



Doing Business in Hungary



A **LEGAL** perspective

Tax Benefits Related to Intellectual Property

Fact sheet: Hungary

Location:	East-Central Europe
Time zone:	GMT+ 1 hour
Population:	9 769 526 (2020)
Currency:	HUF (forint)
Labour force:	4 399 000 (2020)
GDP growth:	2,2 % (2020)

Main industries:

automotive, electronics,
pharmaceutical, ICT, food

Unemployment rate:

4,7% (2020)

Gross domestic product:

HUF 46 787 billion (2019)

A worthy business destination

Mainly due to the high standard of education system and well-trained labor force, its excellent location and the strategic and innovative mindset, but also thanks to certain areas of the domestic legislation, Hungary offers a particularly favorable business environment.

In recent years Hungary has shown some of the best economic data in the region. Hungary is one of the most open economies in Europe with an average of total exports and imports representing 75% of GDP. The positive economic developments in Hungary's main export market Germany also boost the Hungarian local demand.



” It might be a considerable strategy to establish a regional royalty-income center in Hungary. ”

Utilization of Intellectual Property

Upon manifesting in practice the appropriate operational structures, business associations who are procuring, developing and commercially utilizing intellectual property products protected in Hungary can create a particularly advantageous micro-economy due to the existence of tax benefit regulations. The Government maintains regular contacts with industry representatives in order to create a regulatory environment that is highly beneficial to market participants.

The below provisions offer especially advantageous opportunities for those foreign owned companies who are either selling intellectual property products of a mother company or who realize income by the remise of right to utilization or with their direct individual license are able to produce intellectual property assets locally, as well as who redistribute these both inland and overseas.

With respect to the wide-scale withholding (resource) tax exemption of the income which can be paid to foreign mother companies, it could be worth to consider as a strategy by multinational enterprises who has a local branch and are also active in the areas of technology industry, to establish a regional „royalty-income center” in Hungary. Apart from taxation planning; upon necessity the elaboration of a suitable management structure may as well require corporate legal restructuring or legal counselling concerning transfer pricing.



Taxation of Royalty Income

It is a long standing institutional phenomenon in the framework of royalty income taxation that upon the choice of the tax payer, the tax base can be decreased with 50% of the royalty income accounted for the benefit of the final non-taxed profit upon the condition that the amount which equals to the decreased amount shall not exceed the 50 % of the final non-taxed profit.

The concept of royalty income is defined by corporate tax law as such that it means the result from the licensing of patent, utility model protection, plant variety protection, supplementary protection certificate, protection of topography of microelectronic semiconductor products and copyrighted software, as well as result from classification as an orphan medicinal product (hereinafter: „Exclusive Rights”). Furthermore, the result of the sale of the Exclusive Rights mentioned above and their derecognition as a non-monetary contribution, as well as the pro-

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Tax base can be decreased with 50% of the royalty income in the country

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The Registered Intangible Assets



From the beginning of 2012, the concept of the so called registered intangible assets was introduced; meanwhile from January 1, 2013 the legislator extended the scope of expediency thereof from a tax optimization aspect. The notion of registered intangible asset covers (as described in the above definition) the intellectual property assets which embody entitlement for royalty income or the acquisition of a right in assets, as well as from 2013 also the production thereof, upon the criteria that it has to be registered with the authority in a maximum of a preemptory 60 days deadline calculated from the date of the acquisition or production.

” Tax system offers a great opportunity for merchandise centers establishment or deployment of development activities of intangible assets into Hungary ”

The income realized as a result of the sale of registered immaterial assets, and also the appropriation thereof as contribution in kind qualifies as a unit capable to reduce the tax base, if the following basic conditions are met:

- the taxpayer (including its legal predecessor) recorded the intangible assets among its material means before the sale (appropriation) for at least 1 year continuously;
- the taxpayer (including its legal predecessor) did not apply the tax base reduction benefit for non-registered intangible assets to the profit from the sale or derecognition of intangible assets entitling to the same royalty in the tax year (s) preceding the tax year(s) of filing (submitting tax declaration).

Consequently, as a result of the provisions, the sale of such intellectual property assets or the sale of such right - after one year possession - can be manifested tax free. Therefore, the tax system offers a great opportunity for either the establishment of merchandise centers in Hungary or - in the scope of a multinational company group - for the deployment of development activities of intangible assets into Hungary and for the transfer of these in return compensation internally in the company group (with careful attention to the regulations applicable for transfer pricing).

Non-registered Intangible Assets

The pre-tax profit may be reduced by the amount of the profit gained on the sale of the intangible asset entitled to royalties (except for the registered intangible asset) and its derecognition as a non-monetary contribution transferred from the retained profit to the reserve committed in the tax year and shown as a reserve on the last day of the tax year.

Local industrial business tax

It must be noted that the royalty income is free of the local industrial business tax; meanwhile the basic research, applied research and the experimental development costs are reducing the tax base.

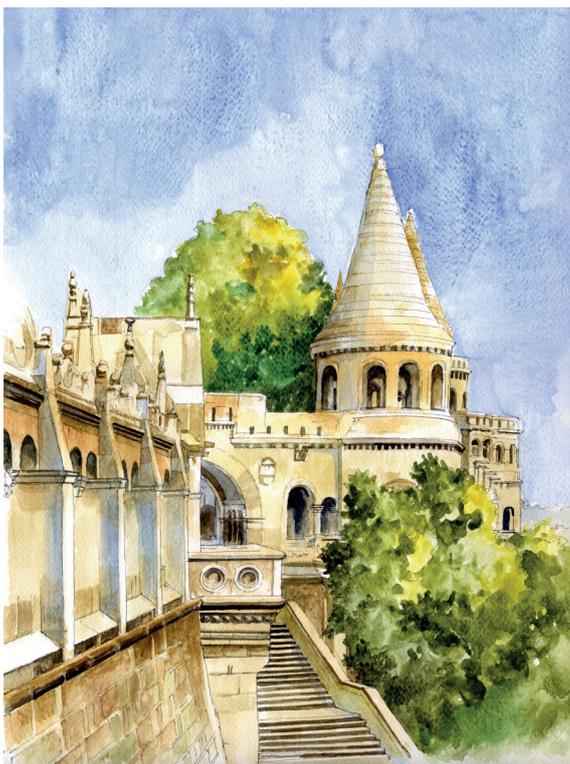
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**Royalty income is free of the local industrial
business tax in Hungary**
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R&D Tax Benefits



It is further connected to the production of intellectual property assets that additional tax benefits may be realised through research and development (R&D) activity performed via an enterprise incorporated in Hungary. Generally, the non-taxed profit could be further reduced also by the direct costs of experimental development, applied research, basic research carried out in the framework of own activity, in addition to the rule that that these items as units of operational costs can be also accounted towards management costs.



In case of research and development services ordered from an affiliated company for the acquisition and production of an intangible asset entitling to royalties or purchased intangible assets entitling to royalties, the taxpayer may take into account a maximum amount of basic research, applied research and experimental development related to the purchase and development of such intangible asset as a deductible item, with the direct cost being taken into account in determining the ratio at the normal market price in the tax year in which the cost is incurred (regardless of its accrual).

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Through joint R&D activities with higher education or research institutions, further tax reduction can be achieved.
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If the undertaking carries out the R&D activity jointly with a Hungarian higher education institution, furthermore with a research institution operating as a central fiscal organ, a research institute, research department established by any of them, or with a majority state owned research institute operating as a business association; the tax payer is entitled to take into consideration the triplicate of its direct costs, but a maximum of 50 million HUF upon the reduction of the tax base.

For international company groups it may be of significance that the above taxation regulations relevant to joint research and development activity can be also applied throughout cooperation with an appropriate organisation of EU member states or states who are signatories of the agreement establishing the European Economic Area.

Tax incentives in the film industry



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Implementing legislative changes and reinforcing the essential infrastructure helped to revitalize the Hungarian film industry
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It is noteworthy to mention the tax incentives associated with shooting motion pictures in Hungary. The country expended significant efforts over the past years to revive its film industry by implementing legislative changes and reinforcing the essential infrastructure . As a result, the production of widely known blockbusters such as Die Hard 5, World War Z, Hercules, Hellboy 2, 47 Ronin or the recently played Spy as well as the award winning TV drama series The Borgias took partly place in Hungary.



Film production benefits

Generally, in case a motion picture is sponsored by a Hungarian tax resident, a so-called “sponsorship certificate” can be obtained from the competent Film Authority in order to make use of the tax allowance. Although there is no maximum amount for the sponsorship, the Film Authority’s certificate may only indicate an amount not exceeding 30% of the production costs of the motion picture in question. In the scope of the highly advantageous taxation regime, tax residents are not only entitled to reduce their corporate tax base up to the amount indicated in the sponsorship certificate but also to reduce their corporate tax to be paid, as a result of which tax savings up to 104.75% of the financial support can be achieved.



Additionally, the film producer company can be subject to corporate tax allowance for a maximum 17-year period for investment projects valued minimum HUF 100 million at current prices (\approx USD 310k) exclusively for motion picture and video production. The amount of the tax incentive ranges between 10 and 50% of the investment’s value and depends on a variety of circumstances, mainly on the location of the investment and the size of the investing company.

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Legal environment offers a variety of favorable structures for film producers
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A further beneficial rule is that tax residents owning filming equipment or buildings can apply accelerated depreciation, according to which a annual rate of 50% instead of the general 14.5-33% rate may be applied in case of motion picture and video production equipment, whereas a 15.0% rate can be applied instead of the general 2-6% rate for buildings used exclusively for motion picture and video production.

As a result, over the past years Hungary experienced the evolvement of state-of-the-art film studios in the Budapest area and professional local supplier chain with international knowhow.

It is also notable that Hungary has no source tax in place, which allows foreign shareholders unburdened access to the after-tax profit from their local affiliates. Evidently, this legal environment offers a variety of favorable structures for film producers through special purpose vehicles and apt subcontractors in Hungary.

About The practice leaders

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Dr. Andrea Jádi Németh is the Managing Partner of bpv JÁDI NÉMETH and has a broad experience in advising on M&A, Regulatory, Competition, Corporate Restructuring, Real Estate, Bankruptcy and Taxation matters. She is a qualified attorney at law with licenses to practice law both in Hungary and in the State of New York, USA.

At the beginning of her carrier she worked as in-house counsel for MALÉV Hungarian Airlines Plc. and gained extensive experience in international aviation and cross border transactions. Then, after 10 years of practice and two years of partnership within a major international law firm, in 2006 she formed along with several independent law firms in Central and Eastern Europe the bpv LEGAL Alliance.



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Dr. Péter Garancsi manages the corporate / M&A, banking and finance as well as the energy/regulatory practice areas at bpv JÁDI NÉMETH Attorneys at Law and takes significant part in advising English speaking clientele from all over the globe.

Peter gained comprehensive experience in negotiating transactions and heading practitioner teams in various legal fields, including corporate law, domestic and cross-border M&A, energy law, regulatory, finance, commercial and tax law. His sector specific experience features inter alia industrial machinery, fuel/gas & electricity, agriculture, infrastructure, telecommunications, aviation and retail.

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