



Changes in corporate tax from 2010

6/2009

Various provisions of the tax laws are modified as of 1 January 2010; many of these may already be applied to taxes declared in the year 2009. Our Newsletter provides information to our Customers on the rules of Act LXXXVII of 2009, promulgated on 8 July 2009, relating to corporate tax. Earlier we provided a comprehensive summary of amendments affecting the real estate sector, therefore this area is not discussed.

Amendments to the Corporate Tax Act

Foreign organisation

Sections 2(4) b), 15, 19(9)

The act expands the scope of taxpayers. In addition to the foreign entrepreneur, a foreign organisation and member of a company holding real estate is also deemed to be a taxpayer.

A foreign organisation is deemed to be a foreign entity and an entity established pursuant to domestic laws but considered to be a non-resident according to the place of business, if

- Hungary has not concluded a Double Taxation Treaty with the state where the foreigner is resident, and
- a resident entity other than a private individual pays to the foreigner interest, royalties or remuneration for the provision of services.

The tax base of the foreign organisation constitutes interest (except interest paid on deposits at credit institutions, default interest, etc.) royalties received and the fee of business agency, business management, business consulting, advertisement, market and public opinion research, and other professional, scientific, technological activity not classified elsewhere.

A 30 percent tax is imposed on the income of the foreign organisation. The payer is responsible for deducting and paying the tax.

Term of irrecoverable debt

Sections 4 4/A, 7 (1) n)

The definition of irrecoverable debt has been modified: irrecoverable debt constitutes irrecoverable debt defined under the Accounting Act and the 20% of the procurement value of debt which is not settled within 365 days from the payment deadline, unless such debt has lapsed or is not recoverable in court. (Irrecoverable debt may be set off against the corporate tax base.)

Registered share
Section 4 5.

If a company holds a registered share in another company at a rate of at least 30 percent, and further increases the rate of such share, such newly acquired share must also be reported within 30 days of acquisition. The reporting of the acquisition of a share of over 30 percent is conditional on the taxpayer having reported a share of at least 30 percent – existing prior to the increase – to the tax authority.

Controlled foreign company

*Sections 4 11, 7 g,
gy, 8 (1) f*

A foreign company is deemed to be a controlled foreign company if its actual owner (holds at least a 25 percent share and voting rights, or controlling influence pursuant to the Civil Code) is a resident pursuant to the Personal Income Tax Act in the majority of days in its tax year, and the ratio of tax corresponding to corporate tax paid (payable) in the tax year and the tax base, or if the tax base is negative, the tax rate stipulated by local laws, does not reach two-thirds of Hungarian corporate tax (12.66%). A foreign entity is not deemed to be a controlled foreign company who resides in a state which is member of the EU or the OECD, or which has concluded a treaty with Hungary,

provided that

the foreign entity has a real economic presence in the state of its residence. That is, revenue deriving from the production, processing, provision of service, investment or commercial activity conducted jointly by the foreign company and its affiliated undertakings in the given state, with own assets and employed staff, reaches at least 50 percent of total revenue.

Rules on the settlement of dividend relating to controlled foreign companies are also modified.

Affiliated undertaking
**Sections 4 23, 18
(6) (7)**

It has been clarified. If two close relations exercise majority control in two different companies, the two companies are deemed to be affiliated undertakings. Furthermore, the taxpayer and its foreign place of establishment are also deemed to be an affiliated undertaking (until now, the Corporate Tax Act did not define their relationship as affiliated).

Rules on transfer prices will now have to be applied upon formation, as well.

Recorded loss in value
**Sections 4 26, 7 (1)
n)**

The new term of recorded loss in value corresponds to loss in value calculated on receivable pursuant to accounting rules and considered as increasing pre-tax profit/loss, less the amount considered as decreasing pre-tax profit/loss.

Accrual of loss

Credit institutions may also apply the accrual of loss to the negative tax base of 2009, as well.

Eliminated items modifying the tax base

Among others, the following items modifying the tax base have been eliminated:

- Items relating to provisions serving as cover for environmental protection liabilities
- Discounts related to exchange transactions (/revenue - expenditure/*50%)
- Items relating to the settlement of interest between affiliated undertakings
- Modifying item relating to aid provided/received without a repayment obligation (Section 7 (1) z) separately regulates non-profit donations)
- Item relating to exchange gain settled by the taxpayer on transferred shares, participations in the tax year
- Item relating to local business tax

**Expanded number of items decreasing tax base
Section 7 (1) q)**

The amount of readjustment of loss of value on a share, participation is included among items decreasing the tax base, if earlier the taxpayer considered it as an item increasing pre-tax profit/loss. This must be evidenced with previous tax declarations and supporting statements.

**Financial undertakings and depreciation
Sections 7 (1) n), 8 (1) gy), 29/I (3)**

Similarly to credit institutions, as of 2009, the loss in value of a financial undertaking settled on receivables deriving from financial services will not increase the corporate tax base. Accordingly, it is not possible to realise a decrease, either, with the amount of loss in value readjusted on receivables deriving from financial services in the tax year, the irrecoverable amount of the procurement value, and revenue settled upon the transfer, settlement, set-off of the receivables.

In the tax declaration filed on the 2009 tax year and the declarations of the four subsequent tax years, the financial undertaking may decrease pre-tax profit/loss in equal instalments with the amount of loss in value settled on receivables, considered as an item increasing pre-tax profit/loss pursuant to Section 8 (1) gy) of the law in effect on 31 December 2008, but yet to be effected as decreasing the pre-tax profit/loss.

Entertainment cost and promotional gifts

As of 2010, the amount of entertainment cost and promotional gifts accounted as other personal expenditure according to the personal income tax is increasing the tax base.

Tax rate
Section 19 (1)

The corporate tax rate equals 19 percent of the positive tax base (30 percent for foreign organisations). The special (solidarity) tax is abolished.

**Uniform practice
of R+D**
Section 31 (2) c)

The law makes reference that the Frascati Manual is governing with regard to assessing research and development.

Should you have any question concerning the topics discussed in this Newsletter, we are pleased to be at your service.

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