

Act LXXXI of 1996

on corporate tax and dividend tax

In order to provide the income required for performing state tasks, to facilitate favourable conditions for the operation of businesses and to apply the aspects arising out of association with the European Communities, the Parliament adopts the following Act on the rules of corporate taxation and dividend tax:

DETERMINING TAX

Chapter III

Tax benefit for development

Article 22/B (1) Based on the Ministry of Finance's resolution, taxpayers may use a tax benefit for the putting into operation of,

(...)

f) capital expenditure with a present value of at least HUF 100 million, which serves the sole purpose of film and video production,

and its subsequent operation for five years – according to the valid, final and enforceable permit – provided that the capital expenditure results in the creation of new facilities, extension of existing facilities or –except for basic research, applied research or pilot development capital expenditure that serves the purpose of – a fundamental change in the product produced, service provided and/or in the production or service provision process.

(2) A further condition for allowing and using the tax benefit is that out of the value of capital expenditure:

a) the value of capital expenditure not put into operation earlier should represent at least 30 per cent;

b) the value of renovation may be no more than 20 per cent, except if the taxpayer put into operation and operates the capital expenditure in the administrative territory of a local municipality that satisfies the conditions defined by government decree.

(4) Taxpayers may use the tax benefit in the tax year that follows the putting into operation of the capital expenditure implemented in the framework of a development programme, which was started after 31 December 2002 – or, on the taxpayer's request, in the tax year when the capital expenditure project is put into operation – and for the subsequent nine tax years, provided that for the purposes of these provisions, the acquisition of land, plots, the development of plots and of rights of property value related to the property in question shall not constitute the start of capital expenditure.

(5) The amount of tax benefit used by a taxpayer for the development programme based on the resolution, and the amount of other subsidy out of public finances as defined in the

government decree received without a repayment obligation, which is settled financially or was used in any other form, calculated at present value, may not exceed

a) the figure calculated using the proportion defined in the government decree of the total of capital expenditure value, cost and expenditure actually incurred in the case of capital expenditure according to section (1) paragraphs *a)-f)*,

b) the figure calculated using the proportion defined in the government decree based on the personnel type expenditure of employees employed in the newly created jobs actually incurred, in the case of capital expenditure that serves the purpose of job creation according to section (1) paragraph *g)*.

(6) For capital expenditure according to section (1) paragraphs *a)-b)*, another condition for using the tax benefit is that during the four tax years that follow the tax year when the tax benefit is first used

a) the average statistical headcount of the persons employed by the taxpayer should exceed the average statistical headcount of persons employed in the tax year preceding the start of the capital expenditure by at least 100 persons, or by at least 50 persons if the taxpayer put into operation and operates the capital expenditure project in the administrative territory of a local municipality that satisfies the conditions set out in the government decree, or

b) the annuated salary cost accounted for by the taxpayer exceeds the annuated salary cost of the tax year preceding the start of the capital expenditure project by at least six hundred times the amount of minimum wages valid on the first day of the tax year calculated for the tax year, or, by at least three hundred times the amount specified if the taxpayer put into operation and operates the capital expenditure project in the administrative territory of a local municipality that satisfies the conditions set out in the government decree, or

c) out of the purchase cost of liabilities to suppliers incurred by the taxpayer, the purchase cost of liabilities to entities deemed to be small and medium-sized enterprises at the time of concluding the contract that serves as the basis of the liability but not earlier than in the first tax year defined in the resolution for using the tax benefit exceeds 30 per cent.

(9) For capital expenditure that serves the purpose of film and video production, an addition condition for using the tax benefit is that within the five years that follows the putting into operation of the capital expenditure project, the taxpayer may not produce any films using the tangible asset that should be classified into category 4 or 5 based on Article 5/B of *Act I of 1996 on radio and television*.

(11) The government decree may determine conditions in addition to those set out in this Act, or may provide for a prohibition to use the tax benefit.

(12) Taxpayers will not be entitled to the tax benefit described in section (5) and any tax benefits already used shall be deemed to be subsidies used without authorisation if they fail to meet any of the conditions defined in this Act and the government decree. This provision shall not apply if the condition could not be met due to an uncontrollable external reason.

(13) Taxpayers may not use the tax benefits for small and medium-sized enterprises for interest paid in connection with the capital expenditure implemented in the framework of the development programme.

(14) Taxpayers shall indicate the tax benefit used, other state subsidy used for the development programme, and capital expenditure, costs and expenses charged to the development programme and personnel type expenditure for employees employed in the newly created jobs in their tax returns in a breakdown by development programme, with a level of detail determined in the government decree.

(15) The Tax Authority shall immediately inform the Hungarian State Treasury about all data available to it based on section (14) by taxpayer and by development programme; the Hungarian State Treasury will supply data to the Ministry of Finance using the data received on request, in order to perform the obligation to provide information as required in international agreements proclaimed by law. The provisions of the Act on the order of taxation application to tax secrets shall apply to data obtained by the Hungarian State Treasury by way of the information as appropriate.

(16) The Ministry of Finance will authorise the tax benefit – taking into account the opinion of the competent ministry – in a resolution if the development programme and the application meet all the conditions defined in this Act and in the government decree issued based on the authorisation granted in this Act. The resolution must be adopted within 60 days of application, or in the case of providing missing items, within 60 days of the day when the missing items are provided. The deadline may be extended once by no more than 60 days. If the Ministry of Finance fails to reject the application within the deadline set for the procedure, the legal consequences applicable to a resolution affirming the application shall apply, with the proviso that the taxpayer may use the tax benefit in accordance with this Act and the government decree.

(18) The Minister of Finance shall publish the names of taxpayers authorised to use the development tax benefit in the calendar year in “Pénzügyi Közlöny” by 31 January of the year that follows the given calendar year.

The rules for using tax benefits

Article 23 (1) Taxpayers entitled to 100% tax benefit in the tax year based on Article 21 sections (7), (10)-(11), Article 22 sections (6)-(7) and Article 29 section (5) paragraph *d*), and taxpayers entitled to the tax benefit based on Article 29 section (5) paragraph *b*) may make use of the tax benefit up to the amount of corporate tax.

(2) The development tax benefit under Article 22/B may be applied to the tax reduced by the tax benefit used in accordance with section (1), up to no more than 80 per cent of that tax.

(3) All other tax benefits may be applied to the tax reduced by the tax benefits used according to sections (1)-(2), up to no more than 70 per cent of that tax.

(4) Entities pursuing activities abroad according to Article 4 paragraph 28 may not make use of the tax benefit.

(5) The tax benefit may be used in the form of withholding tax.

(6) Foreign enterprises may make use of the tax benefits defined in this Act based on capital expenditure implemented in its permanent establishment in Hungary, the annual average headcount of its employees and/or sales revenue earned by way of its permanent establishment in Hungary.

(7) If the Act determines the last year of using the tax benefit, it may be applied for the last time in the tax year the last day of which falls within the year specified in the Act.