available)
Social security contributions	Employee	It is an employment tax	Gross salaries	18.5%
Taxes payable by the employer				
Social contribution tax	Employer	It is an employment tax	Gross salaries	13 % (tax allowances are available)
Rehabilitation contribution	Companies employing more than 25 persons	It is an employment tax if the number of employees with disabilities does not exceed 5% of the total labour force	A lump-sum applies	Up to HUF1.8 million (EUR5,000) per year, per person below the required level

iii Surtaxes and other sectoral taxes

Hungary applies other small or sector specific taxes in the following fields (please contact us for the details):

- Property taxes : building taxes and land plot taxes are payable at local level based on the volume or value of the real property.
- Transfer tax : due for the acquisition of immovable or movable property, or a shareholding in a real estate holding company; and motor vehicles and trailers also create tax obligations.
- Company car tax : payable by the owner or lessee of a passenger car, depending on the power and emission classification of the vehicle.
- Green tax : relevant for items (packaging material, advertising paper, batteries, tires, electrical equipment etc.) which become waste in the territory of Hungary, the tax subject is the person first placing the product on the domestic market or utilising it for their own use.
- Public health tax ("chips tax") : payable over certain products (snacks, energy drinks, syrup, jam etc.); in addition, tobacco and alcohol products are subject to excise taxes.
- Surtaxes are payable in the following sectors : retail, financial and bank sector, insurance, energy suppliers, telecommunication, public utilities, pharmaceuticals, advertisement.

iv Administrative obligations

Hungary places heavy administrative obligations such as (these are only examples, in practice other obligations may apply) :

- Online invoice data submission in real time : applicable to each and every outgoing invoice directly by the invoicing software automatically without manual intervention;
- EKAER : reporting of transportation of products categorised as risky (e.g. food, clothing, construction materials, etc.) into, within and out of Hungary is an obligation prior to the transportation; and
- BIREG : reporting and verification of international transportation is also obligatory.

c. Common divergences between income shown on tax returns and local financial statements

Taxable income for corporate income tax is based on the financial statements prepared in accordance with the Hungarian accounting standards. The CIT base is then calculated by adjusting the accounting pre-tax profit by various increasing and decreasing items specified by the Hungarian Act on CIT. In case of opting for IFRS based accounting instead of the Hungarian accounting standards, specific tax base adjusting items apply, examples are included in the following table.

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Pre-tax profit according to the financial statements

Tax base increasing items	Tax base decreasing items
Non-business expenses	Business expenses
Accounting depreciation	Tax depreciation
Provisions as expenses	Provisions as revenues
Impairment	Bad debts
Waiver of claims	Dividend income
Limitation of interest deduction	Development reserve
Penalties	R&D costs
Negative tax audit findings	Positive tax audit findings
Exchange losses on long-term foreign currency monetary items	Exchange gains on long-term foreign currency monetary items
Preferential exchange of shares	Preferential exchange of shares
Losses under the preferential transformation scheme	Gains under the preferential transformation scheme
Losses under the reported participation scheme	Gains under the reported participation scheme
Gains realised on reported intangibles	Losses realised on reported intangibles
Positive after-tax profit of CFCs	Development reserve for intangibles
	Royalty income
	Maintenance of listed historical buildings
	Employment of disabled persons
	Initial costs of electric service stations
	Donations

Following the above adjustments this provides the Tax base, subject to 9% CIT, decreased by tax allowances, as follows:

- Up to 80% : development tax allowance.
- Up to 70% (of the remaining tax liability) : investments aimed at increasing energy efficiency; subsidies to film production and certain team sports; tax allowance for SMEs; live music services.

Resulting in the after-tax profit.

2. RECENT DEVELOPMENTS

a. 2019 tax amendments

As of 1 January 2019, 'corporate group taxation' became available in Hungary for domestic taxpayers further details are included in Section 3 below.

In the system of Hungarian CIT, companies are entitled to set up a tax-deductible reserve (so called "development reserve") of up to 50% of the pre-tax accounting profit by transferring the amount from the retained earnings into the tied-up reserve, which shall be used for investments within four financial years. Development reserve has an effect of accelerated depreciation, as assets acquired using this reserve may not be depreciated for tax purposes up to the value of the reserve used. As of 1 January 2019, the amount of development reserve granted as a tax base benefit increased from HUF0.5 billion to HUF10 billion (from approximately EUR 1.56 to EUR 31.25 million).

In line with the expectations of the European Union, the rules on limitation of interest deductions were also amended, further details are included in Section 6.

The utilisation deadline of losses carried forward from periods before 2015 was modified from 2025 to 2030 (i.e. extension of grandfathering provisions). For losses generated on or after 1 January 2015, a five tax year limitation rule applies.

New rules apply to transfer pricing documentation as of 1 January 2018 further details are included in Section 10 below.

b. 2020 tax amendments

The concept of Asset management foundations was introduced into the legislation as a new type of taxpayer.

For small and medium sized enterprises, the investment thresholds required to qualify for the development tax allowance were decreased. Furthermore, from 1 January 2020, headcount criteria for supported investments became easier.

In line with the harmonisation of ATAD legislation, the taxation of capital withdrawal (exit tax) was implemented in Hungary, in cases where the right of taxation is transferred abroad. The application of anti-hybrid mismatch agreements resulted that costs, expenditures and pre-tax profit reductions on the tax base cannot be applied if this practice results in tax avoidance due to differences in the legal classification of different member states and affiliated companies are involved in the transaction.

c. COVID-19 changes

During the COVID pandemic, several repeated and postponed state of emergency rules were in place in Hungary. During this period special measures were introduced to support maintenance of employment, to motivate new investments with the aim of increasing competitiveness and to create new jobs. After the emergency period, the majority of the measures were implemented also on a long-term basis too. The below summary provides an overview.

Employment supports included sector-specific tax and contribution reliefs to reduce employment related tax burden for selected sectors that were most affected by the corona virus crisis and breakdown. Similar measures were also available for small taxpayers operating in the selected sectors too. State supports were also available to improve employment in case of reduced working hours (Kurzarbeit), the employment of R&D specialised staff, and to employ former unemployed persons.

The reduction of social contribution tax from 17.5% to 15.5% over employment income as from 1 July 2020 ongoing was a measure affecting all employers without sector specific.

Tourism as another preferred area was supported with tax exemptions and with the increase of attractivity to tourism oriented benefits in kind. State aid programs were available to facilitate investments into this area.

Investments were motivated with the extension of development reserves, which is a form of accelerated depreciation for taxes. During the pandemic, the limits for development reserves had been extended up to the amount of the total pre-tax profit with a yearly cap of HUF10 billion (EUR28.5 million). After the emergency period the former 50% limit returned. State aid and preferential loan programs got a significant place to support and facilitate additional investments.

Surtaxes were also levied to finance the economic package. Retail surtax was reintroduced with a permanent and long term character, while banking surtax was temporarily increased with the potential to offset the additional burden in the next five years.

Tax administration enlightening included quicker refund of VAT, the maintenance of reliable taxpayer status despite of potential financial difficulties during the pandemic, the automatic return of EKAER deposits to businesses.

The deadline for disclosure of 2019 financial statements, together with the yearly tax reporting was extended (not available for so called companies of public interest; e.g. corporations traded on the stock exchange of the European Economic Area, financial institutions, insurance companies, etc.), from 31 May to 30 September. Tax advance payment deadlines were also postponed to this date (30 September).

d. 2021 changes in taxation

The LBT rate for SMEs meeting certain conditions reduced from maximum 2% to 1% as a de minimis state aid. Electronic tax return forms are introduced and widened for local taxes through the central tax administration, meaning that the taxable persons shall only submit one LBT return to the HTA, instead of submitting the LBT returns to each local government according to its permanent establishment.

e. 2022 tax amendments

- Taxes on labour: social tax was reduced by 2.5 percentage points, from 15.5% to 13% as of 1 January 2022 and at the same time the obligation to pay the vocational training contribution of 1.5% was eliminated. Both were payable by the employer over gross salaries, so a total decrease of 4% was introduced.
- Other personal income tax advantages entered into force : for example, refund of taxes paid in 2021 by families with children and a tax exemption for young people under the age of 25.
- At the same time the retail Surtax for an annual turnover of over HUF100 billion (approximately EUR278 million) were increased from 2.5 % to 2.7%. Moreover; these large retail companies are obligated to deliver the near-maturity food products (48 hours prior the quality retention period) to the established state owned Food Rescue Centre.
- To limit the effects of increasing inflation, certain price limits were introduced for specific basic foods and fuel.

For updated information please contact your Taxand team in Hungary at:
https://www.leitnerleitner.hu/hungary/hu/about-us

3. SHARE ACQUISITION

a. General Comments

- No VAT is due on a share deal.
- Transfer tax only applies if due on a transaction of a shareholding of at least 75% in a real estate holding company. A company qualifies as a real estate holding company if at least 75% of total assets in the balance sheet are represented by real estate located in Hungary, further details are included in 3.f. below.
- In a domestic transaction, capital gains deriving from the share sale are subject to the 9% Corporate Income Tax ("CIT"), which may be offset by the losses carried forward up to 50% of the tax base.
- A reported participation scheme is available in local transactions to achieve exemption from future capital gains at exit (for details see 7.a.).
- The Corporate Income Tax ("CIT") liability over capital gains may arise for the sale of real estate holding companies even in an international scenario (for details see 9.a.).
- Limitation on loss carry-forwards at the level of the target may apply (see 3.b.i.).

b. Tax Attributes

Restricting regulations are in place in Hungary limiting the loss carry forwards in the case of the entrance of new owner(s) via quota/share sale and purchase. In this case, the losses of the company are only available if the activity of the target company is continued without significant changes in nature in the next two years following the acquisition, and the taxpayer realises revenues from this activity. Carried forward losses of the company can only be utilised in proportion to the revenues realised from its former activity.

c. Tax Grouping

Corporate group taxation is available in Hungary for domestic taxpayers. Even two Hungarian companies may form a group, but the number of participants is not limited. A strict ownership concentration (75% direct or indirect business relationship) is the prerequisite of the creation of a tax group for Corporate Income Tax ("CIT") purposes. The group members shall have the same balance sheet date, their books and records shall be kept in the same currency and they shall prepare their financial statements under equal principles (i.e. Hungarian GAAP or IFRS).

Advantages of the creation of a tax group for CIT purposes in Hungary are as follows:

- Transfer Pricing ("TP") documentation only needs to be prepared at the group level, (i.e. transactions within the domestic tax group members will be exempt from TP documentation and related price adjustment obligations for transactions commencing on or after creating the group).
- The tax bases of the group members may be consolidated (i.e. actual losses may offset actual profits).

d. Tax Free Reorganisations

Under the preferential transformation scheme, the reorganisation is basically a tax neutral transaction. However, the transformation qualifies as preferential only if the transaction is supported by real business and commercial reasons, the owners of the predecessor obtain shares in the successor and cash of up to a maximum of 10% of the nominal value of the acquired shares is paid, (i.e. a pay out to the sellers is not possible within the merger under the preferential scheme). As a consequence of the preferential scheme, the difference between tax and accounting depreciation and also a potential revaluation difference realised at the acquiring entity, will not be subject to CIT immediately at the time of the reorganisation, but can be deferred.

Please note that loss carry forward limitations apply in terms of corporate reorganisations as well.

e. Purchase Agreement

In the case of a share deal concluded between a Hungarian resident private person (as a seller) and a Hungarian resident corporation (as buyer), it may be advisable to add some special provisions to the agreement, as the income tax liability arising on the capital gain realised by the private individual seller is taxable based on Hungarian tax law. Regarding the capital gain deriving from the purchase price received from the Hungarian corporate buyer, it is liable to calculate and withhold taxes and social security contributions due as a disburser. After withholding the taxes from the payment executed to the private individual, the buyer will have to pay the taxes to the Hungarian tax authority and only the net amount will be transferred to the private individual seller. The buyer is required to obtain numerous pieces of information concerning the individual seller (e.g. personal data, detailed data on the acquisition price of the shareholding, etc.), that is why inserting the special provision referred to above into the Purchase Agreement is highly advisable.

f. Transfer taxes on share transfers (including mechanisms for disclosure and collection)

According to the Hungarian legislation, a share deal is subject to a real estate transfer tax in Hungary (similarly to the transfer of the real estate itself), provided that the shares transferred are held in a real estate company. For transfer tax purposes a company qualifies as a real estate company if the balance sheet value of the real estate located in Hungary exceeds 75% of the balance sheet value of the total assets or this company holds at least (directly or indirectly) a participation amounting to 75% in a company where 75% of the balance sheet value of the total assets are domestic real estate. The transfer tax base is the market value of the real estate owned by the company. The tax rate is 4% (on the market value of the acquired property) up to a value of HUF1 billion (approximately EUR2.8 million) and 2% above this threshold. The tax will be capped, however, at HUF200 million (approximately EUR555,500) per property. The transfer of the shares held in a real estate company between related parties is, however, free from transfer tax.

As the acquisition of a share in a real estate holding company is not subject to any real estate registration proceedings, it shall be reported by the contracting parties directly to the Hungarian Tax Authority within 30 days after the transaction. An order for payment (decision) by the tax authority will be issued about the payment obligation, which shall be paid within 30 days from the notification of the decision.

g. "Purchase accounting" applicable to share acquisitions

Purchase accounting in Hungary is not applicable. According to Hungarian GAAP, the assets and liabilities of the target company in a business combination may be consolidated on book value or on a revalued amount. Similarly, it is also the entity's choice (which prepares the consolidated financial statements), whether they apply the values of assets and liabilities as of the acquisition date or the balance sheet date.

h. Share Purchase Advantages

In the case of a transfer there might be changes in the circumstances of the company that can lead to the reversal of impairment losses recognised earlier and the revision of depreciation and amortisation policies. These revisions do affect the CIT base.

In Hungary, a tax certificate may be obtained to show that all reported taxes are paid and there is no tax underpayment at the tax accounts held by the Hungarian Tax Authority. Moreover, taxpayers are also qualified based on their previous operations and tax compliance into categories as reliable, normal or risky (depending on the years of operation, taxpayer's tax position, tax shortages and outstanding tax liabilities in the past, history of penalties and enforcement proceedings against the company, etc.).

i. Share Purchase Disadvantages

- The buyer may not recognise goodwill on a share deal in their standalone financial statements.
- There is potential restriction of the utilisation of loss carry forwards in the target company, further details are noted in Section 3.b. above.

4. ASSET ACQUISITION

a. General Comments

- Gains deriving from an asset deal are part of the tax base and as a consequence, they are taxable for the seller.
- Asset deals are subject to VAT at a rate of 27%.
- Goodwill can only arise in connection with an asset deal.
- Preferential schemes are available for gains realised on reported intangibles and the development reserve for intangibles may be exempted from Corporate Income Tax ("CIT") if certain conditions are met.
- If the transferred asset is immovable property located in Hungary or real estate related rights, the transaction triggers a transfer tax liability (for details see 4.g.).

b. Purchase Price Allocation

The purchase price shall be distributed amongst the assets purchased, as these assets are to be recorded separately in the accounting entries of the buyer. Together with the purchase price, the value allocation also has to be agreed between buyer and seller within the sale and purchase agreement and can it be disputed by the tax authorities.

c. Tax Attributes

As the seller, any gain from the sale of assets is taxable. As a Hungarian seller, the gain is part of the tax base and subject to 9% CIT. The seller's tax attributes, such as losses carried forward, should be taken into account and may offset the taxable gain up to 50% of the tax base. Transfer pricing rules also apply to sales of assets between related parties.

The buyer is not entitled to any of the acquired entity's tax attributes since only the assets are being purchased, (i.e. losses carried forward do not transfer to the buyer in an asset deal). In case of asset deal the buyer values the purchased assets according to the purchase price applied, so the buyer may benefit from a potentially higher volume of depreciation that can be applied in the future periods.

In an international transaction the treaty provisions and local rules in the selling country should be considered.

d. Tax Free Reorganisations

The transfer of a going concern ("TOGC") may not have the legal effect of the supply of goods, (i.e. the transaction may be treated as out of the scope of VAT if certain conditions are met); for example, the aim of purchase is the ongoing operation of the going concern, the acquiror is a domestic taxpayer and the business activity carried out by the going concern is subject to VAT etc.

For Corporate Income Tax ("CIT") purposes, it is possible to treat an asset transfer as a tax neutral transaction under the scheme of preferential asset (business line) transfer. In this scheme, the seller receives a shareholding in the acquiror in consideration for the assets. Special rules apply to the utilisation of carried forward losses generated by the business line prior to the transfer.

e. Purchase Agreement

If an asset deal qualifies as tax exempt under the transfer of a going concern regime ("TOGC"), it is recommended to include this fact in the purchase agreement, along with the declarations of the transferee required by the Hungarian VAT Act (i.e. the transferee is subject to and registered under Hungarian VAT and ready to assume certain liabilities in connection with the purchase). In the absence of the mentioned declarations, the TOGC regime cannot be applied.

f. Depreciation and Amortisation

Goodwill cannot be accounted for in share acquisitions, even if the majority of the shares are bought. Goodwill is the difference between the consideration paid for a given branch, (i.e. business unit of a company and the market price of the acquired assets less the value of the acquired liabilities). A branch / business unit (going concern) is a functional part of the company that entails the necessary assets and all of the linked liabilities. Consequently, goodwill can only arise in the case where there is an asset deal.

If the useful life cannot be estimated, goodwill shall be amortised over at least five but up to a maximum of 10 years. If the future profit expectations are continuously and substantially below the market price due to negative circumstances, extraordinary amortisation shall be accounted for. Reversal of such extraordinary amortisation is not allowed. In case of negative goodwill, the amount shall be accounted for as a deferred income. Deferred income related to negative goodwill shall also be eliminated (and other income recognised) over five to 10 years. However, reversal of deferred income over more than five years shall be justified.

For Corporate Income Tax ("CIT") purposes the accepted amortisation key for goodwill is 10% if the taxpayer encloses a declaration to the tax return stating that the recognition and derecognition of goodwill was conducted according to the proper exercise of rights. Extraordinary amortisation is not recognised at the CIT base (i.e it is not tax deductible).

g. Transfer Taxes, VAT

An asset deal in general is subject to VAT. A building and land on which it stands might be VAT exempt if it is not the first sale of the building, before the issuance of the occupation permit, or the date of sale does not fall within two years of the issuance of the permit. Transfer of the entirety of assets by the going concern may be out of the scope of VAT (please see more details about such TOGC regime above).

If the transferred asset is an immovable property located in Hungary, a motor vehicle, a trailer or related rights, the transaction triggers a transfer tax liability payable by the buyer. In the case of real estate and related rights, a tax rate of 4% of the market value up to HUF1 billion (approximately EUR2.8 million) applies and 2% on the exceeding amount in case of real estate and related rights. However, transfer tax payable by the buyer cannot exceed HUF200 million (approximately EUR555,500) per property. Preferential rates apply (3% or 2%) in case of acquisition of land plots for building residential properties. For motor vehicles, the tax rate depends on the age and the power (kW) and on total weight in case of trailers.

h. Asset Purchase Advantages

A reported scheme is available to intangibles as well, providing a capital gain exemption after a one year holding period. However, the reporting must be done within 75 days of acquisition or creation of the intangible asset and the tax base shall be increased if capital losses occur. The intangible asset to be reported shall qualify as a royalty generating intangible asset, otherwise the preferential tax treatment is not available.

Capital gains realised on the alienation of royalty generating intellectual property and pecuniary rights may also be exempt from CIT provided that a special development reserve is created in the tied-up reserves in the amount of the capital gain (if not reported as an intangible asset). The special reserve must be used within five tax years for the acquisition of similar royalty generating intangibles; otherwise the unpaid tax at the tax rate of the year of generating the special reserve, along with respective late payment interest is due.

i. Asset Purchase Disadvantages

During the acquisition of assets, the purchaser cannot be held liable for any historical tax liabilities of the seller. There might be certain assets financed at least partially from tax incentives or state aid, where a prohibition of disposal may be in force, this is however an issue for the seller.

There is no central property taxation (i.e net worth taxation) in Hungary. Local municipalities may introduce land and building tax, which are based either on physical attributes (net floor area) or market value (adjusted). The market value is calculated based on the statistical database of the Tax Authorities. The market price approach applies also on transfer taxes, where the actual purchase price may be overridden by the market price for transfer pricing purposes.

5. ACQUISITION VEHICLES

a. General Comments

If a holding company intends to decrease its Corporate Income Tax ("CIT") base by any costs incurred at the level of the holding, further, if it intends to deduct input VAT, real economic activity should be performed. An active holding company, if it is actively engaged in performing economic activities (e.g. by providing management services to its subsidiaries), may be able to deduct costs and recover input VAT. An active holding company is expected to have its own fixed assets, as well as a sufficient number of personnel to perform economic activities.

Neither the wording of the law, nor any publicly available tax authority guidelines provide guidance on the level of substance requirements; however, we may rely on an old guideline that was applicable to substance requirements for CFCs. Specific review is recommended on a case by case basis.

b. Domestic Acquisition Vehicle

Potential advantages of interposing a Domestic Acquisition Vehicle in the company structure:

- In case of a domestic acquisition a reported participation scheme is available that may result in a tax neutral outcome for the acquisition and sales of shares at the level of the Domestic Acquisition Vehicle (for details see Section 7.a.)
- Corporate group taxation is available only for domestic taxpayers (see Section 3.c.).
- Establishing a Hungarian special purpose vehicle ("SPV") might be recommended for debt pushdown purposes, provided that the purchase of the shares is financed mostly with foreign capital; however, debt pushdown might be considered as tax abusive practice by the Hungarian Tax Authority under certain circumstances.

c. Foreign Acquisition Vehicle

Interposing a Foreign Acquisition Vehicle in transactions aimed at acquiring a Hungarian target company with significant real estate assets may be advantageous and should be reviewed on a case by case basis. Hungary has a wide network of tax treaties and also signed the OECD Multilateral Convention ("MLI") on 7 June 2017. According to a couple of tax treaties, the income from alienation of shareholdings in Hungarian entities deriving their income principally from real estate is taxable solely in the country where the entity alienating the shareholding is resident.

Further, the Hungarian government released its list of Reservations and Notifications to the MLI. As far as Article 9 of the MLI is concerned, which deals with Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property, Hungary reserved the right not to apply Article 9 on its Double Tax Treaty Agreements covered by the MLI. Consequently, no changes are expected to the current approach of taxation regarding the alienation of shareholdings held in 'real estate companies' (see Section 9.a.). The MLI entered into force as of 1 January 2022, which need to be investigated in all cross border cases.

Moreover, based on the domestic legislation, Hungary does not levy withholding tax on dividends, royalties and interests paid to foreign companies; however, withholding tax liability may apply on income paid to private individuals or transparent partnerships, unless exempted or reduced by the respective tax treaties.

d. Partnerships and joint ventures

Domestic Hungarian partnerships (i.e. Bt. and Kkt.) are treated as non-transparent taxable persons in Hungary and taxed quite similarly to corporations.

Joint Ventures are not regulated and are not considered to be a separate legal entity in Hungary. Therefore, when establishing JVs, the general legal principles of corporate law and civil law need to be taken into account.

JVs are generally established by setting up a separate target company (corporate JV). The participants can decide which legal entity or corporate form they use for this purpose. The participants to the corporate JV can regulate their business co-operation within the established target company by an agreement. Generally, it is preferable to establish the corporate JV as a private joint stock company (Zrt.) because special rights and obligations can be attached to the shares in such.

e. Strategic vs Private Equity Buyers

The Hungarian economy is open and thereby greatly exposed to foreign investments; therefore, most of the acquirors, either a strategic or a private equity acquiror, are foreign persons. Top economic players are usually foreign multinational corporations with their supplier networks. Only a few domestic companies could reach the level of these foreign companies. The number of successful mid-sized corporations or start-ups who could act as acquirors is limited. A great number of successful mid-sized corporations are family businesses who consider M&A to be an unknown field. There are examples for both strategic and private acquisitions; nevertheless, this market is relatively small from the viewpoint of Hungarian domestic acquirors.

6. ACQUISITION FINANCING

a. General Comments

There are no particular administrative requirements to note relating to the transfer of funds either to the country or out of the country.

b. Equity

In Hungary, there are no tax incentives aimed at supporting equity financing. From a Hungarian point of view, besides having lots of indirect business advantages, equity financing may decrease or eliminate the adverse tax consequences deriving from the interest deduction limitation rules.

However, we note that based on domestic legislation, Hungary applies no withholding taxes over distributed dividends, interest payments, service charges and royalties.

c. Debt

i Limitations on use of debt

The Hungarian tax legislation does not include safe harbour provisions providing guidance for the optimal debt/equity ratio of an entity. The former 3:1 debt to equity ratio under thin capitalisation rules was replaced in 2019 by the interest deduction limitation rules. Nevertheless, there are some general rules that shall be considered in connection with the company's capital structure. As per the Hungarian Civil Code, certain legal requirements shall be met regarding the capital of the entity:

- Minimum capital requirements : see Section 1.
- Short term capital loss : If (1) the entity's own equity drops less than the half of the registered capital due to a loss, or (2) the entity's own equity falls under the level of the statutory minimum capital requirement, an extraordinary general meeting shall be convened without delay. This situation may require additional cash contribution or decrease of the registered capital by the owners.
- Long term capital loss : If the entity's own equity does not reach the statutory minimum level of registered capital in two consecutive business years and the shareholders do not grant the required equity within 3 months after the approval of the annual financial statements of the 2nd business year, the shareholders shall decide upon the transformation or liquidation of the entity in 60 days after the above deadline.
- Besides the above, when deciding about the financing of an acquisition, interest deduction limitation rules and the general approach of the Hungarian Tax Authority concerning debt pushdown should be taken into account.

ii Limitations on interest deductions

As of 1 January 2019, interest limitation rules have been applied in Hungary. If the amount of net financing costs (i.e. interest expenses less interest revenues) exceeds 30% of EBITDA or HUF939.81 million (approximately EUR3 million), whichever is higher, the excess part will not be acknowledged in the CIT base of the given tax year. However, the excess borrowing costs which are not acknowledged may be carried forward for future periods without any time limitation and in the subsequent tax years a tax base decrease is available in the amount of 30% of the EBITDA of that tax year. The positive difference between the 30% of the EBITDA and the net financing costs may be carried forward for a period of five tax years to offset the potentially non-deductible net financing costs of the subsequent tax years. These provisions are basically applicable to interests deriving from all kinds of loans, including loans from financial institutions, irrespective of the related party status of the lender. Special exemption rules apply to companies belonging to company groups drawing up consolidated financial statements.

iii Related Party Debt

According to the CIT rules, transfer prices applied between related parties must be in line with the arm's length price, (i.e market interest rate should be defined on related party debt in the calculation of CIT liability), otherwise the necessity of adjusting the Hungarian tax base emerges.

Please note that transfer pricing adjustments should be applied on top of any other tax base adjustments even in parallel.

iv Debt Pushdown

Leveraged buyout is a possible strategy that may be accepted from a debt pushdown perspective. In the case of a leveraged buyout, the financial institute providing the loan is required to have a holding company which is merged into an acquisition company, assuming that more than one investor is planning the acquisition.

The holding company acquires the target company and after that the two entities merge in order to decrease administration burdens. However, debt pushdown and the consideration of related interest expenses as tax base decreasing items might be challenged by the tax authority, if the reorganisation is not adequately supported by sound business and commercial reasons.

d. Hybrid Instruments

Hungarian tax legislation already contains some anti-hybrid provisions mainly on the level of general taxation principles. According to the currently applicable anti-hybrid rule, the Hungarian CIT regulation grants the participation exemption of dividends only if the disbursing entity cannot account for a cost or expenditure concerning the amount disbursed as a dividend (i.e. the scenario of double non-taxation is already avoided).

Hungary is subject to the EU Anti-Tax Avoidance Directive I and II ("ATAD"). ATAD I and II include provisions on hybrid mismatches too, which are implemented into the domestic law as of 2020, 2021 and 2022. Accordingly, the avoidance provisions about hybrid mismatch agreements were also introduced.

e. Other Instruments

This section is left intentionally blank.

f. Earn-outs

The accounting treatment for earn-outs is not specifically regulated under Hungarian GAAP; therefore, there are some uncertainties among professionals on this topic. According to publicly available guidance of the Ministry of Finance, the earn-out may only be taken into account in the initial cost of the shareholding or transferred assets at the time of the purchase if the amount can be estimated reliably. In the case where there is a lack of reliable estimation, the earn-out only affects the initial cost of the asset when the future conditions are fulfilled, and the seller is entitled to the earn-out. In this case; however, the initial cost of the shareholding or other asset, the depreciation, the amount of goodwill etc. shall be modified retroactively. The accounting treatment varies upon the amount of the earn-out. If it is significant, self-revisions should be carried out on the respective financial statements (i.e. the numerical impact shall be presented in the current financial year in so called three column financial statements). On the other hand, should the effect of the modification qualify as insignificant, the total effect of the modification may be accounted for in the current financial year, as a simplification allowed by law.

The accounting treatment of earn-outs also has tax consequences through the potential modification of previous depreciation, amortisation, impairment and even if the total effect is accounted for in the current financial year. However, self-revision of tax returns should be performed based on the tax legislation and that might differ from the accounting rules.

7. DIVESTITURES

a. Tax Free

Under the “reported participation scheme” (which is available to Hungarian corporate tax residents), capital gains realised upon the alienation of domestic and foreign shareholdings (including contributions in kind) are tax exempt, provided that the participation is held for at least one year and the acquisition of the shareholding is reported to the tax authorities within 75 days after the acquisition is registered by the Court of Registration (or after the contract on the acquisition takes effect, if no registration is required by the Court). Although capital gains under the scheme are tax exempt, capital losses are not deductible.

b. Taxable

If the acquiror does not opt for the reported participation scheme, the gains realised by a Hungarian corporate taxpayer on the alienation of shares are subject to CIT with a flat rate of 9%.

c. Cross Border

Hungary had to adopt the exit taxation provisions of the EU Anti-Tax Avoidance Directive (“ATAD”) into the domestic legislation until 31 December 2019.

According to numerous Hungarian double tax treaties, gains from the alienation of any property (with a few exceptions) shall be taxable only in the state of which the alienator is resident.

Contrary to this, taxation may be shifted to Hungary for real estate holdings assuming that both domestic and treaty rules allow such inclusion.

8. FOREIGN OPERATIONS OF A DOMESTIC TARGET

a. Worldwide or territorial tax system

A corporation or partnership having its statutory seat or place of effective management in Hungary is subject to unlimited CIT liability here, which provides for a taxation of the worldwide income (subject to the applicable tax treaties). Where there is no tax treaty, proportional offsetting of the foreign corporate tax liability against the domestic tax liability is possible.

b. CFC Regime

A foreign entity taxed with a lower effective tax rate as computed with the Hungarian rules may only qualify as a Controlled Foreign Company if:

- A Hungarian resident taxpayer holds a direct or indirect participation of 50% or more in such foreign corporation (together with the participation held by related party entities); and
- Non-genuine transactions are performed, which means that the principal aim of the transactions performed by the foreign corporation is to gain tax advantages and at the same time the important functions are performed and the risks are assumed by a Hungarian entity for the purposes of the foreign entity, while the foreign corporation formally holds both assets and personnel for the purposes of conducting business activities.

Regardless of the above, the foreign entity does not qualify as a CFC if:

- The pre-tax profit established according to the law of the foreign person's state of tax residence or of the foreign business establishment's state of location represents profits of no more than HUF243,952,500 (approximately EUR677,645) and its non-trading income represents profits of no more than HUF23,495,250 (approximately EUR65,265), or
- If the pre-tax profit established according to the law of the foreign persons state of tax residence or of the foreign business establishment's state of location amounts to no more than 10% of its operating costs.

c. Foreign branches and partnerships

- CFC rules as detailed above apply to a non-Hungarian branch/permanent establishment ("PE") of a Hungarian resident company if the actual CIT (or similar tax) paid by this non-Hungarian branch/PE is less than half of what its theoretical tax liability would have been if it were located within Hungary. If a PE of a Hungarian corporation is located outside the EU / EEA and there is a double tax treaty concluded between that state and Hungary that would apply exemption on the income of the foreign PE in Hungary, then the CFC status of the PE is excluded.

d. Cash Repatriation

- Dividends, royalties, interests and service fees : the Hungarian tax legislation provides for a widely applicable domestic withholding tax exemption for outgoing payments distributed to corporate recipients.
- The cash repatriation of equity elements is also tax neutral in Hungary; however, it is subject to strict provisions and administration requirements (including the registration by Corporate Court).

9. OTHER GENERAL INTERNATIONAL TAX CONSIDERATIONS

a. Special Rules for Real Property, including Shares of "Real Property-Rich" Corporations

Non-resident organisations being a shareholder in a company owning real estate located in Hungary ("real estate holding company") qualify as taxable persons for CIT purposes if they derive income from the withdrawal (i.e. reduction of the registered capital) or alienation (sale, free transfer or in-kind contribution) of shares in the real estate company. An organisation qualifies as a real estate company for CIT purposes if the value of the real estate located in Hungary exceeds 75% of the book value of the total assets as per consolidated financial statement (including related Hungarian companies and related foreign companies with a permanent establishment in Hungary).

Should a foreign corporation acquire at least 75% of the participation of a Hungarian company, transfer tax obligation may also arise if the Hungarian acquired company holds real estate in a value of more than 75% of its balance sheet total.

b. CbC and Other Reporting Regimes

In order to avoid tax evasion at an international level, the OECD states set up an action plan (BEPS Project), which resulted in the obligation of multinational companies to produce a country-by-country report (CbCR) from 2016 onwards. The administrative burden related to the country-by-country reporting ("CbCr") concerns taxpayers who are members of a multinational group of companies over EUR750 million in consolidated annual sales revenue. This obligation was implemented by Hungary in 2017 too. In many cases the country-by-country report is performed by a foreign group member, but the Hungarian group members also have obligation concerning notification to the Hungarian Tax Authority.

i Council Directive (EU) 2018/822 ("DAC 6")

- In May 2018, the ECOFIN Council adopted Council Directive (EU) 2018/822 ("DAC6"), which amends Directive 2011/16/EU by introducing a mandatory and automatic exchange of information obligation in the field of taxation in relation to reportable cross border arrangements. DAC6 imposes on intermediaries the obligation to report cross border arrangements that meet at least one of the hallmarks specified in the Directive. DAC6 is widely drafted with certain hallmarks being subject to a main benefit test, where one of the main benefits of the arrangement is the obtaining of a tax advantage, whilst others do not have this main benefit test.
- Member states, including Hungary, have enacted DAC6 into their local legislation with the rules taking effect from 1 July 2020. However, the rules apply retrospectively to cross border arrangements which meet the disclosure conditions and are implemented from 25 June 2018 onwards. Therefore, it applies to arrangements implemented since 25 June 2018 with the first reporting due by 28 February 2021 (deferred from 31 August 2020 due to Covid-19). Reportable arrangements between 1 July 2020 and 31 December 2020 must be reported within 30 days beginning on 1 January 2021. Reportable arrangements from 1 January 2021 onwards must be reported within 30 days of the earlier of; the date when the arrangement is made available, the date it is ready for implementation or the date when the first step is implemented.
- Should there be a reporting obligation, the information to be reported includes details of the taxpayers and intermediaries, outline of the arrangements and date of first implementation, relevant local law and applicable hallmarks, identification of the member states that the arrangements affect or relate to and the value of the arrangements. It should be noted that the information reported will be exchanged between the relevant member country tax authorities.

ii Participation exemption for dividends

The Hungarian tax legislation provides for a widely applicable domestic participation exemption for dividends. In general, dividend income earned by Hungarian companies is deductible from the tax base, except for the dividends received from a controlled foreign company (notional dividend distributions from controlled foreign companies are also an exception).

iii Royalty exemption scheme and R&D incentives

Royalties: Under special legislation, a 50% tax base decreasing item is available on royalty income, capped at 50% of the pre-tax accounting profit. The benefit for old IP assets may be taken into account according to the grandfathering provisions until 30 June 2021 at the latest. Special restrictions apply to intangibles acquired from a related party entity in the period of 1 January to 30 June 2016. However, these royalty exemption rules, were amended to new IP assets acquired or developed beginning from July 2016. Instead of the 50% decreasing item on the royalty income as described above, a certain proportion of royalty profits is available as a tax base decreasing or reducing item, whereby the Hungarian implementation of the Nexus ratio shall be applied for calculating the amount of the tax base decreasing item.

By performing own R&D activities with own assets and personnel at group level, the nominator of the Nexus ratio may be increased by 30%; however, the ratio itself shall not exceed 100%. The application of the tax base deduction is capped at half of the positive pre-tax accounting profit as well. A reversal of the above reduction is necessary if the respective intangible asset generates a loss in the next tax year, (i.e. 50% of the loss would increase the tax base then).

10. TRANSFER PRICING

Hungary has already adopted the BEPS Action 13 pertaining to Master Files/Local Files in its legislation, which requires a more complex presentation of the transfer pricing ("TP") related information in the documents. Taxpayers had to prepare their TP documentation based on the new requirements since the 2018 financial year. The preparation of proper transfer pricing documentation is of high importance, especially in the light of the high non-compliance penalties.

This area of taxation triggers high risks to taxpayers : the international information exchange, the three-tiered TP documentation system and the CbC reporting obligation provides sufficient database for the effective risk assessment of the authorities.

The revision of TP documentations is always a focal point during tax audits. Moreover, the penalties are rather high, a HUF2 million (approximately EUR5,555) default penalty may be levied for non-compliance per related transaction per year, which might be doubled or even quadrupled in case of repeated infringements.

11. POST-ACQUISITION INTEGRATION CONSIDERATIONS

a. Use of Hybrid Entities

Hungary regards their own partnerships (Bt., Kkt.) as non-transparent for corporate tax, while some other countries regard these entities as transparent, from which company groups may benefit, according to the foreign rules.

At the same time, Hungary regards foreign entities as transparent or non-transparent subject to the rules applicable to that entity abroad. This is unfortunately not clearly regulated, the Hungarian Ministry of Finance plans to introduce detailed regulations concerning Hybrid Entities in the future in order to tackle uncertainties.

b. Use of Hybrid Instruments

Hungarian tax legislation already contains some anti-hybrid provisions. In certain cases the Hungarian GAAR rules do not allow the exemption of foreign source income. Furthermore, Hungary has amended its domestic legislation addressing (downward) transfer pricing adjustments to include a linking rule Moreover, there are conditions associated with Hungary's participation exemption, which checks that payment should not be considered as an expense element at the distributing entity.

Hungary is subject to the EU Anti-Tax Avoidance Directive I and II ("ATAD"), which include provisions on hybrid mismatches too. The respective provisions were implemented into domestic law.

c. Principal/Limited Risk Distribution or Similar Structures

In Hungary, contract manufacturing and limited risk distribution is often used due to the economic advantage, derived from lower employment costs. From a transfer pricing perspective these are low risk/function services, which entitles the low risk/function party to a relatively low but positive income. As such the losses realised by the principal cannot be divided between the principal and the limited risk distributor/manufacturer. Considering the frequent use of such entities, the Hungarian Tax Authority focusses its investigations on screening out entities overperforming the pure low risk/function schemes.

d. Intellectual property (licensing, transfers, etc.)

Should a Hungarian corporation offshore any kind of intangibles held, the gain deriving from the alienation is taxable in Hungary. In the case of a lack of an appropriate tax base (e.g. in case of gratuitous transfers) the Hungarian tax authority may challenge the transaction and assess a consideration usually close to an arm's length price. If a transfer is aimed at a related party entity and the inter-company pricing is not at arm's length, tax base adjustments may apply, this applies not only to cross border, but also to domestic transactions. The transfer pricing adjustment may apply irrespective of any other tax base adjustments for CIT purposes (i.e. a double upward adjustment of the tax base cannot be excluded.)

e. Special tax regimes

i R&D incentives

The expenses in relation to Research and Development ("R&D"), are treated as accounting cost that decrease the accounting profit before tax. Furthermore, it is an item that decreases the tax base for CIT purposes. A double tax deduction is available in relation to R&D costs, associated to a taxable person's own activities, which includes sub-contractor R&D expenditure.

These expenses are deductible as incurred, or in the year of taking into account the depreciation based on capitalised costs for experimental development were capitalised.

The above R&D advantages could be shared among Hungarian related parties; moreover, the tax base allowance could also be shared even between the domestic R&D service provider and the customer; however, this later allowance could not be forwarded to related parties.

A four-fold R&D cost deductibility is also available (up to HUF50 million, or approximately EUR140,000) for projects carried out jointly with universities or scientific institutions.

ii Development tax allowance

Development tax allowances (80% from CIT payable for 12 years) may be granted for investment projects (depending on the investment volume, the geographical location and also the status of the investor), research and development activities, independent environmental projects, investments in the film industry and creating new jobs.

iii Energy efficiency tax allowance

A tax credit scheme that is connected to investments aiming at increasing energy efficiency in a certain portion (30 - 45%) of eligible costs of the investment may be deducted from the CIT payable, depending on the geographical location of the investment (a higher rate by 10% or 20% may be applied for SMEs). The tax allowance is capped at EUR15 million (its HUF equivalent) and 70% of the CIT payable.

iv Tax allowances relating to supporting sports or film productions

Further CIT allowances (70%) and other in-cash credits may also be available in the case of granting support to film productions and certain team sports such as soccer, handball, basketball, water polo, ice hockey, and volleyball.

12. OECD BEPS CONSIDERATIONS

OECD BEPS actions are generally supported in Hungary. Certain issues covered by BEPS actions had already been regulated in Hungarian tax law before the BEPS action plan was finalised, (e.g. tax rules relating CFC or anti-hybrid provisions). As Hungary is a member of the European Union, any directions followed by the Member States may be decisive also for Hungary.

13. ACCOUNTING CONSIDERATIONS

a. Combinations

Purchase accounting in Hungary is not applicable. According to Hungarian GAAP, the assets and liabilities of the target company in a business combination may be consolidated based on book value or on a revalued amount. Similarly, it is also the entity's choice (who prepares the consolidated financial statements), whether they apply the values of assets and liabilities as of the acquisition date or the balance sheet date.

In Hungary, deferred tax assets and liabilities may only be accounted for in consolidated financial statements.

b. Divestitures

If the parent company provided significant loan facilities to its subsidiary in excess of the total assets of the subsidiary, then in case of withdrawing funds from the entity to be dissolved, the difference of the liabilities owned to the parent company and that of the total assets will be accounted for as other income at the subsidiary and becomes taxable. This is due to the fact that the excess liabilities have to be waived by the parent company upon dissolution of the Hungarian entity. Certain tax effective solutions may exist even under these scenarios.

14. OTHER TAX CONSIDERATIONS

a. Distributable Reserves

In Hungary there is no withholding tax for dividends thus dividend can be paid to the parent company without incurring a tax liability in Hungary even if the tax treaty allows taxation rights for Hungary in the case of dividends.

Another solution for cash distribution from reserves is decreasing the subscribed capital. Where the subscribed capital is higher than the statutory limit and other limitations it is possible to decrease the subscribed capital. In this case other capital elements (capital reserve and the profit reserve) must be decreased proportionally with the subscribed capital.

Further information on these limitations is included in Section 6 above.

Other means of cash repatriation methods might be:

- Royalties (no withholding taxation in Hungary for corporate recipients);
- Management service fee (CFC rules may apply); or
- Inter-company loans (interest limitation rules shall be observed).

All of these transactions fall under the strict transfer pricing rules.

b. Substance Requirements for Recipients

In the case of received services, it has to be investigated if the services provider has the material and personal means to provide the service; further if the service is indeed for the economic interest of the recipient. Burden of proof lies with the taxpayer over HUF200,000 (approximately EUR555).

c. Application of Regional Rules

As an EU Member State, Hungary had to adopt the Parent Subsidiary Directive and the Interest and Royalty Directive into its domestic law.

EU Anti-Tax Avoidance Directives (“ATAD”) provisions on exit taxation and hybrid mismatches are also implemented into Hungarian domestic law.

d. Tax Rulings and Clearances

i Tax rulings

It is possible to apply for guidance from the Hungarian Tax Authority and Ministry of Finance (even anonymously), which can either be a binding or a non-binding ruling.

Non-binding rulings cannot assure a taxpayer that the Tax Authority would not change the legal interpretation described in the guidance. If a taxpayer is in possession of a guidance, the consequences of an improper tax handling of a transaction (default penalty and tax penalties) can be avoided or mitigated, with the exception of the unpaid tax itself. Contrary to other types of ruling, a non-binding ruling may be anonymous and could equally cover future and past transactions. Asking for a non-binding ruling is free from procedural charges.

A taxpayer may also apply for binding ruling in case of its future transactions or on-going transactions until the deadline for filing the respective tax return (CIT, PIT, LBT). A binding ruling is issued for five years that can be extended by two years. Where there is a change in the legal system or in the background facts of the transaction the non-binding ruling becomes inapplicable. The deadline for issuing a binding ruling is 90 days with maximum 60 days extension. The payable fee for such procedures depends on the nature of the ruling and the urgency (HUF5-11 million, approximately EUR 14,000-31,000) for binding rulings.

ii Advance Pricing Agreement

For transfer pricing purposes, Hungary has had a good working APA (Advanced Pricing Agreement) system in place since 2007. The taxpayer has the possibility to request the Finance Authorities to determine the applicable transfer pricing method and the arm's length price or price range (fair market value) in connection with the related party transaction for future years.

The procedure may be unilateral, bilateral or multilateral. The official filing fees for an APA, payable to the Hungarian Finance Authorities , are HUF2 million (approximately EUR 5,555) for a unilateral statement. In the case of a multilateral statement, the fee is HUF2 million multiplied by the number of competent authorities involved. APA procedure should be conducted within 120 days, this time limit can be extended twice by 60 days. The fair market value set by the tax authorities is valid for a period of three to five years. This period may be extended by an additional three years upon request, provided that the facts and the circumstances of the transaction are unchanged or affected by minor changes only.

Before submitting the application, the taxpayer can request a preliminary personal consultation for a fee of HUF500,000 (approximately EUR1,400), where the taxpayer and the tax authority will discuss and clarify the scope of the APA, the transfer pricing issues, the time schedule and whether an APA can be executed or not.

15. MAJOR NON-TAX CONSIDERATIONS

Foreign Investment Regulations ("FIR") are regulated under Act LVIII. of 2020 on certain temporary rules after the coronavirus crisis, where the relevant section includes the economic protection of Hungarian enterprises by regulating foreign investments in connection with "strategic" Hungarian firms. The rules are applicable for transactions between 26 May 2020 and 30 June 2021.

The FIR covers the acquisition of shares, capital increases, divestitures, the issuance of bonds and the constitution of beneficiary rights in and the merger and restructuring of, strategic Hungarian companies by companies (including EU-based companies) that are controlled by companies / natural persons from non-EU countries if the buyer is to acquire over 10% of the shares and the value of the investment exceeds HUF350 million (approximately EUR970,000). Such transactions must be notified to the Minister, who may approve or prohibit it.

Strategic companies are companies operating in the following sectors: Energy, Transport, Communications and media, Finance, Insurance, Water supplies, Healthcare, Data processing or storage, Aerospace, Defence, Dual use items, Food security.

Within the procedure, the Minister has 30 working days to make a decision on the application, which might be prolonged by 15 days. The Minister considers the following factors when making its decision:

- The national interests and the public order of Hungary (with special attention paid to the safety of the essential services to the public);
- Whether the buyer is directly or indirectly controlled or funded by the government of a non-EU country or an organisation owned by such government;
- Previous cases in which the buyer endangered public interest in other EU countries; and
- The risk that the buyer is engaged in illegal / criminal activities.

An appeal against a decision that prohibits the transaction may be filed with the Metropolitan Court of Budapest. The Court will decide the case within 30 days in a non-litigious procedure.

The failure to give notification about the transaction may lead to a fine. The maximum amount of the fine is twice the value of the transaction, whereas the minimum amount is 1% of the net revenue of the target company realised in the latest business year.

16. APPENDIX I - TAX TREATY RATES

Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Albania	10 / 5	0	5	[1] [2]
Armenia	10 / 5	10 / 0	5	[1] [2] [3] [4]
Australia	15	10	10	[1]
Austria	10	0	0	[1]
Azerbaijan	8	8 / 0	8	[1] [3]
Bahrain	5 / 0	0	0	[1] [5]
Belarus	15 / 5	5	5	[1] [2]
Belgium	10	0 / 15	0	[1] [6]
Bosnia and Herzegovina	10	0	10	[1]
Brazil	15	10 / 15 / 0	15 / 25	[1] [3] [7] [8]
Bulgaria	10	10 / 0	10	[1] [3]
Canada	15 / 5	10	0 / 10	[1] [9] [10]
China	10	10 / 0	10	[1] [3]
Croatia	10 / 5	0	0	[1] [2]
Cyprus	15 / 5	10 / 0	0	[1] [2] [3]
Czech Republic	15 / 5	0	10	[1] [2]
Denmark	15 / 0	0	0	[1] [11]
Egypt	20 / 15	15 / 0	15	[1] [2] [3]
Estonia	15 / 5	10 / 0	0	[1] [2] [3]
Finland	15 / 5	0	0 / 5	[1] [2] [12]
France	15 / 5	0	0	[1] [2]
Georgia	5 / 0	0	0	[1] [2]
Germany	15 / 5	0	0	[1] [13]
Greece	10	10 / 0	10	[1] [3]
Hong Kong	10 / 5	5 / 0	5	[1] [3] [13]
Iceland	10 / 5	0	10	[1] [2]
India	10	10 / 0	10	[1] [3]
Indonesia	15	15 / 0	15	[1] [3]

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Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Iran	0	0 / 5	5	[1] [3]
Ireland	15 / 5	0	0	[1] [13]
Israel	15 / 5	0	0	[1] [13]
Italy	10	0	0	[1]
Japan	10	10	0 / 10	[1] [14]
Kazakhstan	15 / 5	10 / 0	10	[1] [3] [15]
Korea (Rep.)	10 / 5	0	0	[1] [2]
Kosovo	5 / 0	0	0	[1] [2]
Kuwait	0	0	10	[1]
Latvia	10 / 5	10 / 0	0 / 5 / 10	[1] [2] [3] [16] [17]
Liechtenstein	10 / 0	0	0	[1] [13]
Lithuania	15 / 5	10 / 0	0 / 5 / 10	[1] [2] [3] [16] [17]
Luxembourg	10 / 0	0	0	[1] [13]
Macedonia	15 / 5	0	0	[1] [2]
Malaysia	10	15 / 0	15	[1] [3]
Malta	15 / 5	10 / 0	10	[1] [2] [3]
Mexico	15 / 5	10 / 0	10	[1] [3] [13] [17]
Moldova	15 / 5	10 / 0	0	[1] [2] [3]
Mongolia	15 / 5	10 / 0	5	[1] [2] [3]
Montenegro	15 / 5	10	10	[1] [2]
Morocco	12	10 / 0	10	[1] [3]
Netherlands	15 / 5	0	0	[1] [2]
Norway	10	0	0	[1]
Oman	0 / 10	0	8	[1] [18]
Pakistan	20 / 15	15 / 0	15	[1] [2] [3]
Philippines	20 / 15	15 / 0	15	[1] [2] [3] [17]
Poland	10	10 / 0	10	[1] [3]
Portugal	15 / 10	10 / 0	10	[1] [2] [3]
Qatar	0 / 5	0	5	[1] [5]

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Jurisdiction	Dividends %	Interest %	Royalties %	Footnote Reference
Romania	15 / 5	15 / 0	10	[1] [3] [19]
Russia	10	0	0	[1]
San Marino	0 / 5 / 15	0	0	[1] [20]
Saudi Arabia	5	0	5 / 8	[1] [21]
Serbia	15 / 5	10	10	[1] [2]
Singapore	10 / 5	5 / 0	5	[1] [2] [3]
Slovak Republic	15 / 5	0	10	[1] [2]
Slovenia	15 / 5	5 / 0	5	[1] [2] [3]
South Africa	15 / 5	0	0	[1] [2]
Spain	15 / 5	0	0	[1] [2]
Sweden	15 / 5	0	0	[1] [2]
Switzerland	15 / 0	0	0	[1] [22]
Taiwan	10	10 / 0	10	[1] [3]
Thailand	15 / 20 / domestic rates	10 / 25 / 0	15	[1] [2] [3] [23]
Tunisia	12 / 10	12 / 0	12	[1] [2] [3]
Turkey	15 / 10	10 / 0	10	[1] [2] [3]
Turkmenistan	15 / 5	10 / 0	10	[1] [2] [3]
Ukraine	15 / 5	10	5	[1] [2]
United Arab Emirates	0	0	0	[1]
United Kingdom	10 / 15 / 0	0	0	[1] [24]
USA	15 / 5	0	0	[1] [25]
Uruguay	15	15 / 0	15	[1] [3]
Uzbekistan	10	10 / 0	10	[1] [3]
Vietnam	10	10	10	[1]

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Footnotes:	
1	Hungary does not levy any withholding tax on dividends, interest or royalties paid by Hungarian companies to non-resident corporate recipients according to the domestic legislation, even if a treaty allows a withholding tax.
2	Dividends - The lower rate applies to corporate recipients with a direct shareholding of minimum 25% in the Hungarian company. (Special rules on the minimum holding period or the industry may apply.)
3	Interest - Exemption applies to certain interest types (e.g. interest paid to the other contracting state, local authorities, central bank or credit institutions owned or controlled by the state). Special rules may apply.
4	Interest - Reduced rate of 5% is applicable to interest paid on loans or credits provided by banks.
5	Dividends - The lower rate applies if the beneficial owner is a company.
6	Interest - Exemption applies to interest on bank deposits, current accounts between banks and interest on trade credits.
7	Interest - Reduced rate of 10% is applicable to loans or credits granted by banks with a maturity of at least 8 years in relation to the sale of industrial equipment, the study, installation or transportation of industrial or scientific units or to public works.
8	Royalties - The higher rate applies to trademarks.
9	Dividends - Reduced rate of 5% applies to corporate recipients with voting rights of at least 25% (directly or indirectly) in the Hungarian company
10	Royalties - Reduced rate applies to copyright royalties (excluding films).
11	Dividends - Reduced rate of 0% applies to corporate recipients with a direct shareholding of minimum 10% in the Hungarian company for at least 1 year; this rate applies to pension funds as well.
12	Royalties - Reduced rate of 5% applies to royalties on trademarks, patents and on information concerning industrial, commercial and scientific experience.
13	Dividends - The lower rate applies to corporate recipients with a direct shareholding of minimum 10% in the Hungarian company.
14	Royalties - Reduced rate applies to copyright royalties.
15	Dividends - The lower rate applies to corporate recipients with a direct or indirect shareholding of minimum 25% in the Hungarian company. (Special rule on the minimum holding period may apply.)
16	Royalties - Reduced rate of 5% applies to royalties on industrial, commercial and scientific rentals and on transmission by satellite, cable, optic fibre etc.
17	Royalties - A "most favoured nation clause" may be applied.
18	Dividends - The higher rate applies if the beneficial owner is an individual.
19	Dividends - The lower rate applies to corporate recipients with a direct shareholding of minimum 40% in the Hungarian company.
20	Dividends - 0% rate applies to corporate recipients with a direct shareholding of at least 25% in the Hungarian company; 5% applies if the direct shareholding is less than 25%; a tax rate of 15% applies in every other case.

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Footnotes:	
21	Royalties - Reduced rate of 5% applies to royalties on industrial, commercial and scientific rentals.
22	Dividends - The lower rate applies to corporate recipients with a direct shareholding of minimum 10% in the Hungarian company, to dividends paid to the central bank and to pension funds.
23	Interest - A reduced rate of 10% is applicable if the interest is paid to a financial institution.
24	Dividends - A higher rate of 15% applies to dividends distributed by real estate investment trusts. Exemption applies if the beneficial owner is a company (excluding a REIT) with voting rights of at least 10% (directly or indirectly) in the Hungarian company, and to pension schemes.
25	Dividends - Reduced rate applies if the corporate recipient directly or indirectly controls at least 10% of the voting stock in the Hungarian company.
26	Please note that the OECD Multilateral Instrument entered into force from 1 January 2022 may affect the application of the various bilateral tax treaties depending on the choice of the affected countries; thus careful advisory is suggested for all international tax issues.

17. APPENDIX II - GENERAL CORPORATE ENTITY TAX DUE DILIGENCE REQUESTS

The usual tax due diligence period in a Red Flag investigation is 3 years; however, a Full Scope investigation is advisable to be extended, also depending on the findings, to the statutory limitation period which is in practice six years in Hungary.

Nº.	Category	Sub-Category	Description of Request
1	Tax Due Diligence	General	Financial statements: BS, PL, Notes and Business Report for the reviewed period.
2	Tax Due Diligence	General	Year-end G/L of the company for the reviewed period.
3	Tax Due Diligence	General	Tax account reports for the reviewed period and as at the current time.
4	Tax Due Diligence	General	Core data from the tax account.
5	Tax Due Diligence	General	Significant investments, restructurings, business changes, etc.
6	Tax Due Diligence	General	Tax authority/Ministry of Finance history (i.e. tax audits and their results in the reviewed period, tax rulings, tax allowances or state subsidies).
7	Tax Due Diligence	General	Any special tax treatments, difficulties in taxation and administration.
8	Tax Due Diligence	General	Introduction of the company and its business fields.
9	Tax Due Diligence	General	Summary of the financial and tax administration methods, management (internal- external).
10	Tax Due Diligence	CIT	CIT returns for the review period.
11	Tax Due Diligence	CIT	Supporting documents and calculations for the significant tax base adjustments in the review period.
12	Tax Due Diligence	CIT	Summary of related party transactions, pricing of the typical transactions: core business, purchase of good and materials, supplies of goods, service provisions and received, management activities, financing, guarantees, any other.
13	Tax Due Diligence	CIT	Transfer pricing documentation for the review period.
14	Tax Due Diligence	CIT	Are there any R&D activities?
15	Tax Due Diligence	Local taxes	LBT returns for the review period.
16	Tax Due Diligence	Local taxes	Supporting documents and calculations for the significant tax base adjustments in the review period between.
17	Tax Due Diligence	Local taxes	Division of the tax base between tax authorities (if relevant).
18	Tax Due Diligence	Local taxes	Allowances, R&D in local business taxes.
19	Tax Due Diligence	Local taxes	List of establishments within Hungary, how many local tax authorities are affected within the reviewed period.
20	Tax Due Diligence	Local taxes	Any tax audits from local governments, correspondences with local authorities.
21	Tax Due Diligence	Local taxes	Any other local taxes: property taxes, etc.

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Nº.	Category	Sub-Category	Description of Request
22	Tax Due Diligence	Employment taxation	Type of employments: own workers, rented workers, students, etc.
23	Tax Due Diligence	Employment taxation	What is the typical remuneration package for employees: fixed wages, performance wages, premiums, bonuses, in-kind benefits.
24	Tax Due Diligence	Employment taxation	Expatriates, posted workers. Business trips inland and abroad. Home office workers.
25	Tax Due Diligence	VAT and Customs	Introduction of typical transactions and their VAT treatment within the company e.g. import, export, IC-acquisition, IC-supply, service acquisitions, service supplies, domestic transactions. sample set of documents for significant transactions (invoices, contracts, transport documentation, etc.).
26	Tax Due Diligence	VAT and Customs	What is the typical VAT position of the entity.
27	Tax Due Diligence	VAT and Customs	Tax authority relations, audits, consultations, etc.
28	Tax Due Diligence	VAT and Customs	Special transactions e.g. triangulations, chain transactions, call-off stock, consignments, stock or tooling outside, special services.
29	Tax Due Diligence	VAT and Customs	Typical price reductions.
30	Tax Due Diligence	VAT and Customs	Introduction of customs procedures (if any), sample set of documents for significant transactions (invoices, contracts, customs declarations, customs decisions, etc.).
31	Tax Due Diligence	VAT and Customs	Introduction of the EKAER handling – brief description of workflow, sample of electronics notifications performed.
32	Tax Due Diligence	VAT and Customs	Invoicing e.g. own invoicing, self-billing, paper or electronic invoices.
33	Tax Due Diligence	VAT and Customs	Online invoice data reporting, invoicing software, plug-in software.
34	Tax Due Diligence	Other taxes	Green taxation – introduction of scope of products that are within the liability, tax returns and calculations.

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