

BECHER & TORMA

TAX AND LEGAL

# NEWSLETTER



## TEMPORARY DEVELOPMENT TAX CREDIT

A newly introduced temporary development tax credit will be available until 31 December 2025 for investments needed for the green transition, including the production of batteries and solar panels.

Depending on the circumstances of the investment, the scheme provides for a discount of between 15% and 55% on the eligible costs of the investment, calculated at current prices.

The tax credit can be claimed by submitting an application to the Minister of Finance before the investment starts.



## TEMPORARY DEVELOPMENT TAX CREDIT

A new development tax credit is available in corporate income tax, the amount and procedural rules of which are more favourable than the development tax credit available under the current general block exemption regulation.

Following the European Commission's Communication of March 2023<sup>1</sup> (hereinafter: the "**Crisis Communication**"), Section 22/B of the Corporate Income Tax Act<sup>2</sup> (hereinafter: the "**CIT Act**") was amended and the temporary development tax credit was introduced. In line with the objective of the Crisis Communication, this new tax credit is a tool to support the reduction of fossil fuel dependency and accelerate the roll-out of renewable energy, decarbonisation of industry and the deployment of capacities in sectors strategic to the transition towards a net-zero economy.

The amendments entered into force on 15 July 2023 and the temporary development tax credit is available until 31 December 2025.

According to preliminary information, in addition to the introduction of the temporary development tax credit, a new direct aid<sup>3</sup> based on a specific government decision will also be available for the following investments. This will allow the investments concerned to benefit from direct aid in addition to the tax relief.

### 1. INVESTMENTS ELIGIBLE FOR THE TEMPORARY DEVELOPMENT TAX CREDIT

- a) Investments to produce equipment necessary for the transition to a net zero emission economy. Such equipment is defined as:
  - batteries,
  - solar panels,
  - wind turbines,
  - heat pumps,
  - electrolyzers,
  - and equipment to capture and storage carbon dioxide.
- b) The manufacture of key components designed to produce equipment listed in (a) and used primarily as direct inputs.
- c) The production or recovery of critical raw materials to produce equipment and essential components as defined in both (a) and (b).

<sup>1</sup> Communication from the Commission on a Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, Brussels, 9.3.2023 C(2023) 1711 final

<sup>2</sup> Act LXXXI of 1996 on Corporate Income Tax and Dividend Tax

<sup>3</sup> Based on Government Decree 210/2014 (VIII.27.)



## 2. RATE OF THE TEMPORARY DEVELOPMENT TAX CREDIT

The temporary development tax credit is 15 percent of the eligible costs of the investment in current prices, for investments in Budapest, and 35 percent for investments outside Budapest. This rate can be increased by 20 percentage points for small enterprises and 10 percentage points for medium-sized enterprises. The rate of the temporary development tax credit - the proportion of eligible costs - is summarised in the table below.

Location of investment/Taxpayer's status at start of investment	Large enterprises	Medium-sized enterprises	Small enterprises
<b>Budapest</b>	15%	25%	35%
<b>Outside Budapest</b>	35%	45%	55%

It is important to note that the tax credit is based on eligible costs calculated at current prices, which results in higher tax credit than the current development tax credit, in the case of multi-annual investments, because the current development tax credit is determined based on the present value of eligible costs. However, the eligible costs underlying the temporary development tax credit do not need to be discounted to present value, and the amount of the tax credit is therefore higher. It is also important to note that large companies cannot claim development tax credit in Budapest because Budapest is not a regionally eligible area. However, the temporary development tax credit can be claimed by a large enterprise in Budapest, because it is not regional aid, but can be claimed based on the Crisis Communication.

A further rule is that the total amount of the claimed state aid must not exceed 100 percent of the eligible costs. The rules on state aid related to all or part of the same eligible costs must also be taken into account.

## 3. ADDITIONAL CONDITIONS RELATED TO THE TEMPORARY DEVELOPMENT TAX CREDIT

Similar to the current development tax credit scheme, the temporary development tax credit also requires the investment to be in operation for 3/5 years. This means that the taxpayer must undertake to maintain the investment in the area concerned after the investment has been completed, for at least five years, or three years in the case of small and medium-sized enterprises. However, if the taxpayer exceeds the emission limit set by law or by an administrative decision during its operations, and this is established by a final decision, the amount of the temporary development tax credit already used will have to be repaid, plus a late payment penalty.

It is also important to note that the temporary development tax credit is only available for investments that would be made outside an EEA Member State, in the absence of state aid. This condition is verified by the granting authority.



In addition to the above, depending on the applicant, other circumstances may be considered as conditions for eligibility.

#### 4. CLAIMING THE TRANSITIONAL DEVELOPMENT TAX CREDIT

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To apply, the information set out in Annex II of the Crisis Communication must be submitted to the Ministry of Finance before the date of the start of the investment (no request for certification can be submitted in case of late submission). The date of the start of the investment shall be the date of the start of construction or the date of the first order of tangible assets for the purpose of the investment, or any commitment which renders the investment irreversible, provided that the earliest of these dates shall be taken into account. The purchase of land or the obtaining of building permits or the preparation of feasibility studies shall not be considered as the start of the investment.

Depending on the amount of state aid requested for the investment, the procedure for applying for tax credit varies. The threshold that determines the procedure is EUR 150 million for investments in Budapest and EUR 350 million for investments outside Budapest.

Accordingly, temporary development tax credit can be claimed under one of the two types of procedure:

- a) for credit below the threshold (EUR 150 million/EUR 350 million), the Minister of Finance registers the temporary investment tax credit based on the taxpayer's request and informs the taxpayer accordingly,
- b) requests for credit above the threshold (EUR 150 million/EUR 350 million) require authorisation from the European Commission, based on a decision by the Minister of Finance.

The further rules of the temporary development tax credit outside the CIT Act will be regulated by the amendment to Government Decree 165/2014 (VII. 17.).

If you have any questions about the changes, please contact our colleagues.

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