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# Act LXXXI of 1996

## on Corporate Tax and Dividend Tax

Having regard to securing the revenues necessary for discharging government functions, to improving the operational environment for businesses, as well as to implementing certain requirements stemming from Hungary's accession to the European Communities, Parliament has adopted the following Act on corporate taxation:

### *PART ONE*

### *GENERAL PROVISIONS*

#### Chapter I

#### Basic Principles

##### *Section 1*

(1) In the Republic of Hungary, corporate tax liabilities payable under this Act on the revenues obtained from economic activities performed for profit on a regular basis and other similar gainful activities (hereinafter referred to as "business operations") shall be complied, pursuant to the provisions of this Act, with due regard to the constitutional directive stipulating contribution to public expenditures, taking also into account the provisions of the Act on the Rules of Taxation.

(2) Any rule, tax incentive (tax relief, tax allowance) which affects tax liability or the amount of taxes, or that results in the reduction of taxes may be used and/or claimed to the extent that the essence of the transaction to which it pertains or other similar action manifests the purpose of the rule or tax allowance. The burden of proof as to applicability or enforceability lies with the party in whose interest it stands. If the nature or substance of the transaction suggests that the sole purpose of the transaction is to obtain a tax advantage in favor of any or all parties concerned, the costs and expenditures charged on the basis of such transaction shall not be treated as ordinary business expenses, i.e. that have been paid or incurred in the course of business, and no tax allowance may be claimed.

(3) Where costs and expenditures, as well as the reduction (increase) of pretax profit, or the claiming of tax exemption or tax relief are to be taken into account on the same grounds, but under different entitlements as prescribed by this Act, it may (shall) be claimed only once, unless any provision of the law expressly refers to the application of such on several occasions.

(4) Where an international agreement promulgated by an Act or Government Decree stipulates any derogation from this Act, they shall override the provisions of this Act. Derogation from this Act is also permitted if there is reciprocity, provided that this does not result in further tax liabilities on the part of the taxpayer when compared to those defined by the provisions of this Act. Reciprocity shall be determined by the minister in charge of taxation (hereinafter referred to as "minister").

(5) This Act shall be interpreted according to and in accordance with the provisions of the Accounting Act. Any deviation from the provisions of the Accounting Act in order to receive a true and fair view shall not be permitted to result in lower tax liabilities.

#### Persons Subject to Corporate Tax

##### **Section 2**

- (1) The persons defined in Subsections (2)-(4) shall be subject to corporate tax.**
- (2) The following resident persons shall be deemed resident taxpayers:**

- a) business associations (including nonprofit business associations), groupings and European public limited-liability companies (including European holding companies), and European cooperative societies;
  - b) cooperative societies;
  - c) public companies, trusts, other state-controlled economic organizations, special purpose entities, and subsidiaries;
  - d) law offices, court bailiffs' offices, patent agencies, notary's offices, and forest management associations;
  - e) Employee Stock Ownership Plans (hereinafter referred to as "ESOP");
  - f) water management associations,
  - g) foundations, public foundations, non-governmental organizations, public bodies, religious organizations (including any organizational units of such organizations vested with legal personality in the bylaws or charter document), housing cooperatives, and voluntary mutual insurance funds;**
  - h) institutions of higher learning (including the institutions they have established), and student hostels;
  - i) European groupings of territorial cooperation.
  - j) sole proprietorships.
- (3) Any nonresident person whose principal place of business management is in Hungary shall be treated as resident taxpayer.
- (4) Foreign nationals shall be deemed taxpayers, as well as nonresident entities whose head office is located abroad:
- a) if they carry out business operations at their branches in Hungary, provided that they are not considered resident taxpayers due to the location of their head office (hereinafter referred to as "nonresident entrepreneurs");
  - b) if they receive any interest, royalties or service charges from legal persons or unincorporated business associations, partnerships or other organizations established according to Hungarian laws, except if the state where the foreign national is a resident or where the said nonresident entity is established has an agreement on double taxation concerning the income and wealth tax system with the Republic of Hungary (hereinafter referred to as "nonresident organization");
  - c) if they obtain any income through the transfer or withdrawal of participating interest in a company with real estate holdings (hereinafter referred to as "member of a company with real estate holdings").
- (5) The bodies listed in Schedule No. 5 are not subject to corporate tax.
- (6)-(7)

## Total and Limited Tax Liability

### *Section 3*

- (1) The tax liability of resident taxpayers shall apply to their income from Hungary and from abroad, both (total tax liability).
- (2) The tax liability of nonresident entrepreneurs shall apply to their income from business operations performed in their Hungarian branches (limited tax liability).

## Definitions

### *Section 4*

For the purposes of this Act:

- 1.
- 1/a.
- 2. 'taxpayer' shall mean the resident and nonresident persons specified in Subsections (2)-(4) of Section 2, other than those defined in Subsection (5) of Section 2;
- 3. 'identical job' shall mean the vocations deemed identical according to the Foglalkozások Egységes Osztályozási Rendszere (FEOR) (Standard Classification of Occupations) issued in KSH Bulletin No. 9006/1996 (SK 12.), effective as of 1 January 1997;
- 4. 'revenue' shall mean:
  - a) net sales revenues, as defined in the Accounting Act, less any consumption tax and excise tax associated with production, operations, service and sales activities, that are not shown under the costs of self-manufactured stocks,

b) in terms of credit institutions and financial companies, interests earned and similar income, less interest paid and similar charges, and increased by revenues from other financial services and net sales revenues from activities other than financial investment services,

c) in terms of insurance companies, the revenues from insurance services plus net operating expenses, expenses of insurance services from investments (only in the life insurance branch), other expenses of insurance services, the net revenues from investments and the revenues of non-insurance activities added; less the dividends and shares received, the adjusted revenues from own real estate properties used for own purposes, the amount claimed as interest expense in the purchase price of interest-bearing securities, and the amount shown under expenses charged against the Damage Compensation Account,

d) in terms of investment firms, the revenues from investment services plus the revenues from non-investment service activities, plus interest receivable and similar income; less the amount claimed as interest expense in the purchase price of interest-bearing securities,

e)

4/a. 'bad debt' shall mean any claim that is considered irrecoverable according to the Accounting Act, as well as 20 per cent of the historical cost of a claim that is not settled within 365 days of the payment due date, with the exception of claims shown under receivables that cannot be enforced in court or under barred claims;

5. 'notified share' shall mean a share of at least 30 per cent and above in the capital of a legal person or business association lacking the legal status of a legal person established according to Hungarian laws, and in any foreign person (other than a controlled foreign company), provided that the taxpayer notifies the tax authority concerning the acquisition of this share within thirty days; no application for continuation shall be accepted upon the taxable person's failure to meet the above-specified deadline for notification; notification of a share above 30 per cent may be submitted only if the taxpayer has previously notified his share of at least 30 per cent to the tax authority;

6. 'domestic territory' shall mean the territory of the Republic of Hungary including customs free zones and transit areas;

7. 'domestic person' shall mean the legal persons established under Hungarian law, business associations lacking the legal status of a legal person, partnerships, other organizations, as well as private individuals regarded as resident in accordance with the Act on Personal Income Tax;

8. 'total investment cost' shall mean the cost of a tangible asset until the time of installation;

9. 'beneficiary of tax incentives granted for investment projects' shall mean the party putting an investment project into operation; 'starting date of the investment project' shall mean the date of commencement of construction works or the date when the first tangible asset is received within the framework of such project; with regard to tax incentives granted for construction and regional investment projects:

a) 'machinery' shall mean machines and equipment classified in the Harmonized System (hereinafter referred to as "HS") customs tariff code (hereinafter referred to as "heading") falling under headings 8405-8408, 8410-8430, 8432-8447, 8449-8465, 8467, 8468, 8474-8485, 8508, 8515, 8701, 8709 and 8716 HS, electric apparatus falling under headings 8501, 8502, 8504-8507, 8511-8513, 8530, 8531, 8535-8537, 8539, 8543-8548, 9006 and 9405 HS, boilers falling under heading 8403 HS and steam generation equipment falling under heading 8402 HS, as well as any technical equipment consisting of combinations of the aforementioned for performing complex work processes,

b) 'building' shall mean a permanent structure attached to the ground (by way of foundation) or by way of altering the natural properties or the natural geological formation of the ground, which can only be detached from the ground only if dismantled or taken apart, which however makes it unsuitable for serving its original function; any water, electricity, gas and sewage lines, central heating, ventilation, air exchange, air-conditioning equipment and elevators that are incorporated into the building structure to provide the necessary supplies for servicing the building shall be considered parts of the building; such lines, equipment and accessories shall be included as part of a building structure if, in addition to providing the essential supplies for serviceability, are also serving technological purposes, or if built into an existing structure subsequently,

c)

d) 'investment project for production purposes' shall mean any new building or equipment purchased and put into operation by the taxpayer for producing industrial or agricultural products, whereby the operating cost represents a part of the direct cost of the product,

e) 'infrastructure investment' shall mean any new building or equipment purchased and used for transporting goods or passengers by rail, road or water; producing and supplying drinking water; or providing sewage and waste treatment, public hygiene or telecommunications services (ÉJ 11, ÉJ 21, ÉJ 31, ÉJ 41, ÉJ 53, ÉJ 61, falling under ÉJ 55, falling under ÉJ 71 and falling under ÉJ 91, furthermore machines and equipment falling under headings 8401, 8405-8408, 8410-8430, 8432-8447, 8449-8465, 8467, 8468, 8474-8485, 8508, 8515, 8701, 8709 and 8716 HS, electric apparatus falling under headings 8501, 8502, 8504-8507, 8511-8513, 8530, 8531, 8535-8537, 8539, 8543-

8548, 9006 and 9405 HS, and boilers falling under heading 8403 HS and steam generation equipment falling under heading 8402 HS);

9/a. 'financial statement' shall mean the report prepared according to the Accounting Act or other regulations adopted under its authorization, with the exception of the consolidated annual reports;

10. 'designated organization' shall mean a business association, cooperative society (exclusive of housing cooperatives) and special purpose entities designated as such for the full tax year by the minister;

10/a. 'recognized exchange' shall have the meaning defined in Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities;

11. 'controlled foreign company' shall mean foreign persons and nonresident entities whose head office is located abroad (hereinafter referred to as "nonresident company"), in which there is a beneficial owner who is considered a resident according to the Personal Income Tax Act concerning the majority of the nonresident company's tax year (hereinafter referred to as "share-holder"), as well as the nonresident company whose revenues for the tax year originate from Hungary for the most part, in either case if the quotient of the tax amount paid (payable) by the nonresident company for the tax year - less any tax refund - and the tax base [in the case of group taxation arrangement the amount of tax paid (payable) at group level, less any tax refund, and the tax base] is less than two-thirds of the percentage rate defined in Subsection (1) of Section 19 or the nonresident company did not pay any tax equivalent to corporate tax on account of its tax base being zero or negative, even though it has made a profit. This provision shall not apply if the nonresident company in question is established or is a resident of a Member State of the European Union, a Member State of the OECD, or a State with which the Republic of Hungary has an agreement on double taxation and in which state the said nonresident company maintains real economic presence, where:

a) 'real economic presence' means when a nonresident company is engaged in gainful activities in another state - together with its affiliates established in that state, where applicable -, such as in manufacturing, processing, agricultural, service, investment and trading activities, using its own equipment and own workforce, where their revenues from such activities represent at least 50 per cent of all revenues; burden of proof of the said real economic presence shall lie with the taxpayer;

b) investing activities are the acquisition, holding and disposal of long-term investments in equity securities and debt securities, as well as the investments made by and the activities of funds, companies and other bodies operating in any State under the regulations of that State pertaining to securities and investment services, authorized by the competent authorities exercising supervision of financial services and investment services in that State, furthermore, the investments made by and the activities of funds, companies and other bodies managed by a professional fund manager authorized by the competent authorities of a State, or established in that State;

c) if the balance sheet total or the tax base is zero or negative, the amount of the tax equivalent to corporate tax according to the laws of the foreign state shall reach two-thirds of the tax rate defined in Subsection (1) of Section 19;

d) the nonresident company's tax year shall be understood as the last tax year ending on or by the last day of the share-holder's tax year;

e) these provisions shall apply to any fixed establishment of the nonresident company located in a state other than where the said company is established or in which it is a resident;

f) for the purposes of this provision, beneficial owner shall mean a private individual who controls - directly or indirectly - at least ten per cent of the voting rights or the capital of the nonresident company, or has a dominant influence by definition of the Civil Code of the Republic of Hungary (hereinafter referred to as "Civil Code");

g) any nonresident company in which a person that is listed on a recognized exchange for a period of not less than five years effective on the first day of the tax year, or its affiliated company holds a share of at least 25 per cent on each day of the tax year shall not be recognized as a controlled foreign company.

12. 'preliminary or auxiliary activities' shall mean activities carried out exclusively for a foreign person which are outside the scope of activities of such foreign person as defined in its memorandum of association, yet it facilitates or helps to make preparations for the performance of the activities contained therein;

13.

14.

15. 'construction completion date' shall mean the day on which the occupancy permit or continuation permit becomes operative; in respect of subcontractors, the day when his activities are completed;

16. 'construction commencement date' shall mean the day of commencement of works indicated in the construction or installation journal; in respect of subcontractors, the starting date indicated in the construction or installation journal;

16/a. 'average statistical number of employees' shall mean the average number of employees calculated on an annual basis in accordance with the guidelines in effect on the first day of the tax year, published by the Central

Statistical Office for data disclosures for employment statistics. Hired out employees may be counted by the user enterprise if they are not counted by the temporary employment company and the user enterprise is provided with a written statement to this effect by the tax return deadline;

17. 'independent representative' shall mean a person economically and legally independent of the taxpayer whose business is to provide representation to the taxpayer; if the representative is engaged in any activities that fall within the taxpayer's scope of activities, it shall not be recognized as ordinary course of business; a representative shall not be deemed independent, if he carries out his business operations based on the instructions or under the complete control of the taxpayer, or if risks are assumed by the taxpayer rather than by the representative;

18. 'real estate property' shall mean land and all physical property attached to it;

18/a. 'company with real estate holdings' shall mean any taxpayer where:

1. the market value of the Hungarian real estate property shown on balance sheet date represent more than 75 per cent in the (total) value of the assets shown on the aggregate in the taxpayer's annual account or in the annual account of a resident taxpayer including if - collectively with its nonresident affiliated company (hereinafter referred to as "group") - holding a real estate property located in Hungary, and

2. any member (shareholder) of the taxpayer or any member (shareholder) of either company of the group held resident status on at least one day of the tax year in a State with which the Republic of Hungary has no agreement on double taxation or the agreement provides for the taxation of capital gains in Hungary, where

a) annual account means the financial statement prepared for the tax year by 31 May of the calendar year (initially 2011),

b) the taxpayer is to apply residence status relying on the statement supplied by the member (shareholder) in question, or in the absence of this statement the condition referred to in Point 2 shall be presumed to have been realized,

c) the taxpayer is liable to communicate the information required for determining the percentage the real estate property represents to all its affiliated companies within the group by 31 July of the calendar year,

d) these provisions shall not apply if the taxpayer is listed on a recognized exchange,

e) these provisions shall not apply if the taxpayer, nor any nonresident member (shareholder) of the affiliate within the group did not alienate and did not withdraw (in part or in whole) his share during the calendar year preceding the time when the information referred to in Paragraph c) is to be provided.

19. 'industrial park' shall mean a confined area with the necessary infrastructure that has been developed for commercial and business purposes under conditions defined by law and has been classified as an "industrial park" in a tender procedure;

20. 'royalty' shall mean any consideration received by the rightholder for the transfer of:

a) a patent, industrial design and other protected intellectual works and know-how exploitation rights,

b) a trade mark, or the right of use of a trade name or trade secret,

c) right of use of authentic works protected by the Copyright Act and rights related to copyright, and

d) rights of use related to protected industrial designs and other copyrighted articles mentioned in Paragraphs a) and c);

21. 'income' shall mean the amount defined as the tax base in this Act;

22.

23. 'affiliated company' shall mean:

a) the taxpayer and the person in which the taxpayer has a majority control - whether directly or indirectly - according to the provisions of the Civil Code,

b) the taxpayer and the person that has majority control in the taxpayer - whether directly or indirectly - according to the provisions of the Civil Code,

c) the taxpayer and another person if a third party has majority control in both the taxpayer and such other person - whether directly or indirectly - according to the provisions of the Civil Code, where any close relative holding a majority control in the taxpayer and the other person shall be recognized as third parties;

d) a nonresident entrepreneur and its domestic place of business and the business establishments of the nonresident entrepreneur, furthermore, the domestic place of business of a nonresident entrepreneur and the person who maintains the relationship defined under Paragraphs a)-c) with the nonresident entrepreneur;

e) the taxpayer and its foreign branch, and the taxpayer's foreign branch and the person who maintains the relationship defined under Paragraphs a)-c) with the taxpayer;

23/a. 'preferential transformation' shall mean the formation of a new company (including by merger and demerger), where both the predecessor and the successor are corporations (Point 32/a), if

a) the members or shareholders of the predecessor company are provided cash payment not exceeding 10 per cent of the aggregate nominal value of the new shares issued by the successor company in connection with the transformation or, where the shares have no nominal value, the percentage they represent in the subscribed capital, and

b) in the case of demerger, the members or shareholders of the predecessor company are provided a proportionate share in the capital of the successor companies,

c) merging with the sole proprietor or shareholder of a single-man company;

23/b) 'preferential transfer of assets' shall mean an operation whereby a company (the transferring company) transfers - without going into dissolution - one or more of its strategic business units to another company (the receiving company) in exchange for an interest incorporating the receiving company's issued share capital. 'Strategic business unit' shall mean all the assets and liabilities (including accrued expenses and deferred income) of a division of a company that, from an organizational point of view, constitute an autonomous unit capable of functioning on its own, relying on its own assets and means;

23/c) 'preferential exchange of shares' shall mean an operation whereby a company (the acquiring company) acquires an interest in the issued capital of another company (the acquired company) in exchange for issuing to the member (members) or shareholder (shareholders) of the latter company - in exchange for their securities - securities representing the issued capital of the former company and, if applicable, making a cash payment not exceeding 10 per cent of the nominal value or, in the absence of a nominal value, of the accounting par value of the securities issued in exchange, provided that the acquiring company obtains a majority of the voting rights in the acquired company, or shall increase it if already held a majority of the voting rights before the transaction took place;

23/d) 'aid provided to small and medium-sized enterprises under the Commission Regulation on State aid' shall mean aid provided pursuant to Articles 1-13 of Commission Regulation (EC) No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in the application of Articles 87 and 88 of the Treaty (General block exemption Regulation);

24) 'micro, small and medium-size enterprise' shall mean the companies defined as such in the Act on Small and Medium-sized Enterprises and the Support Provided to Such Enterprises, including law firms, court bailiffs' offices, patent agencies and notaries' offices, if they comply with the requirements set out in the said act; the micro enterprises referred to in the said act shall also be treated as small enterprises;

24/a.

25) 'interest representation organization of employers and employees' shall mean an organization or federation of organizations registered by the court as a non-governmental organization, whose principal activity is to represent the interests of employees or employers as laid down in its bylaws, and that is a member of the National Council for the Reconciliation of Interests, including the county, regional or trade branches of such organization;

26) 'adjusted book value' shall mean the value of receivables adjusted according to the relevant accounting regulations, shown as an addition to the pre-tax profit, minus the sum shown as a deduction from the pre-tax profit;

27) 'foreign person' shall mean a legal person, business association lacking the legal status of a legal person, a partnership and any other organization established under foreign law;

28.

28/a) 'national interest representation organization' shall mean a federation of non-governmental organizations registered by the court as a non-governmental organization, the members of which represent the interests of employees or employers on the basis of their bylaws and charters, provided that the union or its members have at least ten local chapters with legal personality in different counties;

29) 'total revenue' shall mean all revenues shown in the financial statement on the tax year (or failing this as shown in the closing accounting statement for the tax year) comprising net sales revenues, other income, income from financial operations, and extraordinary income;

30) 'First-time employee' shall mean a person entering into an employment relationship whether under contract of employment or under some other form of legal relationship for the first time within one calendar year upon conclusion of his studies in the regular daytime course of a secondary educational institution of the school system or in an institution of higher education;

31.

31/a) 'adjusted book value' shall mean the cost of intangible assets and tangible assets, less any depreciation deducted from the tax base, plus the readjusted amount of extraordinary depreciation claimed in the tax base;

31/b) 'person' shall mean resident and nonresident persons, and private individuals;

31/c) 'passenger car' shall mean any motor vehicle equipped with three or four wheels with a passenger capacity of no more than eight adults, including the driver, with the understanding that petrol or diesel powered vehicles, electric vehicles, gas powered vehicles, race cars and caravans (mobile homes) are also included in this category.

Multi-purpose motor vehicles with a gross weight of less than 2,500 kilograms (passenger cars with oversized cargo space) whose factory-designed cargo space can carry more than two passengers, with seats that can be simply removed at any given time to transform the cargo space behind the cabin wall for carrying goods, including when the removal of the seats is accomplished by irreversible technical conversion, shall also be regarded as passenger cars;

32. 'software developer' shall mean a private individual holding a university or college degree, involved in the design, research and development of software, data banks, databases, expert systems, robotics and decision-making models, and is writing, testing and analyses programs and routines for the operating systems of computers in connection with the above activities;

32/a) 'corporation' means a business association, professional association and, effective as of the operative date of the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union, any corporation domiciled in a Member State according to the tax laws of that state

a) that does not have a domicile in a non-member state under the provisions of a valid international agreement on income tax and wealth tax to which the said non-member state is a party, and

b) it operates in a form governed in the Council Directive on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States or in the Council Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, and is taxable under these directives without the possibility of having an option or being exempt;

33. 'place of business' shall mean:

a) a permanent business establishment, equipment, and accessories that is used by the taxpayer in whole or in part for business activities irrespective of the taxpayer's entitlement to use them; the term 'place of business' shall cover, in particular, the place of management, representative offices established with a registered office in Hungary, offices, factories, plants, workshops, mines, crude oil or natural gas wells, and other facilities used to explore or exploit natural resources,

b) site of construction or assembly operations (hereinafter referred to collectively as "construction site"), including supervisory activities related thereto, if such construction continues for a total of at least three months (with or without interruption) with regard to individual construction sites irrespective of whether such activity is based on several independent contracts or whether it was commissioned by several parties; any construction project constituting one unit from an economic, business and geographical point of view shall be recognized as one construction site,

c) a foreign person shall be regarded as having a place of business in case of the direct utilization of natural resources in Hungary,

d) a foreign person shall be regarded as having a place of business in cases of the utilization of any real estate property or natural resources in return for consideration, the transfer, sale and contribution in kind of any rights in immovables or in natural resources (hereinafter referred to as "utilization of real estate") in return for consideration,

e) a foreign person shall be regarded as having a place of business, unless he performs only the activity specified in Paragraph g) below, in the case of activities which are undertaken by other foreign or resident persons on behalf of such foreign person, if they are entitled to enter into a contract in Hungary on behalf of the foreign person and exercise such right on a regular basis, or maintain stocks of commodities or products from which they regularly make deliveries on behalf of the foreign person,

f) without prejudice to the above provisions, a foreign person shall be regarded as having a place of business if another person takes out insurance on behalf of such foreign person - with the exception of reinsurance and the provisions of Paragraph g) notwithstanding - for risks occurring in Hungary,

g) the following shall not be construed as a place of business:

1. establishments used exclusively to store and present the goods or products of a foreign person,
2. stockpiling of goods and products of a foreign person exclusively for storage, presentation and processing by another person,
3. establishments maintained exclusively for purchasing commodities and products or collecting information for a foreign person,
4. establishments maintained exclusively for carrying out preliminary or auxiliary activities,
5. activities carried out by an independent representative (including commission agents), if acting within the framework of his ordinary business activities,

h) a foreign person shall be regarded as having a place of business if engaged in business operations through a branch;

34. 'natural resources' shall have the meaning defined in the Act on the General Rules of Environmental Protection;



34/a. 'non-operational property' shall mean the real estate property that is not directly connected to the taxpayer's business operations, in particular, any dwelling within the business premises, and the buildings and engineering structures used in principle for the purposes of betterment;

35. 'place of management' shall mean the place where management governs the operations of the company;

36. 'motion picture authority sponsorship certificate' shall mean a certificate issued by the motion picture authority to a person who sponsors a motion picture production made to order under Act II of 2004 on Motion Pictures (hereinafter referred to as "MPA") or to sponsors of motion pictures not made to order, and which contains the name, address and tax number of the sponsor and the amount donated under eligibility for tax allowance.

37.

40. 'sole proprietorship' shall mean a legal entity defined in the Act on Private Entrepreneurs and Sole Proprietorships.

## ***PART TWO***

### ***CORPORATE TAX***

#### **Chapter II**

#### **Corporate Tax Liability**

##### *Section 5*

(1) Taxpayers shall be subject to corporate tax liability on their income pursuant to the provisions of this Act. Churches not engaged in any entrepreneurial activity during the tax year shall be required to file a declaration in lieu of a tax return to satisfy their corporate tax liability for the tax year.

(2) The corporate tax liability of a resident taxpayer shall commence on the date when the memorandum of association is drawn up, signed and certified in due legal form, if permitted to commence operations before the company is registered in the register of companies, or in the date when making the first legal statement if considered a resident on account of the place of management; in other cases tax liability shall commence at the time when considered established according to the legislation governing its foundation. The tax liability of a taxpayer shall be terminated on the date when considered dissolved according to the legislation governing its dissolution, or on the day immediately following the day when exempted from corporate tax liability for any reason (including if the application for registration is rejected or if the registration procedure is terminated).

(3) The corporate tax liability of a nonresident entrepreneur shall commence on the day his branch is registered in the register of companies and terminate on the day the branch is removed from the register of companies. The tax liability of a nonresident entrepreneur shall terminate on the day preceding the day on which a liquidation proceeding (including any equivalent proceeding) is opened against such nonresident entrepreneur in Hungary or, if it involves his Hungarian branch, abroad. If a nonresident entrepreneur is engaged in business operations in Hungary through a business establishment that has not been registered by the court of registry, his tax liability shall commence on the day on which the first legal statement that brings the place of business into existence is issued, and it shall terminate on the day on which the nonresident entrepreneur is dissolved or the legal statement resulting in the dissolution of the business establishment is issued (meaning also where the activities are carried out in the form of a branch, a European public limited-liability company or a European cooperative society). Where the tax liability of a nonresident entrepreneur originates from a construction project carried out in Hungary, it shall commence on the first day of construction if the duration of the project exceeds the period of time specified in the agreement or, if there is no agreement, three months. As to whether the construction is carried out at the nonresident entrepreneur's branch or other fixed establishment shall have no bearing on the continuity of construction.

(4) The taxpayer, if not required to file a financial statement for the tax year before the deadline prescribed for filing the tax return for the same year, shall assess the amount of tax payable based on the closing accounting statement drawn up on the last day of the tax year. If the taxpayer is required to complete the financial statement for the tax year subsequently, the actual amount of tax payable shall be assessed for each tax year - in compliance with the provisions in effect for the year to which the tax return pertains - based on such report, as well as the difference of the actual tax amount and the tax payable declared on the basis of the closing accounting statement.

(5) The provisions of this Act pertaining to succession (including where a departing member transfers a certain amount of the company's assets to an existing company, i.e. the receiving company) shall also be applied by the taxpayers, while the provisions on predecessors shall be applied - in respect of division - by the surviving taxpayer.

(6) If a liquidation (or a similar) proceeding is concluded without having the company cancelled from the register of companies, the tax liability shall continue as a new tax year from the day following the date of termination of the proceeding.

**(7) Foundations, public foundations, non-governmental organizations, public corporations, institutions of higher learning, nonprofit business associations, and social cooperatives may apply the provisions on public-benefit organizations and priority public-benefit organizations for the first time in the tax year when registered as such. Taxpayers may not apply the provisions on public-benefit organizations and priority public-benefit organizations during the tax year when being cancelled from the register of public-benefit organizations, with the exception of issuing certificates up to the date of cancellation. In the case of any change in the public benefit status during the tax year, the provisions pertaining to the classification in effect on the last day of the tax year shall be applied for the entire tax year, with the exception of issuing certificates up to the date of re-classification.**

(8) Corporate tax returns shall be prepared in the Hungarian language, denominated in Hungarian Forints (HUF). The taxpayers whose financial statement and books are denominated in a convertible currency shall translate all sums in the corporate tax return into forints on the basis of the official exchange rate of Magyar Nemzeti Bank in effect on the last day of the tax year. In respect of foreign currencies whose exchange rate is not listed by the Magyar Nemzeti Bank, the conversion shall be carried out using the euro exchange rate published by the Magyar Nemzeti Bank for the last day of the tax year. The same procedure shall apply to all other cases of conversion that falls outside the scope of the Accounting Act.

(9) The tax liability of any member of a company with real estate holdings shall apply as of the day of transfer of his share in the said company with real estate holdings, or when the subscribed capital is decreased through disinvestment.

## Determining the Corporate Tax Base

### Section 6

**(1) For resident taxpayers and nonresident entrepreneurs, pre-tax profit, adjusted in accordance with Sections 7, 8, 16, 18 and 28 and Chapter VII shall represent the corporate tax base.**

**(2) The pre-tax profit or loss for resident taxpayers and nonresident entrepreneurs, if not required to file a financial statement on the tax year before the deadline prescribed for filing the tax return for the same year, shall be assessed based on the closing accounting statement.**

**(3) The corporate tax base for foreign organizations and for companies with real estate holdings shall comprise the income defined, respectively, in Section 15 and Section 15/A.**

**(4) In the case of foundations, public foundations, non-governmental organizations, public corporations, churches, housing cooperatives, voluntary mutual insurance funds, ESOP trusts, public-benefit or priority public-benefit nonprofit business associations, institutions of higher learning registered as public-benefit organizations or priority public-benefit organizations, social cooperatives, water management associations and foreign enterprises, the provisions of Subsections (1) and (2) shall apply, with due consideration of Sections 9-14.**

(5) If a taxpayer's pre-tax profit as specified in Subsection (2) or his tax base as specified in Subsection (1), whichever is higher, fails to reach the income (profit) minimum, such taxpayer shall have the option to either:

a) make a statement specified in Subsection (1) of Section 91/A of the Act on the Rules of Taxation in his tax return; or

b) apply - in accordance with the provisions of Subsections (6)-(10) and in due consideration of the provisions of the relevant international agreement - the income (profit) minimum from the operations of his foreign branch as the tax base, without the income (profit) minimum of the foreign branch.

(6) Subsection (5) shall not apply to the taxpayer:

a) during the tax year when functioning as a pre-company and the following tax year, or during the first tax year if a separate financial statement is not required for the period when functioning as a pre-company; or

b) if taxed under Paragraphs e)-h) of Subsection (2) of Section 2, or if a social cooperative, a school cooperative or if a public-benefit or priority public-benefit nonprofit business association; or

c) if having sustained any natural disaster during the current or the previous tax year, and the value of the resulting damage - or the aggregate value of multiple events, if applicable - represents at least 15 per cent of the taxpayer's annualized revenues for the previous tax year (for the taxpayers established by way of transformation, of the revenues - combined or split as appropriate for the type of transformation - of the predecessor).

(7) For the purposes of Subsection (5), income (profit) minimum means 2 per cent of the total income that includes the items specified in Subsection (9) with the deductions specified in Subsection (8).

(8) The following may be deducted from the total revenue for determining the income (profit) minimum:

- a) the original cost of goods sold and the original costs of services mediated;
- b) the income shown for the tax year - shown as the original cost of shares obtained in a taxpayer established by way of preferential transformation - in respect of members or shareholders of the predecessor;
- c) the income shown for the tax year from the transfer of a strategic business unit in the case of the preferential transfer of assets in respect of the transferring company;
- d) the amount of capital gains claimed during the tax year as earned on shares transferred under a preferential exchange of shares in respect of any member (shareholder) of the acquired company.

(9) The following shall comprise a part of the total revenue for determining the income (profit) minimum:

a) in connection with the preferential transformation or preferential exchange of shares of the predecessor, from the deductions the member or shareholder had made, the sum subtracted from the original cost of shares obtained in connection with a preferential transformation and transferred at its book value, as claimed for the tax year under any title (not to exceed the amount already claimed by virtue of the above-specified provision as deducted from the pre-tax profit in connection with the shares in question), furthermore, in the tax year of termination without succession, the part not yet claimed as an increment;

b) the receiving company, from the sum the transferring company has claimed - and substantiated - as a deduction from the total revenue, the amount depreciated in accordance with accounting regulations in connection with tangible and intangible assets received, as commensurate for the original costs of such assets, furthermore, in the tax year of termination without succession, the amount remaining.

(10) For the purposes of Subsection (6) above, 'natural disaster' shall mean acts of nature where perils covered include hail, flood, damage due to excess surface waters, frost damage, sandstorm, drought, snow-, ice- and windstorm, blizzard, earthquake, and fire whether due to natural or biological causes. Natural disaster may be verified by a deed documenting the damage (e.g. a report or assessment or a similar document made out by an insurance company, an agricultural administration body, or an emergency response body, etc.), or a report drawn up by the injured party if a document made out by an independent organization is not available. The taxpayer shall send the report he has made out, indicating the fact and the amount of damage, to the competent state tax authority within fifteen days following the time when the damage has occurred. No application for continuation may be lodged upon failure to meet this deadline.

## Tax Base Deductions

### *Section 7*

#### **(1) The following shall be deducted from the pre-tax profit:**

a) from the deferred losses of previous years an amount of the taxpayer's choice, with due consideration of the provisions of Section 17 and Chapter VII;

b) for taxpayers keeping double-entry books, the amount shown as income as a result of appropriation of the provisions for prospective obligations and for forward expenses (not including the provisions created by the Diákhitel Központ Részvénytársaság (Student Loan Center) subject to the requirements laid down in the relevant Government Decree);

c)

cs) the amount of extraordinary depreciation reversed in the tax year, except the amount of extraordinary depreciation that has been claimed in the tax base to the extent reversed according to Point 10 of Schedule No. 1, or that may be claimed in the tax base according to Point 10/a of Schedule No. 1;

d) the amounts of depreciation claimed for the tax year according to the provisions laid down in Schedules Nos. 1 and 2, furthermore, when intangible assets and tangible assets are retired from the books on any grounds - with the exception when done in connection with the preferential transfer of assets and the conditions prescribed under Subsections (13)-(15) of Section 16 are satisfied - or transferred to the current assets account, and, in respect of taxpayers keeping single-entry books, when a liability associated with an asset is cancelled or assigned in part or in full, the adjusted book value of the asset that is in excess of the value of waste and recycled materials shown under

inventories, provided in all cases that the taxpayer has deducted the depreciation of such asset from the pre-tax profit according to the Accounting Act;

dz) capital gains from the sale of a notified share shown for the tax year, on condition that the taxpayer (including any predecessor) has shown the share in question under his assets for at least one year previously, furthermore, any value readjustment claimed during the tax year in connection with the notified share in question;

dzs) at the taxpayer's discretion,

a) the amount claimed as an increase in the value of financial investments denominated in foreign currencies that is not covered by hedging, or as a loss in the value of long-term liabilities due to changes in the exchange rate as a result of the valuation as of the balance sheet date, shown under assets and liabilities,

b) when eliminating an asset (other than notified shares) from financial investments (including value adjustments), or when eliminating a liability from long-term liabilities, the amounts claimed in any previous tax year that were added to the pre-tax profit according to Subparagraph a) of Paragraph dzs) of Subsection (1) of Section 8, or if the asset is transferred only in part, the amount calculated from the loss in the book value of the asset denominated in a foreign currency in proportion to the book value shown on the last day of the previous tax year; this provision shall apply to all valued assets and liabilities, where the exchange difference must be shown as income;

e)

f) the amount of retained earnings that is transferred into tied-up provisions during the tax year and shown as tied up on the last day of the tax year, but which exceeds neither 50 per cent of the pre-tax profit earned during the tax year, nor five hundred million forints in a tax year (hereinafter referred to as "provision for developments"), in due observation of what is laid down in Subsection (15);

g) for taxpayers, income received or due from dividends and shares:

1. during the tax year (or other taxable income of the like for enterprises keeping single-entry books), with the exception of the income received or due as dividends and shares from a controlled foreign company, in due consideration of what is contained in Point 2,
2. during the tax year, up to the amount claimed as an increment to the pre-tax profit according to Paragraph f) of Subsection (1) of Section 8 - as verified by the taxpayer's related tax return and the underlying records and documents - and that was not yet deducted from the pre-tax profit;

gy) the income of members (shareholders, partners):

1. shown for the tax year that is in excess of the value - determined according to Subsection (10) - of shares that are derecognized (whether in full or in part), including the liabilities shown under shareholder contributions for pre-companies, but not including shares in a controlled foreign company, if the investment in an enterprise is eliminated or reduced due to the enterprise being wound up without succession, if its subscribed capital is decreased through disinvestment, or if the enterprise is terminated by way of preferential transformation, in due consideration of what is contained in Point 2,
2. where shares in a controlled foreign company are eliminated according to Point 1, the resulting income claimed for the tax year in excess of the value of the derecognized shares under Subsection (10), up to the amount claimed as an increment to the pre-tax profit according to Paragraph f) of Subsection (1) of Section 8 - as verified by the taxpayer's related tax return and the underlying records and documents - and that was not yet deducted from the pre-tax profit;

h) the amount of capital gain claimed during the tax year as earned on shares transferred under a preferential exchange of shares by a member (shareholder) of an acquired company, if the taxpayer wishes to claim this allowance; where the taxpayer chooses to claim this allowance, he shall keep separate records of all shares acquired as part of the preferential exchange of shares;

i) for taxpayers participating in apprentice training in the vocational school system, 24 per cent of the prevailing minimum wage in effect on the first day of the tax year for each month, or fraction thereof, for each apprentice if the taxpayer performs the practical training of vocational school students on the basis of an apprenticeship agreement defined by law, or it shall be 12 per cent if performed under agreement with the school;

j) the social security contribution, in addition to claiming the contribution shown under expenses, paid for the apprentices specified in Paragraph i), who have successfully passed the vocational examination, if employed uninterruptedly on a continuous basis, as well as for previously unemployed persons referred to in Subsection (3), or persons released from imprisonment within 6 months from the date of release, or persons released on parole for the duration of their employment, but for not more than twelve months; taxpayers may apply this provision if they have not terminated by ordinary notice the employment of another employee working in an identical position since or within a period of six months prior to the employment of the previously unemployed person, and the previously unemployed person was not employed by the taxpayer within a period of six months prior to such employment;

k)-l)

ly)

m) the part of income claimed when retiring a partnership share or own shares and own converted investment share certificates that has been repurchased, that is in excess of the original cost of such repurchased partnership share or own stock;

n) the amount of impairment loss reversed during the tax year in connection with a receivable, furthermore, from the historical cost of a receivable, the part declared irrecoverable and the income earned at the time and in connection with the transfer, settlement or offsetting of a claim realized in the amount that is in excess of the book value of the claim, not to exceed the amount of adjustment already deducted; credit institutions and financial enterprises shall not apply this provision concerning their receivables from financial services and investment service activities, nor shall investment firms from their investment service activities;

ny)

o) from the income earned by the owners' association of condominium buildings and resort condominiums (hereinafter referred to collectively as "condominium") under one name, for which income the condominium has paid the tax according to the provisions of the Personal Income Tax Act, the share of such income claimed for the tax year by the taxpayer;

p) the sums shown under conversion difference when switching from forint to foreign currency, from foreign currency to forint, or from one foreign currency to another, and deducted from the retained earnings, in the tax year following the date when the conversion took place;

q) the amount of impairment loss of ownership shares reversed, if the taxpayer has already applied it to increase pre-tax profit, as is verified by the relevant tax return and the underlying records and documents;

r) the amount taken into account as a pre-tax profit increment factor in the tax year or during previous tax years, shown as revenues in the tax year due to the remission of a fine or the sanctions stipulated in the Act on the Rules of Taxation and the acts on social insurance;

s) 50 per cent of the amount of royalties claimed as income under pre-tax profit for the tax year, in due observation of the provisions in Subsection (14);

sz)

t) taking into consideration of what is contained in Subsections (17)-(18), the direct costs of basic research, applied research and experimental development carried out within the taxpayer's own scope of activities (not including the value of research and experimental development services provided by a resident taxpayer, by the domestic branch of a nonresident entrepreneur or - pursuant to the Personal Income Tax Act - by a private entrepreneur directly or indirectly) claimed in the tax year in which it is incurred or, at the taxpayer's discretion, if these costs are shown under the capitalized value of experimental development (intellectual property) in the tax year in which depreciation is claimed, up to the amount claimed as depreciation; these costs (charges) may not be deducted from pre-tax profit and shown under the costs of development or operating costs (charges) in the amount of any support or assistance requested from the tax authority before the balance sheet date or received during the tax year for development purposes without any obligation of repayment, or - if applicable - in the amount of income included in the pre-tax profit for the tax year under the title of grant or support;

ty) the cost of renovation of buildings and other properties protected under the national scheme of historical monuments or placed under local protection, increasing the original value of such structures, for the taxpayer of record of the tangible asset in question;

u) the amount shown under income for the tax year or that is added to the capitalized value of own performance, or shown under deductions from costs and expenses for the tax year, as determined in the course of a tax audit or self-revision (for enterprises keeping single-entry books, the amount shown under taxable income or as an increment of purchased and financially settled inventories);

v) for taxpayers employing workers with at least 50 per cent disability, the monthly wage paid to each handicapped worker, or maximum the prevailing minimum wage in effect on the first day of the tax year, provided that the average statistical number of employees does not exceed twenty persons for the tax year;

w)-x)

y) for taxpayers of the status of micro enterprises on the first day of the tax year, the sum received by - taking into consideration of what is contained in Subsections (19)-(20) - multiplying the annual average of the prevailing monthly minimum wage in effect on the first day of the tax year by any increment in the average number of employees either in comparison to the previous tax year, the last tax year of the predecessor, or to zero if there is no previous tax year, provided that the taxpayer did not employ more than five persons on average in the previous tax year and has no outstanding tax debts of record owed to the state or local tax authority on the last day of the tax year;

**z) from the non-repayable financial support or grant, or assistance provided in the form of goods or services during the tax year without consideration to priority public-benefit organizations, or under long-term**

**donation contracts with public-benefit organizations or priority public-benefit organizations for supporting their activities performed in the public interest as specified in the Act on Public-Benefit Organizations and supporting public duties that are classified as priority public service activities:**

**1. 50 per cent of the support or grant, or the book value of the goods or services if provided to a priority public-benefit organization,**

**2. 20 per cent of the support or grant, or the book value of the goods or services if provided under a long-term donation contract,**

up to the amount of the pre-tax profit on the aggregate,

zs) in respect of small and medium-sized enterprises so qualified on the last day of the tax year - if wishing to claim this allowance - the payments on account claimed for the tax year in connection with new acquisitions of land and buildings, and new acquisitions of tangible assets such as technical equipment, machinery and vehicles, if such payments are made for the purpose of putting these assets into service; the costs of remodeling, expanding and converting real estate properties in order to increase their original value; as well as the value of new acquisitions of intellectual property shown in the books under intangible assets during the tax year, in due observation of the provisions of Subsections (11)-(12).

(2) Taxpayers shall have the option to apply for the tax year the provisions set out in Subparagraph *a*) of Paragraph *dzs*) of Subsection (1) of this Section and in Subparagraph *a*) of Paragraph *dzs*) of Subsection (1) of Section 8 solely for the sum recognized as the adjusted value of investments in equity securities shown under financial investments denominated in foreign currencies that is not covered by hedging, due to changes in the exchange rate as a result of the valuation as of the balance sheet date (disregarding the sums claimed as the adjustment of the value of other financial investments and long-term liabilities), provided that exercising this option shall not result in a tax base that is lower than the tax base calculated disregarding the provisions contained in Paragraph *dzs*) of Subsection (1) of this Section and in Paragraph *dzs*) of Subsection (1) of Section 8.

(3) 'Formerly unemployed person' shall mean an individual who, immediately prior to his/her employment,

a) was registered as a job-seeker for at least six months by the government employment agency, or

b) received unemployment benefits pursuant to the Job Assistance and Unemployment Benefits Act or a supplementary income allowance pursuant to the Social Administration and Social Welfare Benefits Act, or

c) has exhausted his eligibility for the benefits described in Paragraph b), however, he/she continues to cooperate with the government employment agency,

moreover, in respect of the conditions described in Paragraphs a)-c), the period during which the unemployed person has received pregnancy-maternity benefits and/or child-care allowance; the period of detention, imprisonment or confinement; and the time spent in regular or reserve military service or in civil services (the period between entering and leaving such services) shall not be taken into account.

(4)

(5)-(6)

**(7) Taxpayers may reduce the pre-tax profit pursuant Paragraph *z*) of Subsection (1) only in possession of a certificate made out for tax purposes by the public-benefit organization, the priority public-benefit organization, such certificate is to include the name of the issuer and the taxpayer, their registered offices and tax numbers, the amount of the donation and the objective supported, furthermore, in the case of a public-benefit organization or a priority public-benefit organization, the category of the public service.**

(8)

(9)

(10) For the purposes of Paragraph *gy*) of Subsection (1), the value of a retired share shall mean:

a) the direct cost of the share - but at least the direct cost of record of the share transferred from the predecessor company to a member (shareholder, partner) created by succession, if the investment in the enterprise is eliminated or reduced due to termination of the enterprise without succession, or if its subscribed capital is decreased through disinvestment, or through transformation in respect of the member (shareholder, partner) that did not wish to participate in the successor company,

b) the book value of the share, or, by the member's (shareholder's, partner's) choice, the value of the share defined under Paragraph a) if such member wishes to participate in the successor company.

(11) The provisions set out in Paragraph *zs*) of Subsection (1)

a) may be applied in the tax year if the taxpayer has only had private individual members (shareholders, partners) throughout the entire year (including ESOP) apart from the taxpayer itself,

b) may not be applied in connection with the historical cost of non-operational properties and plantations, with the costs of remodeling, expanding and converting non-operational real estate properties in order to increase their original value and the value of tangible and intangible assets received in exchange within the warranty period due to

lack of conformity if the taxpayer has already applied the provision of Paragraph zs) of Subsection (1) with respect to the tangible or intangible assets that have been returned.

(12) The amount referred to in Paragraph zs) of Subsection (1) shall not exceed the pre-tax profit and cannot be more than thirty million forints, whose value calculated by the tax rate referred to in Subsection (1) of Section 19 for the purposes of the provisions governing state subsidies, if the investment serves the purpose of primary agricultural production, it may be claimed as an aid provided according to Article 4 of Commission Regulation (EC) No. 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products, in all other cases it shall be treated, at the taxpayer's choice:

- a) as de minimis aid received for the tax year, or
- b) as aid provided under the Commission Regulation on State aid to small and medium-sized enterprises.

(13)

(14) Taxpayers shall be entitled to apply Paragraph s) of Subsection (1) at their discretion. The combined total of the amount deducted from the pre-tax profit under these provisions shall not exceed 50 per cent of the pre-tax profit.

(15) The taxpayer may not use the provision for developments defined in Paragraph f) of Subsection (1) under the title of assets received as non-monetary, in-kind contributions or assets received without compensation, nor in connection with tangible assets that cannot be depreciated or on which no depreciation allowance may be claimed, with the exception of buildings and other properties protected under the national scheme of historical monuments or placed under local protection. The taxpayer may release the aforesaid provision consistent with the cost of developments during the four-year period subsequent to the tax year in which it was created, unless the taxpayer has assessed the tax, and the default penalty applicable, on any released amount at the rate specified in Subsection (1) of Section 19 in effect for the tax year in which the provision was tied up, and pays it within thirty days of the date on which it was released. Up to the end of the fourth tax year following the year in which the provision for developments was tied up, the tax, and the default penalty applicable, on any unused portion of the provision shall be assessed, and paid, at the above-specified rate by the last day of the first month of the following tax year. The default penalty shall be charged as of the first day immediately following the due date for filing the tax return in which the allowance was claimed until the day when the funds were released for purposes other than development, or until the last day of the period available for use, and shall be declared, together with the tax assessed, in the first corporate tax return submitted following the said date.

(16)

(17) In connection with basic research, applied research and experimental development performed jointly by a taxpayer and an institution of higher education, the Magyar Tudományos Akadémia (Hungarian Academy of Sciences) or a research institution (research facility) established by either of them or jointly (including any equivalent organization established in any Member State of the European Union or any State that is a party to the Agreement on the European Economic Area), the taxpayer may claim three times the amount referred to in and calculated according to Paragraph t) of Subsection (1) up to maximum fifty million forints, whose value calculated by the tax rate referred to in Subsection (1) of Section 19 for the purposes of the provisions governing state subsidies shall be treated as de minimis aid received for the tax year.

(18) The provisions of Paragraph t) of Subsection (1) may be applied in connection with research and experimental development services by the person to whom they were provided if the service provider declares of having provided the service without the involvement of research and experimental development services provided by a resident taxpayer or by the Hungarian branch of a nonresident entrepreneur, or by a private entrepreneur governed under the Act on Personal Income Tax.

(19) In the application of Paragraph y) of Subsection (1) of this Section and Paragraph v) of Subsection (1) of Section 8, the average number of employees shall be determined (up to two decimal places) excluding any person who, prior to the employment or during the 12-month period preceding 1 January 2004:

- a) was working for a person considered affiliated to the taxpayer, whether under contract of employment or otherwise, including any relation requiring personal participation;
- b) was working as a private entrepreneur considered affiliated to the taxpayer.

(20) The amount referred to in Paragraph y) of Subsection (1), calculated by the tax rate referred to in Subsection (1) of Section 19 for the purposes of the provisions governing state subsidies shall be treated as de minimis aid received for the tax year.

(21)

(22)

## Tax Base Increasing Factors

## Section 8

(1) Pre-tax profit shall be increased by the following:

a) for taxpayers keeping double-entry books, the costs claimed for the tax year on account of provisions (and the amounts increasing the provision) set aside for prospective obligations and forward expenses (not including other provisions of the like created by the Diákhitel Központ Részvénytársaság subject to the requirements laid down in the relevant government decree);

b) the amounts of ordinary depreciation (including lump-sum depreciation) and extraordinary depreciation for the tax year, furthermore, when intangible assets and tangible assets are retired from the books - with the exception when done in connection with the preferential transfer of assets and the conditions prescribed under Subsections (13)-(15) of Section 16 are satisfied - or transferred to the current assets account for any reason, and, in respect of taxpayers keeping single-entry books, when a liability associated with an asset is cancelled or assigned in part or in full, the adjusted book value of the asset that is in excess of the value of waste and recycled materials shown under inventories, provided in all cases that the taxpayer has deducted the depreciation of such asset from the pre-tax profit according to the Accounting Act;

c)

d) amounts claimed as costs or expenditures, and deducted from the pre-tax profit, including the depreciation allowances of tangible assets and intangible assets, which are not related to the business operations or the gainful activity, with particular regard to what is contained in Schedule No. 3;

dzs) in the event that the taxpayer

a) applies Subparagraph a) of Paragraph dzs) of Subsection (1) of Section 7, the amount claimed as a loss in the value of financial investments denominated in foreign currencies that is not covered by hedging, or as an increment in the value of long-term liabilities due to changes in the exchange rate as a result of the valuation as of the balance sheet date, shown under assets and liabilities,

b) when transferring an asset (other than notified shares) from financial investments (including value adjustments), or when transferring a liability from long-term liabilities, the amounts claimed in any previous tax year that were deducted from the pre-tax profit according to Subparagraph a) of Paragraph dzs) of Subsection (1) of Section 7, or if the asset is transferred only in part, the amount calculated from the loss in the book value of the asset denominated in a foreign currency in proportion to the book value shown on the last day of the previous tax year; this provision shall apply to all valuated assets and liabilities, where the exchange difference must be shown as an expense;

e) a fine established in a legally binding judgment, furthermore, the amount of liabilities claimed as expenditures, arising from the sanctions prescribed in the Act on the Rules of Taxation and the acts on social insurance, except when related to self-revision,

f) the amount of profit after tax shown for the last day of the tax year (financial year) of the controlled foreign company - as commensurate according the taxpayer's direct holding in the controlled foreign company on the last day of the tax year - less any dividend paid out, provided that the taxpayer controls at least twenty-five per cent of the voting rights or the capital of the controlled foreign company, or has a dominant influence by definition of the Civil Code, and provided that private individuals regarded as resident in accordance with the Act on Personal Income Tax have no holding in the taxpayer;

g)

gy) the amount of impairment loss claimed for the tax year on receivables (with the exception of the receivables of credit institutions and financial companies and investment firms, respectively from financial services and investment service activities, and from investment service activities);

h) the debts cancelled during the tax year, if such debts are not treated as irrecoverable, except if:

1. they are cancelled to the benefit of a private individual, or
2. the taxpayer cancels the debt of a foreign person or a resident person other than a private individual, to which the taxpayer is not affiliated;

i)

j) the interests - shown under expenses or claimed as part of the cost of an asset during the tax year - on the receivables described in Paragraph a) of Subsection (5) (with the exception of receivables due from financial institutions) in an amount proportional to the part of such receivables that is in excess of three times the equity capital - described in Paragraph b) of Subsection (5);

k)

l)

m) for the taxpayer:



a) the value adjustments and any capital loss shown under expenses for the tax year in connection with the shares in a controlled foreign company, and the part of expenses resulting from the retirement of such shares for any reason, that is in excess of the income accounted, or

b) in connection with notified shares, value adjustments and capital losses claimed for the tax year under expenses, and any expenses claimed due to the retiring of shares from the records for any reason (other than settlement in connection with transformation) in excess of the amount of income claimed;

n)

o) the sums shown under conversion difference when switching from forint to foreign currency, from foreign currency to forint, or from one foreign currency to another, and added to the capital reserve in the tax year following the date when the conversion took place;

p) the amount that is shown under expenses for the tax year or deducted from the net sales revenues and income for the tax year, from capitalized value of own performance, as determined in the course of a tax audit or self-revision (for enterprises keeping single-entry books, including any reductions in purchased and financially settled inventories);

r) from the amount deducted from the pre-tax profit in accordance with Paragraph *gy*) of Subsection (1) of Section 7, subtracted from the original cost of shares obtained in connection with a preferential transformation and transferred at its book value, as claimed for the tax year under any title (not to exceed the amount already claimed by virtue of the above-specified provision as deducted from the pre-tax profit in connection with the shares in question), taking also into consideration of what is contained in Subsection (7);

s) on the basis of Paragraph *z*) of Subsection (1) of Section 7, the extra benefits deducted in consideration of long-term donations as described in the Act on Public-Benefit Organizations during the year(s) prior to the tax year from the pre-tax profit, in respect of which the taxpayer did not discharge his obligations assumed in the contract on the long-term donation during the tax year due to the other party being excluded from the register of public-benefit organizations or being dissolved without succession, or double this amount if the taxpayer did not perform his contractual obligations for any other reason;

t) from the amount deducted from the pre-tax profit in accordance with Paragraph *h*) of Subsection (1) of Section 7, subtracted from the original costs of shares received in connection with a preferential exchange of shares and transferred at its book value, as claimed in the tax year under any title (not to exceed the amount already claimed by virtue of the above-specified provision as deducted from the pre-tax profit in connection with the shares in question), taking also into consideration of what is contained in Subsection (7);

u) from the original cost of an asset in the course of construction or any intellectual property, double the amount deducted from the pre-tax profit in accordance with Paragraph *zs*) of Subsection (1) of Section 7:

ua) the tangible asset or intellectual property in question is not put into operation or used by the last day of the fourth tax year following the year in which it was deducted from the pre-tax profit, in the tax return filed for said fourth tax year, with the exception if the asset or intellectual property was not placed into operation or service in consequence of damage owing to unavoidable external causes,

ub) the tangible asset in question is put into operation under other fixtures, fittings, and vehicles before the last day of the fourth tax year following the year when deducted from the pre-tax profit, in the tax return filed for the year the asset was put into operation,

uc) the tangible asset in question is put into operation and used as a non-operational real estate property until the end of the fourth tax year following the year in which it was deducted from the pre-tax profit, or if transferred to the other fixtures, fittings, and vehicles account or to the current assets account, or - in respect of intellectual property - if transferred to the current assets account, in the tax return filed for the tax year in which it was first put into operation or transferred, unless it was transferred to the current assets account as a consequence of damage that occurred as a result of unavoidable external causes,

ud) the tangible asset or intellectual property in question is alienated (donated as an in-kind grant or contribution, sold, conveyed without consideration, or returned if it is an asset that was received under a financial leasing agreement subject to installment or deferred payment arrangement) before the end of the fourth tax year following the year in which it was deducted from the pre-tax profit, in the tax return filed for the tax year in which it is alienated;

v) in due observation of what is contained in Subsection (6) of this Section and in Subsection (19) of Section 7, the reduction in the average number of employees multiplied by the annual average of the prevailing monthly minimum wage in effect on the first day of the previous tax year, plus 20 per cent, not to exceed the allowance claimed under Paragraph *y*) of Subsection (1) of Section 7 with 20 per cent added; the allowance claimed during the fourth tax year, or before, prior to the tax year when the reduction of the average number of employees was claimed, as deducted from the pre-tax profit, shall not be included in the amount of allowance claimed.

The provisions contained above shall not apply to sums claimed in connection with tangible and intangible assets returned for exchange within the warranty period, however, with respect to assets received in exchange within the warranty period the deadlines referred to in Paragraphs ua)-ud) shall be reckoned from the date of placing into operation of the assets that were returned for exchange.

(2) In the application of Paragraph j) of Subsection (1), the amount deducted from the pre-tax profit under Paragraph k) of Subsection (1) shall not apply.

(3)

(4)

(5) For the purposes of Paragraph j) of Subsection (1):

a) 'liability' shall mean the average daily balance of outstanding loans, outstanding debt securities offered privately and bills payable (with the exception of bills payable on account of suppliers' debts), and any other liability other than loans, debt securities and bills payable shown in the balance sheet that entails the payment of interest from the taxpayer's profit (with the exception of debts of credit institutions and financial companies incurred in connection with and for the purposes of financial service activities);

b) 'equity capital' shall mean the average daily balance of subscribed capital, capital reserve, retained earnings and tied-up reserves (or own funds of the like).

(6) If the average number of employees has dropped by comparison to the previous tax year for reasons of the employees taking maternity leave, leave of absence for caring for a child, their incapacity to work due to illness, entering into military service or serving time of imprisonment, or due to death, among other reasons, the provisions of Paragraph v) of Subsection (1) shall not apply in the tax year when the events took place and in the following tax year, provided that the amount referred to in Paragraph v) of Subsection (1) is less than the monthly minimum wage prevailing on the first day of the tax year.

(7) Where a holding is removed from the books in consequence of the acquisition of shares resulting from another preferential transformation or preferential exchange of shares, the taxpayer shall not be required to apply Paragraphs r) and t). However, taxpayers are required to apply the sum deducted from the pre-tax profit on account of the previous acquisition of shares resulting from the earlier preferential transformation or preferential exchange of shares shall be deducted from the pre-tax profit in respect of the latter acquisition of shares, up to the amount not previously claimed as an increment to the pre-tax profit.

## **Determining the Tax Base of Foundations, Public Foundations, Non-Governmental Organizations, Public Bodies, Churches, Housing Cooperatives, Voluntary Mutual Insurance Funds and Institutions of Higher Learning Registered as Public-Benefit Organizations or Priority Public-Benefit Organizations**

### **Section 9**

(1) The tax base of foundations, public foundations, non-governmental organizations, public bodies, churches, housing cooperatives, voluntary mutual insurance funds, and institutions of higher learning registered as public-benefit organizations or priority public-benefit organizations shall be the pre-tax profit from business operations, adjusted according to the provisions of Subsections (2)-(5) with due consideration of Subsections (6)-(9).

(2) The pre-tax profit shall be reduced by the following:

a)

b) 20 per cent of the pre-tax profit of foundations, public foundations, non-governmental organizations, public bodies and institutions of higher learning registered as public-benefit or priority public-benefit organizations from business operations;

c) from the value determined on the basis of Paragraphs a), b), cs), d), g), gy), i), j), m), n), o), r), t), u) and v) of Subsection (1) of Section 7, as well as Subsections (3), (10) and (18) of Section 7, by the amount directly attributable to business operations, or in the case of an indirect relationship, by an amount corresponding to the revenues from business operations;

d)

e) for an interest representation organization of employers and employees, the part of the pre-tax profit from business operations earned during the tax year that the organization uses to cover the costs and expenses

in excess of the revenues from the activities entailed by the objective designated in its charter document or bylaws during the current and the following tax year.

(3) Pre-tax profit shall be increased by the following:

*a)* from the value determined on the basis of Paragraphs *a), b), d), e), g), h), j), m), p)* and *r)* of Subsection (1) of Section 8, as well as Subsection (5) of Section 8, the amount directly attributable to business operations, or in the case of an indirect relationship, by an amount corresponding to the revenues from business operations;

*b)* in the case of any grant or support received - for reasons other than business operations - by foundations, public foundations, non-governmental organizations, public bodies or institutions of higher learning registered as public-benefit organizations or priority public-benefit organizations:

*ba)* the full amount of such grant or support, if on the last day of the tax year the aforesaid bodies and organizations have any tax debts owed to the state or local tax authority,

*bb)* the portion of such donations calculated by the rates defined in Subsection (7), if on the last day of the tax year the public-benefit organization and priority public-benefit organization in question has no outstanding tax debts of record owed to the state or local tax authority, but its revenues from the business operations exceed the preferential rate.

(4) The provisions of Sections 16, 18 and 28 and Chapter VII shall apply with due consideration of the provisions of Subsections (2) and (3) of this Section.

(5) When determining the tax base, churches may reduce the pre-tax profit from business operations by that portion of their profit realized from such operations, which is used in the tax year to cover those costs and expenses in the following tax year on cultural, educational, instructional, higher education, social, health, child and youth welfare, sports, scientific and monument protection activities, and of the maintenance of real estate properties for the purposes of religious life, which are in excess of revenues.

(6) The tax base of foundations, public foundations, non-governmental organizations, public bodies and institutions of higher learning classified as public-benefit organization or priority public-benefit organization shall be the portion of the amount established on the basis of Subsections (1)-(4) calculated by the rates defined in Subsection (7).

(7) The preferential rate of the business operations shall be 10 per cent of total revenues in the case of public-benefit organizations, or maximum twenty million forints, and 15 per cent of total revenues in the case of priority public-benefit organizations. For the purposes of Paragraph *b)* of Subsection (3) and Subsection (6), the rate shall be calculated as the quotient (up to two decimal places) of the revenues from business operations realized in excess of the preferential rate of the business operations, and the total revenues from business operations.

(8) National interest representation organizations shall determine their tax base according to Subsections (1)-(7), subject to the provisions pertaining to public-benefit organizations.

(9) In respect of churches:

*a)* the pre-tax profit from business operations shall be calculated according to the provisions of the Act on the Freedom of Belief and Religion and the Church and those of the Act on the Finances of the Religious and Public Benefit Activities of Churches;

*b)* the tax base shall be established in due observation of the provisions of Subsections (1)-(7) pertaining to public-benefit organizations;

*c)* regarding their organizational units vested with legal personality, the tax base shall be established according to Paragraph *b)*, or - if its business operations are defined according to the option granted in the Act on the Finances of the Religious and Public Benefit Activities of Churches - according to Subsections (1)-(5).

(10) European groupings of territorial cooperation shall establish their tax base in accordance with Subsections (1)-(7) of this Section.

## Tax Base of School Cooperatives

### *Section 10*

(1) The tax base of school cooperatives shall include dividends and shares and the sums allocated as dividends or shares from the earnings retained before tax and recorded in accordance with Subsection (6), also the amount by which the subscribed capital was decreased and the total of liabilities incurred in the tax year in connection with the

termination of membership (hereinafter referred to as “accrued dividend”), and adjusted according to Subsections (2)-(5), Sections 18 and 28 and - in respect of Subsections (2) and (3) - Chapter VII.

(2) The accrued dividend shall be reduced by the amount specified in Paragraphs *r* and *t* of Subsection (1) of Section 7.

(3) The accrued dividend shall be increased by the items defined in Paragraphs *d*, *e*, *j*, and *m* of Subsection (1) of Section 8 and Subsection (5) of Section 8, and by cancelled debts that are not considered irrecoverable.

(4) In the event of the winding-up of a school cooperative without succession, the tax base shall be established in accordance with Subsection (1) of Section 6, increased by the amount of the earnings retained before tax and recorded in accordance with Subsection (6).

(5) In the event of the transformation of a school cooperative, the successor, if it does not qualify as a school cooperative, shall increase the tax base by the amount of the earnings retained before tax by the predecessor.

(6) School cooperatives shall keep separate records of their earnings retained before and after tax. To this end, the retained earnings shown in the 2004 opening balance sheet as well as the retained earnings realized in the tax year in which the taxpayer did not qualify as a school cooperative shall be considered as earnings retained after tax. Any reduction in the retained earnings shall be divided with a view to the ratio calculated on the basis of the records of the previous year between the earnings retained after tax and those retained before tax. The value of assets allocated to a member in connection with the reduction of capital or when terminating his membership status shall be deducted from the earnings retained after tax, or any portion that is in excess shall be shown under earnings retained before tax.

(7) With respect to the merger or demerger of school cooperatives, the retained earnings referred to in Subsection (6) shall be either added up or divided as consistent with the form of transformation, and from this amount the balance of the assets and liabilities due to any member wishing to withdraw from the company established through transformation shall be deducted. The amount so deducted shall be initially recorded under earnings retained after tax up to the positive amount available, and any portion remaining shall be deducted from the earnings retained before tax.

(8) In the application of this Section, the retained earnings shall also include any sums transferred from it for increasing the subscribed capital and any sums transferred from the positive consolidated revaluation reserve to the capital reserve account. The reduction of the subscribed capital by the taxpayer shall - up to the amount of capital increase from the retained earnings - be treated as if it has been realized from the part of the subscribed capital that was transferred from the retained earnings.

## Tax Base of Limited Companies Engaged Exclusively in Providing Guarantee Arrangements

### *Section 11*

## Tax Base of ESOP Organizations

### *Section 12*

(1) The tax base of ESOP organizations shall be the annual profit for the year stated on the basis of the Accounting Act and the provisions set forth in legislation on the special provisions relating to the accounting system and the annual reporting of ESOP organizations, adjusted as defined under Subsections (2) and (3).

(2) Pre-tax profit shall be reduced:

a) by the amount specified under Paragraphs *a*, *b*, *cs*, *d*, *g*, *gy*, *j*, *n*, *o*, *r* and *u* of Subsection (1) of Section 7 and under Subsections (3) and (10) of Section 7;

b) by the amount contributed by the participants as internal resources, the amount transferred by the company employing the participants, and other payments made by the participants and other natural and legal persons.

(3) Pre-tax profit shall be increased by the amount specified in Paragraphs *a*, *b*, *d*, *e*, *gy*, *h*, *j*, *m*, *p* and *r* of Subsection (1) of Section 8 and in Subsection (5) of Section 8.

(4) ESOP organizations shall apply the provisions of Sections 16, 18 and 28 and Chapter VII in due observation of the provisions of Subsections (2) and (3) of this Section.

### *Section 13*

# Tax Base of Nonprofit Business Associations with Public-Benefit or Priority Public-Benefit Status, social cooperatives and of water management associations

## Section 13/A

(1) The tax base of nonprofit business associations with public-benefit or priority public-benefit status, including water works associations shall comprise the pre-tax profit, reduced as defined in Paragraphs *a), b), cs), d), g), gy), i), j), m), n), o), p), r), t), u), v)* and *y)* of Subsection (1) of Section 7 and in Subsections (3), (10) and (18)-(20) of Section 7, and increased as defined under Paragraphs *a), b), d), e), gy), h), j), m), o), p), r)* and *v)* of Subsection (1) and Subsections (5)-(6) of Section 8, and - in due consideration of the aforementioned - they shall apply the provisions of Sections 16, 18 and 28 and the provisions of Chapter VII.

(2) Apart from what is contained in Subsection (1), public-benefit or priority public-benefit nonprofit business associations shall increase the pre-tax profit:

a) in the event of dissolution of public-benefit organizations without succession, when membership status is terminated or when the subscribed capital is reduced, by the portion of the assets allocated to a member of the company in excess of the value registered as taxed equity capital in the records described in Subsection (3);

b) in the event of the merger or demerger of public-benefit organizations, for the successor by the amount claimed as a reduction from the equity capital before tax pursuant to Subsection (5), if the transformation has resulted in an obligation of share disbursement toward any member of the predecessor;

c) by the amount claimed as a reduction from the equity capital before tax under Subsection (3) in the tax year when public-benefit or priority public-benefit status is terminated, or on the successor's part, if lacking public-benefit or priority public-benefit status, during the first tax year;

d) by the full amount of grant or support received for reasons other than business operations, if on the last day of the tax year the taxpayer has any tax debts owed to the state or local tax authority.

(3) For the purposes of Paragraph a) of Subsection (2), public-benefit or priority public-benefit nonprofit business associations shall indicate changes in their equity capital on an annual basis showing separately the part before tax and after tax (without the evaluation reserve) and determine, in consideration of these, the portions of the closing balance of the equity capital (without the evaluation reserve) for the tax year realized after tax or before tax. The value allocated to the credit (or debit) of the amount before tax in the tax year shall be established on the basis of the ratio of the revenues from preferential activities in the tax year relative to total revenues. When dividing the annual variations, changes resulting from foundation, increase or decrease in the subscribed capital, capital reserve or retained earnings shall not be taken into account, while at the same time the successor shall take into account the consolidated revaluation difference during the first tax year following transformation. Members' contributions registered as an increase in the subscribed capital and the capital reserve during foundation and capital increase shall be shown under subscribed capital after tax. In the event of a decrease in capital, the value of assets allocated to a member of the company shall be deducted from the equity capital after taxes, or if this is insufficient, the remaining portion shall be debited to the equity capital before tax. If the business association carries on its activities in the form of public-benefit or priority public-benefit nonprofit business association, the equity capital available on the day preceding the day of registration of its public-benefit status - with the exception of the consolidated revaluation difference - shall be shown under equity capital after taxes, not including the retained earnings realized before tax subject to the relevant provision of this Act, or the equity capital realized before tax, that has to remain under equity capital before taxes.

(4) In connection with the merger or demerger of public-benefit or priority public-benefit nonprofit business associations, the equity capital after taxes and recorded in accordance with Subsection (3) shall be determined by aggregation or diversification depending on the form of transformation, and the value received:

a) shall be increased by the financial contribution provided by a new (third party) member joining at the time of transformation, or by the increment in equity paid as an additional contribution by a former member;

b) shall be decreased by the reduction in equity as the difference between the assets allocated to a member wishing to withdraw from the company established by transformation and the value of liabilities, however, such decrease may not result in a negative registered value.

(5) In connection with the merger or demerger of public-benefit or priority public-benefit nonprofit business associations, the equity capital realized free of taxes and recorded in accordance with Subsection (3) shall be determined by aggregation or diversification, depending on the form of transformation, and the value received shall be decreased by the portion that was not applied in accordance with Paragraph b) of Subsection (4) of the reduction

in equity as the difference between the assets allocated to a member wishing to withdraw from the company established by transformation and the value of liabilities.

(6) Social cooperatives shall establish the tax base in accordance with the provisions of Subsections (1)-(5), where the equity capital shown on the day preceding their commencement of operations shall be treated as equity capital realized after taxes.

## Tax Base of Nonresident Entrepreneurs

### *Section 14*

(1) A nonresident entrepreneur shall calculate the corporate tax base - taking into account the provisions of Subsections (2) and (3) - concurrently for all its domestic business establishments (exclusive of branches), and separately for each of its Hungarian branches according to Subsection (1) of Section 6. The sales revenues, income, costs and expenses of a business establishment shall be accounted as if it were a separate entity, independent from the nonresident company.

(2) In addition to what is contained in Subsection (1), the pre-tax profit of the nonresident company determined for its domestic business establishment:

a) shall be reduced by a portion of its operating costs and expenses and overhead (with the exception of taxes payable abroad) charged to its main office and any business establishment during the tax year as commensurate for the Hungarian business establishments, however, this ratio shall not be more than the ratio between the total of all sales revenues and income reported by the business establishment and the total of all sales revenues and income of the nonresident company;

b) shall be increased by operating costs and expenses and overhead of the business establishment charged to the pre-tax profit or loss;

c) shall be increased by 5 per cent of the revenues and income that was earned through but not recorded for the business establishment.

(3)

## Tax Base of Branches of Nonresident Entrepreneurs

### *Section 14/A*

## Tax Base of Foreign Organizations

### *Section 15*

(1) The tax base of foreign organizations shall comprise:

a) interest received (including the fees from securities lending operations);

b) royalties received;

c) service charges received for business and management consultancy, advertising and market research, public opinion polling, and for agency activities listed under other professional, scientific and technical activities not elsewhere classified under Regulation (EC) No. 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE Revision 2.

(2) The provision of Paragraph a) of Subsection (1) above shall not apply:

a) to interest income paid by the Hungarian State, any sub-system of the central budget, the Magyar Nemzeti Vagyonkezelő private limited company (Hungarian National Asset Management Zrt.), the Magyar Fejlesztési Bank private limited company (Hungarian Development Bank Zrt.), the Magyar Export-Import Bank private limited company (Hungarian Export-Import Bank Zrt.), the Magyar Exporthitel Biztosító private limited company (Hungarian Export Credit Insurance Zrt.) or by the Magyar Nemzeti Bank;

b) to any interest income paid by credit institutions on deposits;

c) to default interest.

d) the interest paid on debt securities listed on a recognized exchange in any Member State of the European Union, any State that is a party to the Agreement on the European Economic Area or in any Member State of the Organization for Economic Cooperation and Development (OECD).

(3) If the tax base referred to in Subsection (1) is denominated in a currency other than forint, it shall be translated - by way of derogation from Subsection (8) of Section 5 - to forints according to the Accounting Act.

## Tax Base of Members of Companies with Real Estate Holdings; Tax Rate

### *Section 15/A.*

(1) The tax base of members of companies with real estate holdings shall comprise the consideration received upon the transfer of their share in the company, or the sum received when decreasing the subscribed capital of the company through disinvestment, less the costs of acquisition or maintenance as verified, if the resulting amount is positive.

(2) If the consideration or acquisition value is denominated in a currency other than forint, it shall be translated by the official exchange rate of Magyar Nemzeti Bank in effect on the day of conclusion of the contract. If the member of a company with real estate holdings has obtained the income in connection with the reduction of the subscribed capital of the company through disinvestment, and the liability is denominated in a currency other than forint, it shall be translated by the official exchange rate of Magyar Nemzeti Bank in effect on the day when the company was registered. In respect of foreign currencies whose exchange rate is not listed by the Magyar Nemzeti Bank, the conversion shall be carried out using the euro exchange rate published by the Magyar Nemzeti Bank for the last day of the tax year.

(3) For the purposes of these provisions, transfer means sale, a transaction when shares are made available as a non-cash contribution to capital, or when provided without compensation.

(4) For the purposes of these provisions, consideration shall mean:

- a) in connection with sales, the price contracted, or the fair market value when sold to an affiliated company;
- b) the value determined in the instrument of constitution when shares are made available as a non-cash contribution to capital, or the fair market value when made available to an affiliated company;
- c) the fair market value when provided without compensation;
- d) the value of the assets received (due) in exchange for the withdrawn shares where subscribed capital is decreased through disinvestment.

(5) For the purposes of these provisions, acquisition value means the contractual value.

(6) The tax amount shall be determined by the rate described in Subsection (1) of Section 19.

## Special Rules Related to the Adjustment of Corporate Tax Base

### *Section 16*

(1) Taxpayers

a) shall not apply the provisions contained in Paragraph f) of Subsection (1) of Section 7 in a tax year ending on a day preceding the day of the opening of dissolution or liquidation proceedings, during the dissolution proceedings, or in the taxpayer's final tax year if it is wound up without succession and without going into liquidation or dissolution;

b) shall assess the tax, and the default penalty applicable, on any unused portion of the provision for developments that was tied up preceding the tax year ending upon the day of the opening of dissolution or liquidation proceeding (or the last tax year if corporate existence is terminated without succession and without going into liquidation or dissolution) that is remaining by the last day of the said tax year at the rate specified in Subsection (1) of Section 19 in effect for the tax year in which the provision was tied up, and shall pay it within thirty days. The default penalty shall be charged as of the first day immediately following the due date for filing the tax return in which the allowance was claimed until the last day of the period available for use, and shall be declared, together with the tax assessed, in the first corporate tax return submitted following the said date;

c) if terminated without succession:

ca) shall decrease the pre-tax profit by the amount by which the adjusted book value of all intangible and tangible assets exceeds their book value, and shall increase it by the amount by which their book value exceeds the total adjusted book value,

cb) shall increase the pre-tax profit by any portion of the amount that was deducted from the pre-tax profit under Paragraph gy) of Subsection (1) of Section 7 in connection with a preferential transformation in the tax year or previously, that was not previously added to the pre-tax profit pursuant to Paragraph r) of Subsection (1) of Section 8,

cc) shall increase the pre-tax profit by any portion of the amount that was deducted from the pre-tax profit under Paragraph h) of Subsection (1) of Section 7 in the tax year or previously, that was not previously added to the pre-tax profit pursuant to Paragraph t) of Subsection (1) of Section 8,

cd)

ce) shall increase the pre-tax profit by double the amount that was deducted from the pre-tax profit under Paragraph z) of Subsection (1) of Section 7 in the tax year or previously under the title of extra benefits claimed in connection with long-term donations as described in the Act on Public-Benefit Organizations, if the taxpayer did not fulfill its contractual commitments owing to termination without succession,

cf) shall increase the pre-tax profit by double the amount from the amount that was deducted from the pre-tax profit under Paragraph zs) of Subsection (1) of Section 7 concerning the sum that was not added to the pre-tax profit according to Paragraph u) of Subsection (1) of Section 8, if the taxpayer is terminated without succession in the tax year in which it claims the deduction from the pre-tax profit or during the following four tax years,

cg) shall adjust the pre-tax profit by the amount of reserves shown in the simplified balance sheet of taxpayers using the single-entry system,

ch) shall increase the pre-tax profit by the part of the sum determined according to Paragraph v) of Subsection (1) of Section 8 that was not previously added to the taxpayer's pre-tax profit,

ci) shall adjust the pre-tax profit by the items referred to in Paragraph dzs) of Subsection (1) of Section 7 and in Paragraph dzs) of Subsection (1) of Section 8 not yet applied for reducing or increasing the pre-tax profit, as appropriate,

cj) shall adjust the pre-tax profit by the commitment pledged under Subsection (11) and Subsection (14) to the extent previously not claimed for the purposes of the pre-tax profit,

ck) shall adjust the pre-tax profit by the amount established according to the provisions of Section 18 to the extent previously not claimed by the taxpayer for adjusting the pre-tax profit.

(2) Upon transformation of the taxpayer:

a) the predecessor - except if the transformation is considered preferential and the conditions prescribed under Subsections (10)-(11) and (15) of this Section are satisfied - shall decrease the pre-tax profit by the amount by which the total adjusted book value of intangible and tangible assets exceeds their total book value, and shall increase it by the amount by which their total book value exceeds the total adjusted book value; as regards division, the predecessor shall apply these provisions during the tax year when the transformation took place and solely to assets transferred to the successor based on the final statement of assets and liabilities in effect at the time of transformation;

b)-c)

d) the predecessor, or the successor in its first tax year in the case of division, shall adjust the pre-tax profit by the amount of the consolidated revaluation difference shown in the final statement of assets and liabilities increased with any depreciation of receivables and appreciation of provisions added and any depreciation of provisions deducted, also in due observation of Subsections (9)-(11);

e)

f) a successor using double-entry bookkeeping shall, in its first tax year, adjust the pre-tax profit by the amount of transformation differential placed in the retained earnings by the predecessor using single-entry bookkeeping, or by said successor in the case of division;

g)

h)

i) the successor shall adjust the pre-tax profit on the basis of the amount shown in the final statement of assets and liabilities for assets received for a liability assumed from the predecessor in excess of its book value or, if the receivable is downgraded as irrecoverable, may adjust the pre-tax profit accordingly as the predecessor would have done had the transformation not taken place.

(3) Taxpayers, if switching from single-entry bookkeeping to double-entry bookkeeping, shall, in the year of switching:

a)-b)

c) increase the pre-tax profit by the amount of provisions for prospective obligations and forward expenses as shown in the opening balance sheet.

(4) The tax liability of a European public limited-liability company, a European cooperative society and any successor nonresident entrepreneur carrying on its activities following transfer of its registered office shall be determined - subject to the exception set out in this Act - as if the transfer had not taken place, including the application of the principles of this Act concerning the adjustment of costs and expenses, income and pre-tax profit



(or the equivalent) claimed under the taxable status existing before the transfer or as being subject to corporate tax (or similar) liability in another country.

(5) Sole proprietorships may, as prescribed in Section 17, deduct the losses deferred by the founder private entrepreneur up to the time of foundation according to the provisions of the Personal Income Tax Act from the pre-tax profit. Sole proprietorships - if not all assets shown in the books of the founder private entrepreneur are transferred to the sole proprietorship - shall be able to apply the provisions contained in Subsections (1)-(3) of Section 17 in respect of the losses deferred by the private entrepreneur by the percentage the assets transferred represent relative to the value of all assets, based on the values of record in all cases, calculated up to two decimal places.

(6) In the event of continuation of the taxpayer's tax liability beyond the date of conclusion of the liquidation (or similar) proceeding, the taxpayer shall - in its tax return for the year when the proceeding is concluded:

a) increase the pre-tax profit, if the equity capital has increased under the duration of liquidation,

b) reduce the pre-tax profit, if the equity capital has decreased under the duration of liquidation, by the difference between the equity shown in the statement of assets and liabilities dated the final day of the proceedings, and the equity indicated in the report prepared on the day preceding the initial day of liquidation.

(7) If the taxpayer is no longer subject to this Act for any reason except for termination due to transformation or if its registered office is transferred to another country, it shall be treated as termination without succession. This provision shall not apply when a European public limited-liability company or a European cooperative society transfers its registered office to another country in connection with the activities it pursues as a nonresident entrepreneur. Furthermore, this provision shall not apply to any nonresident entrepreneur whose activities are taken over by a European public limited-liability company or a European cooperative society.

(8) If the taxpayer switches from forint to foreign currency, from foreign currency to forint, or from one foreign currency to another it shall not be considered as termination.

(9) In the case of preferential transformation, the predecessor, or the successor in the case of division shall, subject to the conditions laid down in Subsection (10) and without prejudice to Paragraph d) of Subsection (2), shall not be required to adjust the pre-tax profit.

(10) Subsection (9) may be applied on condition that the successor's memorandum of association (charter document) stipulates a commitment to apply the provisions contained in Subsection (11), and that the predecessor (or the successor in the case of division) notifies the tax authority of its selection in the tax return filed for the tax year in which the transformation took place.

(11) After transformation, the successor shall determine its tax base taking into account the assets and liabilities received from the predecessor (including provisions and deferred expenses or accrued income), by adjusting the pre-tax profit, as if the transformation had not taken place. The successor shall keep separate records on the same assets and liabilities after they are revaluated, indicating their original value and the book value recorded by the predecessor for the day of transformation, their adjusted book value as well as the sums it has claimed after the transformation to adjust the pre-tax profit on the basis of the assets and liabilities in question.

(12) In the case of preferential transfer of assets, the transferring company shall, subject to a written agreement made with the receiving company and in accordance with the terms and conditions stipulated in Subsection (13), have the option to decrease the pre-tax profit by the portion of the income claimed in connection with the transfer of a strategic business unit that is in excess of the book value of the transferred assets, or shall increase the pre-tax profit by the portion of the book value of the transferred assets that is in excess of the income claimed.

(13) Subsection (12) may be applied on condition that the written agreement drawn up on the preferential transfer of assets contains an itemized list of the transferred assets and liabilities (including deferred expenses or accrued income), indicating their original value, book value and adjusted book value recorded by the transferring company for the day of transfer, and that the agreement contains a clause stipulating the commitment for the application of the provisions contained in Subsection (14), and the transferring company notifies the tax authority of its selection in the tax return filed for the tax year in which the preferential transfer of assets took place.

(14) After the preferential transfer of assets, the receiving company shall determine its tax base taking into account the assets and liabilities received from the transferring company (including deferred expenses or accrued income), by adjusting the pre-tax profit, as if the transfer had not taken place. The receiving company shall keep separate records on the assets and liabilities received, indicating their original value and book value recorded by the transferring company for the day of transfer, their adjusted book value as well as the sums it has claimed after the transfer to adjust the pre-tax profit on the basis of the assets and liabilities in question.

(15) If the successor or the receiving company is nonresident, the provisions of Subsections (9)-(14) may be applied to assets and liabilities which are in fact connected to the activities of such nonresident entrepreneur, in that capacity, in a Hungarian branch.

(16) The sole proprietorship:

*a)* may release the provision for developments of record shown at the time when the founder private entrepreneur ceased to operate in that capacity - for which he is required to create tied-up reserves in the same amount on the day after foundation - as instructed in Subsection (15) of Section 7, where the time of the opening of the period of appropriation shall be construed as the tax year when the private entrepreneur claimed the provision for developments as a reduction from entrepreneurial income, and the tax years up to the time of termination of entrepreneurial activities shall also be taken into consideration;

*b)* shall apply the provisions of Paragraph *u)* of Subsection (1) of Section 8 to any small business allowance the founder private entrepreneur has claimed under the Personal Income Tax Act, where the tax year when the entrepreneurial income was reduced shall be construed as tax year of reduction of the pre-tax profit, the reference time for determining the last day of the fourth tax year following the tax year of reduction of the pre-tax profit shall mean the tax year when the founder private entrepreneur claimed the small business allowance, and the tax years up to the time of termination of entrepreneurial activities shall also be taken into consideration;

*c)* shall apply the provisions of Paragraph *v)* of Subsection (1) of Section 8 and Subsection (6) of Section 8 to any employment tax credit the founder private entrepreneur has claimed under the Personal Income Tax Act, where the amount of tax credit claimed shall comprise the sum the founder private entrepreneur has deducted from the entrepreneurial income, the time of claiming the tax credit shall mean the tax year when the entrepreneurial income was reduced, and as regards the change in the number of employees the tax years up to the time of termination of entrepreneurial activities shall also be taken into consideration;

*d)* shall apply the provisions of Subsections (5)-(6) of Section 19 in respect of any sum shown under the difference of entrepreneurial income tax - for which he is required to create tied-up reserves in the same amount on the day after foundation -, where the time of the opening of the period of appropriation shall be construed as the tax year when the founder private entrepreneur applied the ten per cent tax rate, and the tax years up to the time of termination of entrepreneurial activities shall also be taken into consideration;

*e)* shall apply the provisions contained in Section 22/A to any small business allowance the founder private entrepreneur has claimed under the Personal Income Tax Act, where the period prescribed under Subsection (5) of Section 22/A shall also cover the tax years up to the time of conclusion of the loan contract, and up to the time of termination of entrepreneurial activities from the time of placing the tangible assets into service .

## Deferral of Loss

### *Section 17*

(1) Inasmuch as the tax base referred to in Subsections (1)-(4) of Section 6 is negative in any tax year, the taxpayer may deduct such amount of loss from its pre-tax profit spread out at any rate in the following tax years, taking into account the provisions of Subsections (3)-(9) of this Section, provided that the negative tax base occurred under the principle of proper execution of the law within its meaning and intent (hereinafter referred to as “deferred loss”).

(2)

(3) The amount of deferred loss may be deducted from the pre-tax profit of the current tax year in an extent as not to render the tax base negative. When deducting deferred losses, the deferred losses brought forward from earlier tax years shall be deducted first.

(4) Taxpayers operating in the agricultural sector may account deferred losses by self-revision or by correcting the amount of tax paid in the previous two tax years by reducing the pre-tax profit of the preceding two tax years by the amount of the deferred loss. If the taxpayer fails to exercise this option, or transfers only part of the loss to the debit of the previous two tax years, the provisions of Subsections (1)-(3) may be applied to the remainder.

(5)

(6) If, during the life of a privatization leasing contract, there is a loss of assets on the part of the taxpayer, or if there is a default in repayment and the contracting party acting on behalf of the state fails to cancel the contract with immediate effect, the taxpayer may not defer any loss as defined in Subsections (1)-(2) in the year when the loss of assets or default of repayment occurred.

(7) With regard to transformation, the successor shall apply the provisions contained in Subsections (1)-(3) to the deferred loss calculated according to the successor’s share in the predecessor’s capital as indicated in the statement of assets and liabilities, that was not yet deducted from the pre-tax profit, furthermore, with regard to preferential transfer of assets the receiving company shall also apply the provisions contained in Subsections (1)-(3) to the deferred loss generated by a strategic business unit of the transferring company, also including the time lapsed at the

predecessor and the successor. This part, as regards division and preferential transfer of assets, is to be deducted, respectively, by the predecessor company or by the transferring company from its own deferred losses.

(8)-(9)

(10) A European public limited-liability company or a European cooperative society, or a nonresident entrepreneur, when taking over the activities of a nonresident entrepreneur or a European public limited-liability company or a European cooperative society, and vice versa, shall apply the provisions contained in Subsections (1)-(6) above to any deferred loss of the predecessor that was not deducted from the pre-tax profit.

(11) If the taxpayer's decision is for deducting all deferred losses when determining the taxes payable, it shall be taken into consideration in the process of self-revision and tax audit as well.

(12) In the event of the continuation of the taxpayer's tax liability beyond the date of conclusion of the liquidation proceedings (or any proceedings of the like), the taxpayer shall apply the provisions of Subsections (1)-(3) of this Section and the provisions of Chapter VII with regard to any loss carried over from before the day of the opening of liquidation proceedings to the extent previously not deducted from the pre-tax profit, where the liquidation period is considered one tax year.

## Correction of Prices Applied Among Affiliated Companies

### *Section 18*

(1) If in the agreements and contracts between affiliated companies a higher or lower consideration is applied (calculated exclusive of value added tax) than the consideration enforced or that would be enforced vis-à-vis independent parties under fair competition and comparable circumstances (hereinafter referred to as "fair market price"), the taxpayer - irrespective of any other items that are to be added to or deducted from the pre-tax profit as prescribed in this Act - takes the difference between the fair market price and the consideration applied and shall

a) deduct it from the pre-tax profit, provided that:

aa) the consideration applied renders the pre-tax profit greater than it would have been had the fair market price been applied, and

ab) the affiliated company contracted is a resident taxpayer or a foreign person (other than a controlled nonresident company) who is subject to any tax that may be substituted for corporate tax according to the national law of the country where it is established, and

ac) it holds a document signed by both parties that contains the amount of the difference;

b) add it to the pre-tax profit if the consideration applied renders the pre-tax profit lower than it would have been had the fair market price been applied (with the exception of contracts concluded with private individuals, other than private entrepreneurs).

(2) The fair market price shall be determined by either of the following methods:

a) comparative price method, where fair market price means the price used by independent parties in connection with the supply of comparable products or services in an economically comparable market;

b) resale price method, in which the fair market price means the price used in connection with the supply of products or services in an unaltered form to an independent party, less the reseller's costs and fair profit;

c) cost and income method, in which the fair market price consists of the original costs of the products or services and the fair profit;

d) any other method if the fair market price cannot be determined by neither of the methods referred to in Paragraphs a)-c).

(3) The provisions of Subsections (1), (2) and (4) shall not apply to taxpayers qualified as small or medium-sized enterprises on the last day of the tax year with regard to their long-term contracts concluded with affiliated companies in the interest of joint purchases and sales to overcome competitive disadvantage, if the voting rights of the small and medium-sized enterprises in question held in the affiliated company exceeds 50 per cent on the aggregate.

(4) Fair profit means the profit achieved by independent parties carrying out comparable activities under comparable circumstances.

(5) Business associations, groupings, European public limited-liability companies, European cooperative societies, cooperative societies and nonresident entrepreneurs that are not considered small enterprises (with the exception of public-benefit and priority public-benefit nonprofit business associations, and the taxpayers in which the State has majority control - whether directly or indirectly -) shall fix, effective as of the last day of the tax year, the fair market price and the formula (including the data and the type of events on which the formula is based) they use for

determining it in line with the instructions laid down in the ministerial decree issued on the basis of the authorization conferred in this Act.

(6) The founder (not including formation by transformation), the taxpayer who receives capital or pays out any part of the capital, and members (shareholders) shall apply the provisions of Subsections (1)-(5) above in connection with the paying-up or increase of capital by non-monetary contributions or if decreased through disinvestment, with any payment of share by means other than money in the event of dissolution without succession, and also where dividends are provided by means other than money, if the non-monetary contribution is paid or the share is received by a member (shareholder) already holding majority interest or who obtains such majority interest upon formation.

(7) The provisions of Subsections (1)-(6) above shall also apply to transactions between a nonresident entrepreneur and his Hungarian branch, or between a taxpayer and his foreign branch.

## ***ASSESSMENT OF TAX***

### **Chapter III**

#### **Corporate Tax Rate**

##### ***Section 19***

**(1) Subject to the exceptions set out in Subsections (2) and (9), the corporate tax rate is 19 per cent of the positive tax base.**

**(2) By way of derogation from what is contained in Subsection (1), if in compliance with the criteria laid down in Subsection (3), the corporate tax shall be 10 per cent of the positive tax base up to fifty million forints and 19 per cent for the part above fifty million forints.**

(3) The 10 per cent tax rate may be applied by any taxpayer:

- a) who did not claim any tax allowance under this Act; and
- b) whose average number of employees registered in the tax year is at least one; and
- c) whose tax base or pre-tax profit for the current tax year and in the year before that - taking into consideration of what is contained in Subsection (8) - reaches the income (profit) minimum, except if falling under the scope of Subsection (6) of Section 6; and
- d) who had not been found in dissent with the requirement of distinguished labor relations as set out in the Act on Public Finances during the current and the previous tax year by a final and executable authentic resolution adopted by the employment authority, the tax authority or the authority vested with powers to monitor and enforce compliance with the principle of equal treatment, and - in the case of judicial review of the said resolution - had not been sanctioned by final court verdict by an employment penalty, a penalty under the Act on Equal Treatment and the Promotion of Equal Opportunity or a default penalty under the Act on the Rules of Taxation.
- e) who declared pension and health insurance contributions during the tax year in the amount equal to at least double of the prevailing monthly minimum wage in effect on the first day of the tax year, or - if the taxpayer is established in any one of the regions and communities deemed most underprivileged pursuant to the relevant regulation - in the sum received by multiplying the average number of employees employed during the current year by the annualized average of the prevailing monthly minimum wage.

(4) Nine per cent of the tax base - up to fifty million forints - or if the tax base is less than fifty million forints, that amount - shall be treated, for the purposes of the provisions governing state subsidies, as:

- a) aid provided under Article 4 of Commission Regulation (EC) No. 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products, if the taxpayer - if engaged in primary agricultural production as well - uses the amount tied up in accordance with Subsection (5) during the tax year exclusively for investment or development projects, or to repay a loan borrowed for such purposes;
- b) de minimis aid received during the tax year, or, at the taxpayer's discretion, as aid provided under the Commission Regulation on State aid to small and medium-sized enterprises, if the taxpayer uses the amount tied up in accordance with Subsection (5) exclusively for investment or development projects, or to repay a loan borrowed for such purposes.

(5) A sum covering the amount of tax unpaid according to Subsection (3) shall be shown under tied up reserves - transferred from the retained earnings - on the last day of the tax year, and it may be released during the four tax years following the tax year when the funds were tied up and appropriated for the following purposes:

a) developments - other than the ones listed under Subsection (6) - consistent with the costs involved; and/or  
b) for the wage costs claimed in connection with the employment of workers with at least 50 per cent disability, and/or previously unemployed person in accordance with Subsection (3) of Section 7, and/or first-time employees, on condition that the above-specified employment relationship commenced after 31 December 2007; and/or  
c) for the repayment of any part of a loan (including financial leasing arrangements) received from a financial institution under a loan contract, except if the taxpayer pays the tax in the same amount as the released amount - including if the funds were released not in compliance with the provisions contained in Subsection (4) - within thirty days following the date of release. Furthermore, taxpayers shall pay the tax in the amount of any funds from their tied-up account that is not released by the end of the fourth tax year that follows the tax year when the funds were tied up - by the last day of the first month of the year that follows the fourth tax year -, or if wound up without succession, in the amount that was not released by the time of winding up, within thirty days following the date of winding up. The tax shall be paid with late charges added. Late charges shall be assessed as of the first day immediately following the due date for filing the tax return in which the 10 per cent tax rate was claimed until the day when the funds were released, or until the last day of the period available for use, and shall be declared, together with the tax assessed, in the first corporate tax return submitted following the said date.

(6) The taxpayer may not use the provision tied up according to Subsection (5) for investment projects charged to the provision for developments, or under the title of assets received as non-monetary, in-kind contributions or assets received without compensation, nor in connection with tangible assets that cannot be depreciated or on which no depreciation allowance may be claimed, with the exception of buildings and other properties protected under the national scheme of historical monuments or placed under local protection, that were not charged to the provision for developments.

(7) In the application of Subsections (2)-(5):

a) the amount of de minimis aid shall be the same as the total of all tax allowances claimed for the tax year under such title as a deduction from the pre-tax profit and calculated by the tax rate referred to in Subsection (2);

b) the average number of employees shall not include those persons whose income entails an obligation for the payment of health services contributions only.

(8) For the purposes of Paragraph *c*) of Subsection (3) of this Section, successors and taxpayers established without a predecessor shall not apply during their first tax year the provisions pertaining to the previous tax year. For the purposes of this Section, a foreign person shall be treated as a taxpayer established without predecessor in the year in which it was required to register with the state tax authority as a nonresident entrepreneur following 31 December 2000. For the purposes of this Section, a sole proprietorship shall be recognized as a taxpayer established without predecessor.

(9) The tax rate on the income of foreign organizations is 30 per cent.

(10) Where a private entrepreneur meets the obligation imposed on him by a binding administrative decision or by a final court ruling adopted upon the judicial review of an administrative decision within the prescribed time limit or by the prescribed deadline, it shall have no bearing on his non-compliance under Paragraph *d*) of Subsection (3) with the requirement of distinguished labor relations as set out in the Act on Public Finances.

## Tax Exemption

### **Section 20**

**(1) The following persons shall be exempt from tax liability:**

**a) foundations, public foundations, non-governmental organizations - with the exception of national interest representation organizations - and public bodies not qualifying as public-benefit organizations or priority public-benefit organizations, as well as housing cooperatives, if the revenues realized from their business operations, recorded pursuant to the regulations of specific other legislation applicable to their activity and taking also into account the provisions of Schedule No. 6, are not more than ten million forints, and do not exceed 10 per cent of total revenues realized in the tax year;**

b)

c) voluntary mutual insurance funds, provided that the revenues of such funds generated from auxiliary business operations do not exceed 20 per cent of total revenues,

d) water works associations for the part of the tax base defined in Subsection (5) - in Subsection (6) as of 1 July 2009 - that, comprised in all revenue, represents income realized from activities conducted as public functions;

**e) public-benefit or priority public-benefit nonprofit business associations, and social cooperatives for the part of the tax base defined in Subsection (6) that, comprised in all revenue, represents revenue realized from preferential activities as established pursuant to Chapter E) of Schedule No. 6.**

**(2) social cooperatives, public-benefit or priority public-benefit nonprofit business associations, and water management associations may claim tax allowances in the proportion of the corporate tax reduced by tax exemptions.**

(3)

(4)

(5)

(6) For the purposes of Paragraph *e*) of Subsection (1) of this Section (Paragraph *d*) as of 1 July 2009) the tax base shall comprise the sum established according to Section 13/A, decreased by the sum established according to Paragraphs *a*), *b*) and *d*) of Subsection (2) of Section 13/A.

## Tax Incentives Related to Investments

### *Section 21*

(1)-(6)

(7) Taxpayers with registered offices or business establishments registered by the court of registry and/or the competent local authorities in socially and economically underdeveloped regions, as established by the Government Decree on the List of Favored Regions of Regional Development, may claim the whole amount of the tax as investment tax allowance in respect of a project for manufacturing products commenced in the region after 31 December 1996, and operated there after starting up, of a value of at least three billion forints, for a period of ten calendar years following the year in which the project was installed.

(8) The tax relief specified in Subsection (7), also if the conditions defined therein are satisfied, may be claimed in the second tax year following the commissioning of the investment project and in subsequent tax years, only in such tax years during which the annual average statistical number of employees employed by the taxpayer exceeds by at least 100 persons the average number of employees employed in the tax year preceding the time of commencement of the investment project.

(9) The taxpayer shall be eligible for the tax relief defined in Subsection (7), if the project is started up and operated in a region that is considered socially and economically underdeveloped at the time the project is started. The tax allowance shall be the amount of tax calculated as the percentage of total sales revenue comprising the sales revenue from manufacturing operations.

(10) Taxpayers may take advantage of tax relief by applying the provisions of Subsections (7)-(9) correspondingly, if their registered office or business establishment registered with the competent court of registry and/or with the competent local authorities is in a county, and said taxpayers commence and put into operation an investment project in such county, in which the rate of unemployment was higher than 15 per cent on the date of survey in the month of December, as measured by the government employment agency, in either of the two years preceding the commencement of the investment project.

(11) Taxpayers may claim the entire amount of tax as an investment tax relief for manufacturing projects with a value of at least ten billion forints are started up after 31 December 1996 for a period of ten calendar years following the year in which the project was started.

(12) The tax relief referred to in Subsection (11), also if the conditions defined therein are satisfied, may be taken claimed only in those tax years during which the annual average statistical number of employees employed by the taxpayer exceeds by at least 500 persons the average number of staff employed in the tax year preceding the day of the opening of the investment project.

(13) The tax relief defined in Subsections (7), (10) and (11) may be claimed in respect of the tax on the tax base for 2011 for the last time. This tax relief shall not apply to projects commencing subsequent to 31 December 2002.

(14) For the purposes of this Section, the value of the investment shall be determined on the basis of the purchase or production value of record, taking into account all other conditions defined in this Act, from the date of commencing the investment project up to the date of commissioning upon which entitlement for tax relief is granted, and a decision shall be made by the taxpayer on the basis of which provisions of this Section the investment tax relief is claimed; such decision may not be changed.

(15) Taxpayers affected by merger or demerger may claim the tax relief described under Subsections (1)-(3), (7), (10) and (11) in the tax year preceding the year of transformation for the last time.

(16) If the last calendar year for which tax allowance can be claimed is not identical to the tax year, the taxpayer may claim any tax allowance under Subsections (7), (10), (11) and (13) from the tax on the tax base calculated (up to two decimal places) for the period between the last day of the second last tax year in which tax allowance can be claimed and the end of the last calendar year according to the ratio of the number of days this period contains in relation to 365 days.

## Regional and Other Tax Incentives

### *Section 22*

(1) The taxpayer shall be entitled to claim tax allowance up to the amount indicated in the sponsorship certificate made out to his name under Point 36 of Section 4 from the tax due for the current tax year and the following three tax years, irrespective of the fact that such allowance shall not increase the taxpayer's pre-tax profit when determining his tax base.

(2)

(3) The total amount contained in the certificates of entitlement for tax allowance issued by the motion picture authority in connection with any particular motion picture may not exceed 20 per cent of the part specified in Subsection (10) of Section 12 of the MPA of the direct production costs as approved by the motion picture authority. No certificate may be issued for a motion picture that is not eligible for indirect State aid according to the MPA.

(4)-(5)

(6)-(8)

(9) Taxpayers shall be entitled to a tax allowance of ten per cent of the wages and salaries charged during the tax year to the costs of basic research, applied research and experimental development, or paid to a software developer, to be claimed during the tax year and the following three tax years in equal installments; furthermore, any tax allowance that was not claimed in the previous tax year(s), in the absence of any tax payable may be claimed during the above-mentioned period. The aforesaid tax allowance may be claimed irrespective of the fact, whether or not the taxpayer has deducted the costs of basic research, applied research and experimental development from the pre-tax profit when determining his tax base.

(10) Small and medium-sized enterprises so qualified on the last day of the tax year may claim a tax allowance - in addition to the tax allowance afforded under Subsection (9) - of 15 per cent of the wages and salaries and other related expenses incurred in connection with the employment of a software developer during the tax year and the following three tax years in equal installments; furthermore, any tax allowance that was not claimed in the previous tax year(s), in the absence of any tax payable may be claimed during the above-mentioned period. For the purposes of the provisions governing state subsidies this tax allowance shall be treated as de minimis aid received for the tax year. The aforesaid tax allowance may be claimed irrespective of the fact, whether or not the taxpayer has deducted the costs of basic research, applied research and experimental development from the pre-tax profit when determining his tax base.

(11)-(13)

(14) Pursuant to Section 58 of Act X of 2006 on Cooperatives, cooperative societies may claim 6.5 per cent of the fellowship fund accumulated during the tax year in the form of tax allowance. For the purposes of the provisions governing state subsidies this tax allowance shall be treated as de minimis aid received for the tax year.

## Tax Allowance for Small and Medium-Sized Enterprises

### *Section 22/A*

(1) Taxpayers qualified as small and medium-sized enterprises on the last day of the tax year shall be eligible for tax allowances for the entire year when the relevant loan or financial leasing contract is signed regarding the purchase or creation - financed by a financial institution - of a tangible asset, based on the interest on the loan if used exclusively for this purpose (including a second loan obtained to refinance the first loan) and if contracted after 31 December 2000.

(2) The tax allowance for the loan defined under Subsection (1) shall be 40 per cent of the interest paid during the tax year.

(3) The taxpayer shall be eligible for the tax allowance in the tax year on the last day of which the tangible asset in question is shown in its records; the last year of eligibility shall be the year in which the loan is to be paid off in full as contracted.

(4) The amount of tax allowance received pursuant to this Section shall not exceed six million forints per tax year. The amount of tax allowance claimed by the taxpayer for the purposes of the provisions governing state subsidies, if the investment serves the purpose of primary agricultural production, it may be claimed as an aid provided according to Article 4 of Commission Regulation (EC) No. 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products, in all other cases it shall be treated, at the taxpayer's choice:

- a) as de minimis aid received for the tax year, or
- b) as aid provided under the Commission Regulation on State aid to small and medium-sized enterprises.

(5) The taxpayer shall repay the tax allowance, with penalty added, if the tangible asset to which it pertains:

a) is not put into operation within four years following the year of the loan contract, unless for reasons of damage that occurred as a consequence of unavoidable external reasons,

- b) is alienated in the year in which it is placed into operation or in the three following years.

(6)

## Investment Tax Incentives

### *Section 22/B*

(1) Tax relief shall be granted to taxpayers:

- a) for projects valued at three billion forints or more at current prices;
- b) for projects started and operated within the administrative jurisdiction of a favored community local government that satisfies the criteria specified in the Government Decree adopted under authorization conferred by this Act (hereinafter referred to as "government decree"), valued at one billion forints or more at current prices;
- c) for projects valued at 100 million forints or more at current prices concerned with bringing an existing food facility producing foodstuffs of animal origin into compliance with the requirements laid down in legal regulation concerning food hygiene;
- d) for independent environmental protection or rehabilitation projects valued at 100 million forints or more at current prices;
- e) for wideband internet service projects valued at 100 million forints or more at current prices:
  - ea) within the framework of existing fixed services by definition of the legislation on the national allocation of frequency bands, or relating to the improvement of a fixed electronic communications network with subscriber interface in accordance with Act C of 2003 on Electronic Communications, or
  - eb) implemented under a right to use a radio frequency obtained after 1 January 2006;
- f) for projects concerning basic research, applied research and experimental development, if valued at 100 million forints or more at current prices;
- g) for projects valued at 100 million forints or more at current prices exclusively for motion picture and video production;
- h) for projects serving to create new jobs;
- i) for projects valued at 100 million forints or more at current prices, if started following the day of introduction (first day of trading) of shares issued to increase its subscribed capital (or a part of such shares) to a regulated market that fits the definition contained in the Act on the Capital Market (hereinafter referred to as "regulated market"), not later than the last day of the third year following this day;
- j) for projects valued at 500 million forints or more at current prices, implemented by small and medium-sized enterprises;
  - if operated in accordance with the relevant government decree, and if the project in question is for the creation of a new facility, the expansion of an existing one or - with the exception of projects concerned with basic research, applied research and experimental development - results in a significant improvement in the product manufactured or in the service provided.

(2) The taxpayer shall determine the tax relief himself in accordance with the provisions of this Act and the government decree. If the costs that can be deducted according to the relevant government decree exceed the forint equivalent of 100 million euros at current prices, that are to be consolidated during the period specified in the relevant government decree, the taxpayer may claim the tax relief in possession of the resolution of the minister, adopted upon request.



(3) The tax relief may be claimed on condition that, prior to the commencement of the project, the taxpayer:

- a) supplies to the minister all data and information prescribed in the government decree;
- b) submits the application for tax relief to the minister in observation of the formal and content requirements laid down in the government decree, if the tax relief can be claimed in possession of the resolution of the minister.

(4) No application for continuation shall be accepted if the notification referred to in Paragraph a) of Subsection (3) is submitted in delay, furthermore, the notification cannot be supplemented or rectified following commencement of the project.

(5) Furthermore, eligibility for tax relief is subject to the criteria that the emission limits prescribed by law or regulatory resolution for the protection and conservation of the various elements of the environment and for protection against effects that endanger the environment are not exceeded over a five-year period following the completion and commissioning of the project.

(6) The taxpayer can take advantage of tax relief in the tax year following the year when the project was launched - or in the same tax year at the taxpayer's discretion - and in the following nine tax years, at the latest during the fourteenth tax year following the tax year in which the notification or the application was submitted.

(7) The combined total of any tax allowance claimed by the taxpayer and any other form of State aid specified in the relevant government decree shall not exceed - at present value - the amount computed by the ratio stipulated in the notification or in the relevant resolution if it pertains to authorization, calculated by the formula specified in the government decree on the cost actually incurred at current prices.

(8) Tax relief for an independent environmental protection project referred to in Paragraph d) of Subsection (1) may be claimed only if the applicant taxpayer's tax liability dates back to five years or more reckoned from the date when the request or notification was filed. A project shall be deemed an independent environmental protection project if it exclusively serves the objective defined in Paragraphs a)-c) of Subsection (2) of Section 1 of Act LIII of 1995 on the General Rules of Environmental Protection.

(9) Tax relief for the projects referred to in Paragraphs a)-b) of Subsection (1) above shall be granted if during the four tax years following the first year in which the tax allowance is used:

- a) the average number of workers employed exceeds the average number of persons employed during the tax year prior to the commencement of the project, or - at the taxpayer's discretion - the mathematical average calculated based on the three tax years before the commencement of the project by at least 150 workers - or 75 workers if the project is started and operated within the administrative jurisdiction of a favored municipal government specified in the relevant government decree -, or;

- b) if the taxpayer's annualized wage costs are at least six hundred times greater than the amount of the prevailing minimum wage effective on the first day of the tax year as calculated for the tax year - or at least three hundred times greater if the project is launched and operated within the administrative jurisdiction of a favored municipal government specified in the relevant government decree - as compared to the annualized wage costs of the year preceding the year in which the project was launched, or - at the taxpayer's discretion - the mathematical average of wage costs calculated from the annualized data based on the period of three tax years before the commencement of the project.

(10) Tax relief for projects exclusively serving motion picture and video production shall be granted only if the taxpayer undertakes the commitment to refrain in the first five years of operation from using the tangible assets installed by the project for making any motion picture that is classified under Category V according to Section 5/B of Act I of 1996 on Radio and Television Broadcasting.

(11)

(12) In connection with projects for the processing and marketing of agricultural products under Paragraphs a)-c) and h)-i) of Subsection (1) above, further requirements for tax relief shall be laid down in the relevant government decree.

(13) Tax relief for the projects referred to in Paragraph i) of Subsection (1) above shall be granted subject to the following additional conditions:

- a) the nominal value of all securities admitted to the regulated market must be maintained at all times to cover at least 50 per cent of the taxpayer's subscribed capital from the day of admission to the regulated market until the last day of the fifth tax year following the starting date of the project, and the taxpayer is not transformed during this time;

- b) the first time the securities representing the subscribed capital of the taxpayer are admitted to a regulated market is accomplished by way of the means specified in Paragraph a);

- c) the combined par value of all shares issued by the taxpayer for increasing its subscribed capital, and admitted to the regulated market reaches at least 50 per cent of the eligible costs indicated in the application for tax relief or in the notification at current prices;

d) at the time of submission of the application for tax relief, or the notification the taxpayer has at least twenty-five shareholders holding the shares admitted to the regulated market, or at least 25 per cent of the shares admitted to the regulated market are held by shareholders, none of whom has a holding of over five per cent of the nominal value of the shares admitted to the regulated market.

(14) Tax relief for the projects referred to in Paragraph *j*) of Subsection (1) above shall be granted if during the four tax years following the first tax year in which the tax allowance is used:

*a*) the average number of workers employed exceeds the average number of persons employed during the tax year prior to the commencement of the project, or - at the taxpayer's discretion - the mathematical average calculated based on the three tax years before the commencement of the project by at least 20 workers in the case of small enterprises or 50 workers in the case of medium-sized enterprises, or;

*b*) if the annualized wage costs of small enterprises or medium-sized enterprises are, respectively, at least fifty or one hundred times greater than the amount of the prevailing minimum wage effective on the first day of the tax year as calculated for the tax year, or - at the taxpayer's discretion - the mathematical average of wage costs calculated from the annualized data based on the period of three tax years before the commencement of the project.

(15) Additional requirements may be set out in the government decree, apart from what is contained in this Act, or it may contain restrictions concerning eligibility for tax relief.

(16) Any taxpayer who is unable to comply with any of the conditions set out in this Act, in the government decree and in the relevant resolution, shall not be entitled to claim the tax allowance referred to in Subsection (7), and any tax allowance already claimed shall be treated unlawful, with the exception if non-compliance is the result of unavoidable reasons beyond the taxpayer's control.

(17) The taxpayer shall be required to indicate the information specified in the relevant government decree in the corporate tax return.

(18) The tax authority shall notify the treasury forthwith concerning all data in its possession pursuant to Subsection (15), broken down by taxpayer and development project, whereby the treasury shall, when requested, inform the minister on the basis of the data received in order to fulfill the obligation to provide such information as prescribed by an international treaty promulgated by an act of law. All data received from the treasury shall be subject to the provisions of the Act on the Rules of Taxation pertaining to tax secrets.

(19) If the minister has adopted a resolution to grant authorization in approval for eligibility for the tax allowance it shall be delivered in due consideration of the opinion of the ministers affected, and upon the prior consent of the European Commission, if necessary. The resolution must be adopted within sixty days from the date when the application was submitted or when re-submitted so as to supplement any missing information. This deadline may be extended once, by a maximum of sixty days.

(20) Having regard to all proceedings conducted under this Section, the provisions of the Act on the General Rules of Administrative Proceedings pertaining to communication by way of electronic means shall not apply.

## Rules for Claiming Tax Incentives

### *Section 23*

(1) Taxpayers entitled to 100 per cent tax relief in the tax year in accordance with Subsections (7), (10) and (11) of Section 21, Subsections (6)-(7) of Section 22, Section 22/B as effective in 2003, and Paragraph d) of Subsection (5) of Section 29 as well as taxpayers entitled to tax relief on the basis of Paragraph b) of Subsection (5) of Section 29 may claim such relief up to the extent of their corporate tax.

(2) Investment tax incentives under Section 22/B may be claimed up to 80 per cent of the tax decreased by the tax relief claimed according to Subsection (1) above.

(3) Additional tax allowances may be claimed up to 70 per cent of the tax decreased by the tax relief claimed according to Subsections (1) and (2) above.

(4) The tax allowance may be used in the form of tax withholding.

(5) Nonresident entrepreneurs shall be entitled to the tax allowances available under this Act in connection with improvements in their domestic business establishments, the annual average number of employees, and the sales revenues generated by their Hungarian branches.

(6) If the last year of eligibility for a tax allowance is specified in this Act, it shall be interpreted as the tax year that includes the last day of the year specified.

## Tax Payable

*Section 24*

The tax payable shall be the corporate tax established pursuant to Section 19, reduced by the tax relief and corporate tax (or corresponding income tax) paid abroad with due consideration of the provisions of Section 28.

***PROCEDURAL RULES AND TAX ADVANCE PAYMENT RULES***

**Chapter IV**

**Tax Liability of Foreign Organizations**

*Section 25*

**Declaration and Payment of Tax Advance**

*Section 26*

(1) With the exceptions laid down in Subsections (3), (5) and (6), taxpayers shall declare the corporate tax advance and indicate the amount applicable to the relevant period in the tax return for the 12-month period beginning on the first day of the second month after the filing deadline. No tax advance shall be declared for the calendar month or quarter, or for the calendar month in the quarter for which the taxpayer has already declared the tax advance.

(2) The tax advance shall be:

- a) the amount of tax payable for the previous year, if the duration of the previous tax year was 12 months,
- b) the amount of tax payable for the previous tax year prorated for 12 months on the basis of the calendar days of operation, in all other cases.

(3) The successor shall declare the tax advance (depending on the form of transformation: equal, aggregated, divided) calculated on the basis of the tax advance declared by the predecessor for the tax year, within thirty days of the date of transformation and shall pay the tax advance on the basis thereof from the tax return's due date until the first day of the sixth month following the tax year. In the case of division, surviving business associations shall also be regarded as successors for the purposes of this provision.

(4) The European public limited-liability company or European cooperative society when taking over the operations of a nonresident entrepreneur, or a nonresident entrepreneur when taking over the operations of a European public limited-liability company or a European cooperative society shall declare the tax advance in the same amount as declared, respectively, by the nonresident entrepreneur and the European public limited-liability company, within thirty days for the 12-month period commencing on the first day of the second calendar month following the original date of tax liability.

(5) Any changes made during the year in the type of currency used for bookkeeping shall not affect the tax advance declared.

(6) The company that remains after division, or the receiving company after a merger shall not declare a tax advance in the first tax return it files after the day of transformation, if transformation takes place before the tax return for the previous year is filed.

(7) Unless otherwise provided for in Subsections (8)-(9), tax advances:

- a) shall be due monthly in equal installments, if the previous year's tax amount exceeds five million forints;
- b) shall be due quarterly in equal installments, if the previous year's tax amount is not more than five million forints.

(8) In the case of taxpayers operating in the agriculture, forestry or fishery sectors:

a) 10 per cent of the annual tax advance shall be due in the first quarter of the tax year, 20 per cent in the second quarter, 30 per cent in the third quarter and 40 per cent in the fourth quarter, if the previous year's tax amount is not more than five million forints,

b) 3.3 per cent of the annual tax advance shall be due monthly in the first quarter of the tax year, 6.6 per cent in the second quarter, 10 per cent in the third quarter and 13.4 per cent in the fourth quarter, if the previous year's tax amount exceeds five million forints.

(9)

(10) Resident taxpayers keeping double-entry books and nonresident entrepreneurs shall supplement the tax advance to the amount of tax liability estimated for the tax year, where the amount of tax liability estimated for the tax year shall comprise - if the taxpayer receives any aid from the European Union and/or from the central budget - the amount of tax calculated from the tax base that does not include the aid not received by the fifteenth day of the last month of the tax year in terms of revenues for the tax year. This provision shall not apply if the taxpayer's revenues for the previous tax year did not exceed fifty million forints.

**(11) The provisions of Subsections (1)-(10) shall not be applied if the taxpayer is wound up, or if it files a tax return in connection with the conclusion of the company registration proceeding, nor shall it be applied by ESOP trusts, public-benefit or priority public-benefit nonprofit business associations, water management associations, foundations, public foundations, non-governmental organizations, public bodies, churches, housing cooperatives, institutions of higher learning registered as public-benefit organizations or priority public-benefit organizations, voluntary mutual insurance funds, social cooperatives and school cooperatives.**

## ***PART THREE***

### ***DIVIDEND TAX***

#### **Chapter V**

##### *Section 27*

## ***PART FOUR***

### ***ELIMINATION OF DOUBLE TAXATION***

#### **Chapter VI**

##### *Section 28*

(1) The pre-tax profit of resident taxpayers and nonresident entrepreneurs shall be increased by any tax that is equivalent to the corporate tax paid (or payable) abroad and shown under expenses.

(2) When establishing the corporate tax, resident taxpayers and nonresident entrepreneurs shall so adjust the tax base so that it contains:

- a)* no income that is subject to taxation abroad, if so prescribed by international treaty, and
- b)* no interest income from abroad.

(3) In cases not mentioned in Subsection (2), resident taxpayers and nonresident entrepreneurs may deduct from the corporate tax, in the form of withholding tax, any tax paid (or payable) abroad that is equivalent to corporate tax.

(4) In the application of Subsections (2) and (3) above, the amount of income from abroad shall be determined pursuant to the provisions of this Act. Accordingly, income from abroad shall comprise the difference between the revenue received - in the case of interest income, 75 per cent of the interest - minus the costs and expenses directly related to the acquisition of such income, and other adjustments to the pre-tax profit of either sign. The costs that are not directly attributable to earning the income abroad, and that are not related exclusively to domestic gainful operations, as well as the items increasing and reducing the pre-tax profit shall be allocated in the proportion of the sales revenues and income from abroad to the amount of total sales revenues and income.

(5) The sum defined in Subsection (3) above shall be determined separately for each type of income, and for each state from which it originates. The tax deducted in connection with any one particular type of income must not exceed the amount of tax paid (payable) abroad or the amount that can be enforced abroad under international agreement, whichever is smaller, or in the absence of any international agreement, it may not exceed 90 per cent of the tax amount paid (payable) abroad and shown under charges, or, in all cases, maximum the tax amount calculated by the mean tax rate pertaining to that income. 'Mean tax rate' shall mean corporate tax minus tax allowances, divided by the tax base, where the result is to be rounded off to two decimal places.

(6) In the application of Subsections (1)-(5) above, tax liability equivalent to corporate tax shall also mean the tax paid (payable) abroad on dividends received.

**PART FIVE**  
**TRANSITIONAL PROVISIONS**

**Chapter VII**

*Section 29*

(1) The following provisions of Act LXXXVI of 1991 on Corporate Tax, as amended (hereinafter referred to as "CTA") shall continue to apply under unaltered conditions, if the transaction took place before 31 December 1996:

a) Paragraph d) of Subsection (3) of Section 4, and Subsections (4) and (5) of Section 5, with due consideration of Paragraph b) of Subsection (2) of Section 16 of Act XCIX of 1993;

b) Paragraph j) of Subsection (3) of Section 4, and Subsection (12) of Section 5, with due consideration of Subsection (3) of Section 13 of Act LXXXIII of 1994, with the exception that in the case of the termination of a lease contract prior to expiry, the tax base shall be increased by the amount of accrued or deferred items related to the lease contract and claimed as expenses, if it was not refunded to the taxpayer;

c) Paragraph s) of Subsection (3) of Section 4, and Subsection (9) of Section 5;

d) Subsection (16) of Section 19.

(2) The loss deferred in accordance with the provisions of Section 6 of the CTA may be written off from the pre-tax profit under the conditions in force at the time of deferral.

(3)-(4)

(5) Under the relevant provisions of the CTA, tax relief may be claimed in connection with corporate tax under the following conditions:

a)

b) the provisions of Sections 14/B and 14/C may be applied under the original conditions with due consideration of the provisions of Paragraph b) of Subsection (5) of Section 13 of Act LXXXIII of 1994, Section 36 of Act LXXVIII of 1996 and Section 23 of this Act;

c)

d) the tax relief authorized on a case-by-case basis by the Government under Subsections (2) and (3) of Section 14/A, enacted by Section 11 of Act XCIX of 1993, may be claimed in accordance with the contents of the authorization and with Government Decree 190/1994 (XII. 31.) Korm., with due consideration of the provisions of Section 23 of this Act.

(6)-(7)

(8)

(9)

(10)

(11)-(12)

(13) Any reference made in this Act to previous years in connection with corporate tax liabilities should be interpreted to include the provisions of the CTA *mutatis mutandis*.

(14)

(15) The provisions set out in Subsection (15) of Section 21 shall not apply if the decision on the transformation has been entered in an official document before 31 December 1997, or the document providing for such decision (in particular, memorandum of association, articles of association, or contract on merger or demerger) has been countersigned by a lawyer (legal counsel) by such point in time.

(16) Taxpayers having commenced the investment project that is eligible for the tax relief specified in Subsection (1) and Paragraph a) of Subsection (3) of Section 21 before 31 December 1997, may exercise the option in 1998 to claim such tax relief according to the regulations of said provisions in force on either 31 December 1997 or 1 January 1998, whereby

a) in the event of exercising the option for selecting the regulations in force on 1 January 1998, the 1997 sales revenues shall be taken into account as the sales revenues of the previous year even if the taxpayer has claimed tax relief from its 1997 tax on the basis of the regulations of the said provisions in force on 31 December 1997,

b) the taxpayer shall remain bound to the aforesaid option in the years subsequent to 1998.

*Section 29/A*

(1) For the purposes of this Act, foundations, public foundations, civic organizations, public corporations shall be deemed registered as nonprofit organizations or priority nonprofit organizations from 1 January 1998 to the point in time set forth in the Act on Nonprofit Organizations, if they satisfy the provisions of Subsections (1) and (2) of Section 27 of the Act on Nonprofit Organizations. Until their classification, such organizations shall indicate the court reference number of the application for registration under nonprofit status in their certificates on donations. From among those organizations, such whose application is rejected by the court before 1 January 1999 shall not be considered as nonprofit organizations or priority nonprofit organizations in 1998.

(2)-(8)

(9)

#### *Section 29/B*

(1)-(2)

(3)

(4)

(5)

(6) Taxpayers, if commencing the investment project that is eligible for tax relief by 31 December 1998, may apply the provisions of Point 9 of Section 4 in force on 31 December 1998 for determining the value of the investment project.

(7)

(8) In respect of tangible assets put into operation before 31 December 1998, the taxpayer shall be entitled to apply the provisions of Schedules Nos. 1 and 2 as effective on 31 December 1998 without any changes; in this case, however, the KSH Ipari Termékek Jegyzéke (Industrial Product List) in force on 31 December 1995 shall apply for the classification of such tangible assets.

(9) The taxpayers who have commenced an investment project that is eligible for the tax relief specified in Subsection (7) or (10), or Subsection (11) of Section 21 on or before 31 December 1998 shall be entitled to indicate in their tax returns their choice of whether to apply the tax relief in accordance with the provisions of Subsection (8) or (12) of Section 21 as effective on 31 December 1998, or on 1 January 1999 when first claiming such tax relief, however the choice made therein shall be binding thereafter.

#### *Section 29/C*

(1)-(3)

(4)

(5)

(6)

(7) The taxpayer referred to in Paragraph g) of Subsection (2) of Section 2 shall apply the provisions of this Act in effect on 31 December 2000 concerning the donations pledged under long-term donation contracts concluded before 31 December 2000.

(8) If the tax base for the period ending on 31 December 2000 (or for the first tax year if the taxpayer is operating as a pre-company on 31 December 2000) is negative, the provisions of Section 17 - in effect on 31 December 2000 - shall be applied in accordance with Subsection (2) of Section 29.

(9)

(10)-(13)

#### *Section 29/D*

(1)-(2)

(3) Upon commencement of an investment project that is eligible for the tax relief defined in Subsections (7), (10) and (11) of Section 21, in Paragraph d) of Subsection (5) of Section 29 or in Section 93 of Act CXXV of 1999 before 31 December 2002, or within forty-five days if commenced after 1 December 2002, the taxpayer shall disclose the project information specified in the ministerial decree adopted under the authorization conferred upon the minister by this Act. Failure to satisfy this obligation to make disclosure may be subject to the legal measures, other than the procedural sanctions, laid down in an act in connection with the implementation of the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(4) The minister in charge of taxation is hereby authorized to decree the detailed regulations governing the notification requirement mentioned in Subsection (3) above.

(5) In relation to the tax relief defined in Subsections (7), (10) and (11) of Section 21, Paragraph d) of Subsection (5) of Section 29, and Section 93 of Act CXXV of 1999 regulations may be adopted by an act by way of derogation from the above provisions in connection with implementation of the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(6)-(7)

(8)

(9) The taxpayer having commissioned a building or structure before 31 December 2002 may determine its tax base according to the provisions of Point 36 of Section 4 and Paragraph e) of Subsection (1) of Section 7 as effective on 31 December 2002.

(10) The taxpayer shall apply the provisions of Paragraphs i) and t) of Subsection (1) of Section 8, Paragraphs d) and e) of Subsection (1) of Section 16 as well as those of Paragraph d) of Subsection (2) of Section 16 that are effective on 31 December 2002 if the decision or agreement on its transformation is drawn up, signed and certified in due legal form by 31 December 2002, or if the document containing such decision (in particular the memorandum of association, the articles of association or the agreement on merger or demerger) is countersigned by an attorney or legal counsel by the same date.

(11) The tax allowances specified in this Act must be claimed in the tax return that contains the taxpayer's decision adopted to that effect before the filing deadline.

(12)

(13) In connection with investment-related tax relief, taxpayers shall apply the provisions of this Act pertaining to statistical classification that are effective on 31 December 2002. The rate of depreciation may, in due observation of Subsection (8) of Section 29/B, also be determined according to the regulations on statistical classification and customs headings in effect at the time at which the asset to which it pertains was commissioned.

(14) Taxpayers shall abide by the provisions of Subsection (5) of Section 18 in relation to contracts concluded following the operative date of a ministerial decree issued under authorization granted by this Act. This obligation of taxpayers shall apply to all contracts in force at the time of filing of the tax return for 2005 and all subsequent tax years.

(15)

(16) In the application of Subsection (11) of this Section, if the taxpayer's decision is for claiming all available tax allowances and tax benefits when determining the taxes payable, it shall be taken into consideration in the process of self-revision and tax audit as well.

#### *Section 29/E*

(1) Taxpayers shall be able to claim the tax allowances specified in Subsections (7), (10) and (11) of Section 21, Paragraph d) of Subsection (5) of Section 29 and in Section 93 of Act CXXV of 1999 for determining the tax on the tax base for the year in which the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union enters into force and for subsequent tax years subject to the exceptions laid down in this Section.

(2) The present value of the tax allowances that the taxpayer has claimed in connection with his taxes payable for 2003 and in subsequent years and the present value of other State aid granted for the same period must not exceed the amount limit defined in Subsection (3). For the purposes of this provision 'State aid' means financial assistance, whether non-repayable or provided under preferential terms from the subsystems of the central budget with respect to eligible investment projects or other related assets and expenditures notified in accordance with the relevant ministerial decree enacted under authorization conferred by this Act, if it constitutes loss of revenue or expenditure from the point of view of public finances, with the exception of de minimis aid.

(3) The value referred to in Subsection (2) above shall represent the value of patents, know-how, licenses, software, and the capitalized value of formation and reorganization expenses claimed for 1997-2005 (hereinafter referred to as "approved intangible assets"), the value of tangible assets and payments on account claimed for 2005, furthermore, the value of any infrastructure project for the local public service functions of community local governments that is installed and financed by the taxpayer or if the necessary funds for financing such project are placed at the disposal of the local government (hereinafter referred to as "public service infrastructure project"), also the costs of research and development, training costs and rental fees other than financial leasing in the amount calculated on the basis of the present value of the figures disclosed in accordance with the ministerial decree on the data to be reported in connection with corporate tax allowances, not to exceed the present value of the sums actually claimed (hereinafter referred to as "adjusted value") according to the following formulas:

a) 100 per cent of the sum declared for public service infrastructure investment projects between 1997 and 2002;  
b) the sums declared under costs of environmental protection projects, equipment used in basic research, applied research and experimental development, the costs of basic research, applied research and experimental development, costs of general and special training provided to employees between 1997 and 2002 multiplied by the applicable rate of support determined in accordance with the provisions of the Government Decree on the Common System of Exemption from the Ban on Government Subsidies Granted in Connection with Business Operations as effective on 1 January 2003;

c) from the value declared under intangible assets for each year between 1997 and 2005 (not to exceed 25 per cent of the value declared each year under tangible assets):

ca) 75 per cent – or, if it pertains to the activity defined under Subsection (4), 30 per cent – if the investment project eligible for tax relief was commenced before 31 December 1999,

cb) 50 per cent – or, if it pertains to the activity defined under Subsection (4), 20 per cent – if the investment project eligible for tax relief was commenced after 31 December 1999;

d) from the value declared under other assets, costs and expenses not mentioned under Paragraphs a)-c) for each year between 1997 and 2005:

da) 75 per cent – or, if it pertains to the activity defined under Subsection (4), 30 per cent – if the investment project eligible for tax relief was commenced before 31 December 1999,

db) 50 per cent – or, if it pertains to the activity defined under Subsection (4), 20 per cent – if the investment project eligible for tax relief was commenced after 31 December 1999.

(4) The taxpayers referred to in Paragraphs c) and d) of Subsection (3) shall be construed as the taxpayers with over 50 per cent of all revenues in the first tax year when claiming tax allowances originating from the activities listed under Annex C of the Communication from the Commission entitled Multisectoral framework on regional aid for large investment projects (notified under document No. C (2002) 315 (2002/C 70/04).

(5) The present values referred to in Subsections (2) and (3) are to be calculated according to the formula and reference rate published by the minister.

(6) Taxpayers shall determine the tax allowances to be claimed on the tax base for the year in which the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union enters into force, according to the following:

a) determine the amount of tax allowance for which he is eligible without prejudice to the provisions laid down in Subsections (1)-(5) (hereinafter referred to as “adjusted tax allowance”);

b) determine the commensurate portion of the adjusted tax allowance by dividing the number of days in the tax year by the number of days before the date of entry into force, to be claimed as a tax allowance;

c) in addition to the amount determined according to Paragraph b), the sum determined for the tax year under Subsections (1)-(5) may also be claimed as a tax allowance.

(7) The provisions of Subsections (1)-(6) shall not apply to any tax allowance that - in the opinion of the European Commission - does not concern commercial ties between any Member State of the European Union and Hungary. The opinion of the European Commission is requested by the minister, at the taxpayer’s request, supported by the evidence supplied by the taxpayer.

(8) According to their choice, the taxpayers regarded as small and medium-sized enterprises - in harmony with Commission Recommendation 96/280/EEC on small and medium-sized enterprises - shall not be compelled to apply the provisions of Subsections (1)-(6) on the day of commencement of an investment project that is eligible for tax allowance even if they do not satisfy the requirements laid down in Subsection (7), provided they notify the tax authority of this choice within forty-five days of the day on which the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union enters into force. No application for continuation will be accepted past this deadline, and the taxpayer may not withdraw his notification.

(9) A taxpayer who has notified the tax authority of his choice under Subsection (8) shall, in the case of a merger, be able to claim the tax allowance for the last time in the year preceding the year of transformation or, if there is a change in a member (shareholder) holding majority control after notification has been made, in the year preceding the change.

(10) Taxpayers shall not be compelled to apply the provisions of Subsections (1)-(9), provided they notify the tax authority of this selection within forty-five days of the day on which the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union enters into force. No application for continuation will be accepted past this deadline. On the basis of this notification the tax allowance claimed under Section 21 shall be treated as a new aid according to the proceeding contained in Article 1/c) of Chapter 3 on competition policy of Annex IV of the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.



(11) The following may not be included in the value of approved intangible assets, tangible assets and investment projects referred to in Subsection (3):

a) the original value of any assets that the taxpayer sells within five years from the date of commissioning or when entered into the books (if the asset's estimated useful economic life is less than five years) during the period of the asset's estimated useful economic life;

b) the value of any asset employed for maintenance only, or - at the taxpayer's discretion - 20 per cent of the intangible assets or investment projects commissioned or entered into the books after the fourth year following the year in which the very first investment project was commenced in a particular place of business;

c) tangible and intangible assets that have been or are planned to be included in the base of the tax allowance granted for investment projects.

(12) Taxpayers engaged in the manufacture of communications equipment or computer hardware and accessories, when determining the limit referred to in Subsection (3) shall - without prejudice to Paragraphs a)-b) of Subsection (11) - apply either the total of any excess amount over the yearly total of the historical costs of approved intangible assets, tangible assets and investment projects shown for the last day of each of the years between 1997 and 2005 over the amounts shown for the previous year, or if the historical costs of the aforementioned assets during the aforementioned period, or during any of the years between 2006 and 2011 is lower than in the previous year.

#### *Section 29/F*

(1)

(2) Losses from the tax years beginning in 2001-2003 generated by the last day of these tax years, that are not yet claimed in the tax base, may be written off according to the rules in effect for the period from which they originate.

(3) Taxpayers shall revise the data and information they have supplied pursuant to Subsection (3) of Section 29/D consistent with legislative changes by 31 January 2004 as instructed in the ministerial decree enacted by authorization conferred in this Act. No application for continuation shall be accepted upon missing the deadline.

(4) The provisions of Point 8 of Chapter B) of Schedule No. 3 in effect on 31 December 2003 shall apply to any insurance premiums on policies the taxpayer concluded before 31 December 2003 to the benefit of private individuals in the taxpayer's employment, or to the benefit executive officers, members personally participating in the taxpayer's operations, and their close relatives.

(5) The provisions of Paragraph u) of Subsection (1) of Section 8 in effect in 2003 shall apply to tax allowances claimed under Paragraph z) of Subsection (1) of Section 7 in effect for the tax years beginning in 2003 and before.

(6)

#### *Section 29/G*

(1)

(2) Taxpayers may apply Paragraph t) of Subsection (1) of Section 7 in connection with experimental development registered by 31 December 2004 according to the provisions in force at the time of registration, if having decided to reduce the pre-tax profit in the same tax year in which the depreciation is claimed.

(3) Taxpayers shall apply the provisions of Subsection (15) of Section 7 in connection with the provision for developments first claimed under Paragraph f) of Subsection (1) of Section 7 in the tax return filed in accordance with the provisions in force on 31 December 2004.

(4) In connection with the applications for investment tax incentives submitted before 31 December 2004 and the use of these tax allowances the provisions in force on 31 December 2004 shall apply.

(5) Point 10 of Schedule No. 3 shall apply in connection with the adjustments and irrecoverable receivables claimed for the first time as of the tax year commencing in 2005.

#### *Section 29/H*

(1) With respect to any dividend paid (provided) after 30 June 2005 to a person who is a resident of the Swiss Confederation, the provisions of Subsection (3) of Section 27 shall apply.

(2) The dividend recipient or the payer may apply for tax refund with respect to any dividend tax the payer has deducted for the uninterrupted period if the share referred to in Subsection (3) of Section 27 was maintained for less than two years and no guarantee had been provided, or with respect to any dividend tax paid by the payer, if provided by means other than money, if the condition specified in Subsection (3) of Section 27 is satisfied.

### *Section 29/I*

(1) Taxpayers shall be entitled to apply Subparagraph *lb*) of Subsection (1) and Subsection (22) of Section 7 of this Act, as effective on 31 December 2009, to sums used for purchasing contemporary works of art and works of applied art before 31 December 2009, if they applied those provisions in the tax year when the purchase was made.

(2) Taxpayers shall be entitled to apply Subparagraph *ly*) of Subsection (1) and Subsection (8) of Section 7 of this Act, as effective on 31 December 2009, to

*a*) income obtained for the tax year in connection with liabilities cancelled or debts assumed before 31 December 2009;

*b*) income claimed for the tax year under the title of grant or support before 31 December 2009; for the last time when establishing the tax base for the tax year, the last day of which is in 2012.

(3) Financial companies shall be authorized to deduct in the tax return filed for the 2009 tax year and in the tax returns filed for the following four tax years, in equal installments - up to the amount not taken into consideration previously if terminated without succession - from the pre-tax profit the impairment loss claimed in connection with any outstanding receivables as an increment to the pre-tax profit according to Paragraph *gy*) of Subsection (1) of Section 8 - in force on 31 December 2008 - that was not yet deducted from the pre-tax profit.

(4) Taxpayers shall be entitled to apply Paragraph *w*) of Subsection (1) of Section 7 of this Act, as effective on 31 December 2009, in connection with shares obtained before 31 December 2009, if transferred before 31 December 2014.

(5) In connection with the release of provisions for developments shown under tied-up reserves in the annual account for 2008, the period within which this right must be exercised shall be six tax years - provided that all other statutory requirements are satisfied, where any reference made in Subsection (15) of Section 7 of the CorpTx. Act to four tax years shall be understood as six tax years.

## ***CLOSING PROVISIONS***

### **Chapter VIII**

#### *Section 30*

(1) This Act shall enter into force on 1 January 1997 and shall apply - subject to the exceptions set out in Subsection (2) - to determining the 1997 tax base and the 1997 corporate tax and dividend tax liabilities for the first time.

(2)

(3) The minister shall publish in the Magyar Közlöny (Official Hungarian Gazette) the names of the countries that are the most common locations in which controlled foreign companies are established.

(4)

(5) Simultaneously with this Act entering into force:

*a*)

*b*)

*c*)

*d*) any reference made by legal regulations to Act LXXXVI of 1991 on Corporate Tax, it shall be understood as this Act.

(6) The Government is hereby authorized to decree the detailed conditions of investment tax incentives, the rules of authorization, the regulations relating authorization procedures, and the detailed conditions for the obligation of disclosure in connection with the tax allowances.

(7) The minister in charge of taxation is hereby authorized to decree the administration service fees payable with the applications for investment tax incentives.

(8) The minister in charge of taxation is hereby authorized to decree the detailed regulations governing the system of records required in connection with fair market prices.

(9) The minister in charge of taxation is hereby authorized to decree the conditions for making changes in the data notified in connection with corporate tax allowances.

#### *Section 31*

(1) This Act serves the purpose of compliance with the following legislation of the Communities:

- a) Council Directive 90/434/EEC on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States;
- b) Council Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States;
- c) Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States;
- d) Council Directive 2003/123/EC amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States;
- e) Council Directive 2005/19/EC amending Directive 90/434/EEC on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States;
- f) Council Directive 2003/48/EC on taxation of savings income in the form of interest payments;
- g) Council Directive 2006/98/EC of 20 November 2006 adapting certain Directives in the field of taxation, by reason of the accession of Bulgaria and Romania.

(2) This Act contains regulations adopted with regard to the following documents in conformity with the Convention on the Organization for Economic Cooperation and Development (OECD) published by Act XV of 1998, including the related protocols and accession statements:

- a) model agreement on income tax and wealth tax;
- b) guidelines for international enterprises and for the tax authorities concerning the revision of prices between affiliated enterprises.
- c) Frascati Manual - Proposed Standard Practice for Surveys on Research and Experimental Development.

(3) This Act contains provisions for the implementation of the following legislation of the Communities: Guidelines on national regional aid for 2007-2013 (2006/C 54/08), and State aid - Hungary - State aid No. N 651/2006.

(4) This Act contains an aid scheme within the meaning of Commission Regulation (EC) No. 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No. 70/2001 (OJ L 358, 16.12.2006, p. 3).

(5) Paragraph *j*) of Subsection (1), and Subsections (9) and (14) of Section 22/B of this Act shall be treated as a regional investment aid scheme within the meaning of Commission Regulation (EC) No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ 06. 08. 2008, p 3-47).

### *Implementing, Closing and Transitional Provisions to the Amendments of Act LXXXI of 1996 on Corporate Tax and Dividend Tax*

Act XXXIII of 1998 on the Amendment of Tax Laws, the Accounting Act and Certain Other Acts

#### *Section 23*

#### *Section 74*

(1) With the exceptions of Sections 26-28, Section 30, Sections 58-60, Subsection (3) of Section 63, Subsections (2) and (3) of Section 65, Section 66, Section 67, Sections 71-73, and Subsections (6) and (8) of this Section, this Act shall enter into force on 16 June 1998, however, concerning the issue of tax numbers, social security account numbers and statistical codes to private entrepreneurs and the applications for such, the provisions in force prior to the entry into force of this Act shall apply until 1 July 1998.

(6)

Act CXIII of 2000 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget

#### *Section 268*

(1) The provisions of Section 31-57 and Section 269 of this Act shall be applied for the first time - in due observation of Subsections (2)-(5) and of Subsection (2) of Section 266 - in connection with the tax base for 2001 and the corporate tax and dividend tax liabilities for 2001.

(2)-(5)

*Section 269*

Act XLII of 2002 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget

*Section 303*

(1) The provisions of this Act on the amendment of the Corporate Tax Act shall be first applied, in observation of Subsections (4)-(11), concerning the tax base for 2003 and the corporate tax and dividend tax liabilities for 2003.

(2)-(7)

(8)-(9)

(10) Point 28 of Section 4, Subsection (2) of Section 19 and Subsection (7) of Section 29/B of the Corporate Tax Act shall be repealed effective as of 1 January 2006. These provisions may be applied for the last time in the tax year ending in 2005.

(11)

*Section 304*

Act XCI of 2003 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget

*Section 209*

(1) The provisions of this Act on the amendment of the Corporate Tax Act shall be first applied, in observation of Subsections (2)-(9), concerning the tax base for the tax year beginning in 2004 and the corporate tax and dividend tax liabilities for 2004.

(2)-(3)

(4) Simultaneously with this Act entering into force, the passage "2001" in Subsection (5) of Section 303 of Act XLII of 2002 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget shall be replaced by "2001-2002" in both instances.

(5) Paragraphs b) and c) of Subsection (1) of Section 7, Paragraph a) of Subsection (1) of Section 8 and Paragraph h) of Subsection (2) of Section 16 of the Corporate Tax Act, as established by this Act, may be applied as of 1 January 2003.

(6) Applications for tax allowance in connection with investment projects submitted before 31 December 2003 shall be evaluated according to the provisions in force on 31 December 2003.

(7) With respect to the value of goodwill shown by the taxpayer or his predecessor before 1 January 2004 the provisions of the Corporate Tax Act in effect on 31 December 2003 shall apply, in due consideration of what is contained in Subsection (8) below.

(8) The provision laid down in Subsection (7) shall be applied in consideration of the date prescribed therein, regardless of whether the financial year corresponds with the calendar year or not.

(9) Taxpayers shall apply the provisions of Section 22/A of the Corporate Tax Act, as established by this Act, to interest paid under a loan contract that was concluded after 31 December 2003.

(10) Section 29/E of the Corporate Tax Act shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(11)

(12) Private individuals may apply the provisions of Subsection (1) of Section 304 of Act XLII of 2002 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget, if payment of the one-off support in connection with the 2003 tax year is not effected before 2003, or before the tax year that begins in 2003 if the taxpayers falls under the scope of the Corporate Tax Act.

Act CI of 2004 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget

### *Section 301*

(1) The provisions of this Act for the amendment of the Corporate Tax Act shall - in due observation of Subsections (2)-(11) - apply to determining the 2005 tax base and the 2005 corporate tax and dividend tax liabilities for the first time.

(2)-(3)

(4) Simultaneously with this Act entering into force, Paragraph e) of Subsection (2) of Section 16 of the Corporate Tax Act shall be repealed; however, it shall remain to be applied by the successor in the tax year beginning in 2005 if the predecessor applied Paragraph ny) of Subsection (1) of Section 7 of the Corporate Tax Act as in force on 31 December 2004.

(5)-(11)

Act XXVI of 2005 on the Amendment of Certain Acts Concerning Taxes and Mandatory Contributions

### *Section 55*

(1) The provisions of this Act amending the Corporate Tax Act shall be first applied, with due regard to Subsections (2)-(5) as well, to the assessment of the corporate tax base for the tax year commencing in 2005 and the tax liability for 2005.

(2) The provision of this Act amending Section 21 of the Corporate Tax Act shall enter into force on 1 January 2006, and simultaneously the passage "10 tax years following the year in which the project was started" in Subsections (7) and (11) of Section 21 of the Corporate Tax Act shall be replaced by "10 calendar years following the year in which the project was started".

(3) The provision of this Act amending Section 22/B of the Corporate Tax Act shall enter into force on 1 July 2005. In connection with the applications for investment tax incentives submitted before 30 June 2005 and the use of these tax allowances the provisions in force on 30 June 2005 shall apply.

(4)

(5) Simultaneously with this Act entering into force Subsection (6) of Section 29/F of the Corporate Tax Act shall be repealed, and it shall not apply for the assessment of corporate tax liabilities for the tax year commencing in 2005.

Act CXIX of 2005 on the Amendment of Certain Acts Concerning Taxes, Mandatory Contributions and Other Payments to the Central Budget

### *Section 180*

(1) The provisions of this Act amending the Corporate Tax Act shall be first applied, with due regard to Subsections (2)-(8), to the assessment of the corporate tax base for the tax year commencing in 2006 and the tax liability for 2006.

(2) The provisions of this Act amending Schedules Nos. 1, 3 and 6 of the Corporate Tax Act may be first applied to the assessment of the corporate tax base for the tax year commencing in 2005 and the tax liability for 2005.

(3) Section 29/H of the Corporate Tax Act, as established by this Act, shall enter into force on the day of promulgation, however, the provisions of Subsection (2) may be applied to dividends paid (provided) after 30 April 2004.

(4)-(7)

(8) Effective as of 1 January 2006, Subsections (6)-(7) of Section 2, Section 27, and Subsection (8) of Section 29 of the Corporate Tax Act shall be repealed; however, with respect to any dividend paid (provided) before 31 December 2005 under guarantee the provisions in effect at the time it was paid (provided) shall apply.

a)-e)

Act LXI of 2006 on the Amendments of Financial Regulations

### *Section 225*

(1) The provisions of this Act amending the Corporate Tax Act shall be applied for the first time, with due regard to Subsections (2)-(15), to the assessment of the corporate tax base for the tax year commencing in 2007 and the tax liability for 2007.

(2) Subsection (5) of Section 5, Subsection (7) of Section 5, Subsection (4) of Section 6, the title to Section 9, Paragraph b) of Subsection (2) of Section 9, the introductory sentence to and Subparagraph ca) of Paragraph c) of Subsection (3) of Section 9, Subsection (7) of Section 13, Paragraph b) of Subsection (1) of Section 20, Subsection

(2) of Section 20, Subsections (10)-(11) of Section 26, Point 13 of Schedule No. 5, the title to Schedule No. 6 of the Corporate Tax Act, as established by this Act, shall enter into force at the time of promulgation of this Act, and the passage "own stock" in Paragraph m) of Subsection (1) of Section 7 shall be replaced by "own shares and own converted investment share certificates", and they shall apply as of 1 July 2006.

(3) Subsection (6) of Section 13, Subparagraphs ci-ck) of Paragraph c) of Subsection (1) of Section 16, Paragraph a) of Subsection (2) of Section 16, and Subsection (12) of Section 17 of the Corporate Tax Act, as established by this Act, shall enter into force at the time of promulgation of this Act, and they may also be applied to the assessment of the corporate tax base for the tax year commencing in 2006 and the tax liability for 2006.

(4) Point 14 of Schedule No. 1 of the Corporate Tax Act, as established by this Act, shall enter into force at the time of promulgation of this Act, and it may also be applied for the first time to the assessment of the corporate tax base for the 2005 tax year and the tax liability for the tax year commencing in 2005.

(5)

(6) Effective as of 1 July 2009, in the title to Section 13/A of the Corporate Tax Act the passage "and of social cooperatives" shall be replaced by ", social cooperatives and of water works associations", and simultaneously the passage "with public-benefit or priority public-benefit status" in Subsection (1) of Section 13/A shall be replaced by "with public-benefit or priority public-benefit status and of water works associations".

(7) The entry into force of the provisions of this Act amending Section 22/B of the Corporate Tax Act shall be provided for in another act.

(8) Upon the time of the act referred to in Subsection (7) entering into force, Subsection (5) of Section 22/B, Paragraph c) of Subsection (9) of Section 22/B and Subsection (16) of Section 22/B of the Corporate Tax Act shall be repealed.

(9) On the day of promulgation of this Act, Paragraphs b) and c) of Subsection (2) of Section 16 of the Corporate Tax Act shall be repealed, whereby the tax base for 2006 and the tax liability for 2006 may be determined in due observation of this provision.

(10)

(11)

(12) Effective as of 1 July 2009, Section 13 of the Corporate Tax Act and the preceding title, Paragraph b) of Subsection (1) and Subsection (5) of Section 20, Subsection (3) of Section 29/B, in the title to Chapter C) of Schedule No. 6 the passage "nonprofit company," in Subsection (7) of Section 5 the passage "nonprofit company", in Subsection (4) of Section 6 the passage "nonprofit company," in Subsection (2) of Section 20 the passage "nonprofit company", in Subsection (11) of Section 26 the passage "nonprofit company," and in Subsection (1) of Section 29/A of the Corporate Tax Act the passage "and nonprofit companies" shall be repealed.

(13) The taxpayer shall add the retained earnings before tax as shown in the financial statement drawn up according to the provisions of Subsection (6) of Section 10 of the Corporate Tax Act in effect on 31 December 2006 to his pre-tax profit (hereinafter referred to as "retained earnings of record") distributed evenly among the tax years commencing in 2007 and the following two tax years, except if:

a) transformed into a public-benefit organization, or if it continues to operate in the form of a public-benefit or priority public-benefit nonprofit business association, or

b) holding a priority or conditional certificate according to specific other legislation and - in accordance with specific other legislation - the ratio of employment of disabled workers or persons who suffered some degree of health impairment subject to aid in the form of wage subsidies has reached or is higher than 70 per cent during the tax year and in the following two tax years,

however, if either of the conditions referred to in Paragraph b) are not satisfied, the taxpayer shall increase his pre-tax profit in the tax return filed for the third tax year by 120 per cent of that part of the retained earnings of record that was not previously added to the pre-tax profit.

(14) In connection with the assessment of tax liabilities for 2006, the successor of a designated organization is not required to apply Subsection (5) of Section 10 of the Corporate Tax Act if it is a public-benefit organization.

(15) Institutions of higher learning (including the institutions they have established), and student hostels shall determine the data required for their tax base for 2006 by deducting the appropriate figures shown in the interim balance sheet (and the underlying records) dated 30 June 2006 from the figures shown in the financial statement (and the underlying records) prepared for 2006.

(16)

(17) The provisions of Subparagraph b) of Paragraph m) of Subsection (1) of Section 8 of the Corporate Tax Act, as amended by this Act, may be applied to shares acquired after the time of this Act entering into force.

Act CXXXI of 2006 on the Amendments of Financial Regulations

*Section 126*

(1) The provisions of this Act amending the Corporate Tax Act shall enter into force - subject to the exceptions set out in Subsections (2)-(3) - on 1 January 2007.

(2) Subsection (9) of Section 6 of the Corporate Tax Act, as established by this Act, shall enter into force on 15 February 2007 and shall apply to cases of natural disaster that have occurred after the time of entry into force.

(3) The provision of this Act establishing Paragraphs c) and e) of Subsection (1) of Section 22/B of the Corporate Tax Act shall enter into force on 1 January 2008.

*Section 127*

*Section 149*

(1)-(2)

*Section 172*

*Section 192*

(1) The provisions of the Corporate Tax Act, as established by this Act, shall be first applied to the tax liabilities for the tax year beginning in 2007.

(2)

(3) Paragraph d) of Subsection (1) of Section 20 of the Corporate Tax Act, enacted by this Act, may be applied for the assessment of the tax base for the tax year beginning in 2006 and for corporate tax liability for the 2006 tax year.

(4) The provisions of Point 5 of Section 4, Paragraph dz) of Subsection (1) of Section 7, Subparagraph b) of Paragraph dzs) of Subsection (1) of Section 7 and Subparagraph b) of Paragraph dzs) of Subsection (1) of Section 8 of the Corporate Tax Act, as established by this Act, may be applied initially to shares acquired after 1 January 2007.

*Section 193*

Investment tax incentives may be claimed according to the provisions in effect at the time of submission of the application or notification, with the exception that any application lodged before 31 December 2006 shall be adjudged - if the relevant resolution is not issued by that time - by the minister in charge of taxation according to Section 22/B of the Corporate Tax Act, as established by this Act, and to Government Decree 206/2006 (X. 16.) Korm. on Investment Tax Incentives. Taxpayers shall supply any missing information that may be required for such decision within an insufficient information procedure.

Act XXXIX of 2007 on the Amendment of Tax Laws

*Section 9*

(1) This Act - subject to the exceptions set out in Subsections (3)-(4) - shall enter into force on the eighth day following promulgation.

(6) In the application of Paragraph b) of Subsection (5) of Section 6 of the Corporate Tax Act, taxpayers shall have the option to apply - in the 2007 tax year - the tax rate specified in Section 19 of the Corporate Tax Act, taking into consideration the provisions of the relevant international agreement:

a) to the combined total calculated based upon the ratio (up to two decimal places) of the number of calendar days from the first day of the tax year up until the 30th of June relative to the days of operation during the entire tax year, from the tax base established according to Subsection (1) of Section 6 of the Corporate Tax Act for the whole 2007 tax year, and the ratio (up to two decimal places) of the number of calendar days from the first day of July up until the last day of the tax year relative to the days of operation during the entire tax year, from the income (profit) minimum established according to Subsection (7) of Section 6 of the Corporate Tax Act for the whole 2007 tax year; or

b) to a tax base comprising the combined total of:

ba) the tax base established according to Subsection (1) of Section 6 of the Corporate Tax Act based on the interim accounting statement dated 30 June 2007; and

bb) the sum that is in excess of the income (profit) minimum established according to Subsection (7) of Section 6 of the Corporate Tax Act under the interim accounting statement dated 30 June 2007, from the income (profit) minimum determined on the basis of the annual account filed for the 2007 tax year according to Subsection (7) of Section 6 of the Corporate Tax Act.

(7) If applying Paragraph b) of Subsection (6), the taxpayer shall:

a) draw up an interim accounting statement for 30 June 2007, and shall retain it within the term of limitation of the right of tax assessment, with the exception that the audit requirement prescribed in specific other legislation shall not apply to such interim accounting statement;

b) decide on the application of Subsection (5) of Section 6 of the Corporate Tax Act based on the pre-tax profit specified in Subsection (2) of Section 6 of the Corporate Tax Act established for the period between 1 July and the last day of the tax year shown as the difference between the financial statement filed for 2007 and the interim accounting statement, and the income (profit) minimum specified in Subsection (7) of Section 6 of the Corporate Tax Act.

Act CXXVI of 2007 on the Amendment of Tax Laws

#### *Section 371*

(1) The provisions of this Act amending the Corporate Tax Act shall enter into force - subject to the exception set out in Subsection (2) - on 1 January 2008.

(2) Paragraph i) of Subsection (1) and Subsection (13) of Section 22/B of the Corporate Tax Act, as amended by this Act, shall enter into force on 1 September 2008.

#### *Section 469*

(1) The provisions contained in Paragraph c) of Subsection (6) and Subsection (10) of Section 6, Paragraph ly) of Subsection (1) of Section 7, and Subsection (15) of Section 7 of the Corporate Tax Act, as amended by this Act, may be applied for the assessment of tax liabilities for 2007.

(2) Within the meaning of Paragraph ly) of Subsection (1) of Section 7 of the Corporate Tax Act, from the sum shown under deferred expenses and accrued income in connection with assets received without compensation before 1 January 2007, the sum that is brought forward in the tax year shall be deducted from the pre-tax profit as of 1 January 2007.

(3) The taxpayer may apply Paragraph q) of Subsection (1) of Section 7 of the Corporate Tax Act, as effective on 31 December 2007, if having concluded before 31 December 2007 a contract for government-guaranteed loan for the renovation or rehabilitation of a building protected under the national scheme of historical monuments.

(4) The taxpayer may apply Paragraph ty) of Subsection (1) of Section 7 of the Corporate Tax Act, as effective on 31 December 2007, if having leased the residential suite to the local government before 1 January 2008, and shall apply Subsection (21) of Section 7 of the Corporate Tax Act if having applied the provisions of Paragraph ty) of Subsection (1) of Section 7 of the Corporate Tax Act in any tax year, and the event described in Subsection (21) of Section 7 takes place.

(5) The provisions of Subsection (17) of Section 7 of the Corporate Tax Act, as effective on 31 December 2007, may be applied for the last time in 2011, if the taxpayer has had been engaged in basic research, applied research and experimental development performed on premises managed by a research institution (research facility) founded by an institution of higher education and the Magyar Tudományos Akadémia (Hungarian Academy of Sciences) since before 1 January 2008.

(6) The provisions of Subsections (10) and (13) of Section 16 of the Corporate Tax Act, as amended by this Act, may be applied in connection with tax returns filed for 2007, if the deadline for filing is subsequent to 31 December 2007.

(7) The provisions of:

a) Subsection (5) of Section 18 of the Corporate Tax Act, as amended by this Act, may be applied to the accounting records for the 2007 tax year,

b) Subsection (6) of Section 18 of the Corporate Tax Act, as amended by this Act, shall also be applied to dividends (dividend liabilities) performed after 31 December 2007.

(8) The provisions of Section 22/B of the Corporate Tax Act may be applied, as effective at the time of submission of the application or the notification, if the taxpayer has filed an application or notification for tax relief in connection with projects concerning basic research, applied research and experimental development performed on



premises managed by a research institution (research facility) founded by an institution of higher education, the Magyar Tudományos Akadémia or by a budgetary institution before 31 December 2007.

(9) Taxpayers may apply:

a) Subsection (1) of Section 22 of the Corporate Tax Act, as amended by this Act, for the tax liabilities of the tax year beginning in 2004 for the first time;

b) Subsection (9) of Section 22 of the Corporate Tax Act, as amended by this Act, for the tax liabilities of the tax year beginning in 2005 for the first time;

c) Subsection (10) of Section 22 of the Corporate Tax Act, as amended by this Act, for the tax liabilities of the tax year beginning in 2006 for the first time.

(10) Paragraph i) of Subsection (1) and Subsection (13) of Section 22/B of the Corporate Tax Act, as established by this Act, and Subsection (12) of Section 22/B of the Corporate Tax Act, as amended by this Act, may be first applied in connection with the introduction of shares into a regulated market, if it takes place following 1 September 2008.

Act LXXXI of 2008 on the Amendment of Certain Acts Concerning Taxes and Mandatory Contributions

#### *Section 275*

(1) Where a taxpayer functions as a public benefit organization and operates in the form of nonprofit private limited-liability company, if lacking public-benefit or priority public-benefit status, shall comply with his tax liability for the 2009 tax year as per the following:

a) shall have the option to deduct either of the following from the corporate tax assessed for the entire tax year according to the relevant provisions of the Corporate Tax Act:

1. the part of the revenues from preferential activities performed during the period functioning as a public benefit organization in the 2009 tax year calculated - up to two decimal places - according to Chapter C) of Schedule No. 6 to the Corporate Tax Act in effect on 30 June 2009 relative to the total revenue for the tax year, or

2. the amount of tax corresponding to the tax exemption calculated according to Paragraph b) of Subsection (1) of Section 20 of the Corporate Tax Act, in effect on 30 June 2009, under the interim accounting statement prepared on the last day of functioning as a public benefit organization;

b) shall have the option to determine the local business tax base under the LTA, the innovation contribution base under the RD Act, and the special tax base under the BTA (hereinafter referred to as "tax base") either:

1. by calculating the tax base for the entire tax year prorated for the number of days functioning as a nonprofit business association between the day of registration and the last day of the tax year, showing to two decimal places, or

2. by deducting the tax base calculated according to the interim accounting statement prepared on the last day of functioning as a public benefit organization from the tax base assessed for the entire tax year.

(2) When exercising the options described in Points a)/2 and b)/2 of Subsection (1), the taxpayer is required to draw up interim accounting statement for the last day of functioning as a public benefit organization, and shall retain it until the right of enforcement of such liabilities expires. The audit requirement prescribed in specific other legislation shall not apply to such interim accounting statement.

(3) Any nonprofit private limited-liability company that functions as a public benefit organization in the 2009 tax year in the absence of public-benefit or priority public-benefit status, furthermore, in respect of the transformation of a public-benefit organization the successor, if other than a public-benefit or priority public-benefit nonprofit business association, shall increase its pre-tax profit by the tax-free amount of the equity stated in accordance with Subsection (2) of Section 13 of the Corporate Tax Act as in effect on 30 June 2009.

#### *Section 276*

(1) In the process of determining the corporate tax liability for the 2008 and 2009 tax years by the application of Paragraphs g) and gy) of Subsection (1) of Section 7 of the Corporate Tax Act, taxpayers shall have the option to deduct from their pre-tax profit the dividend and profit-sharing received or due from a controlled foreign company and shown as income for the tax year, as well as 75 per cent of the income received from the controlled foreign company on account of being terminated without succession, or if its subscribed capital is decreased through disinvestment, provided that the taxpayer invests an amount equivalent to 50 per cent of such income - by 30 June 2009 - in debt securities issued by the Hungarian State (government securities), and keeps this sum exclusively in such government securities for a period of two years from the time of the original investment. Having transferred the invested sum into a bank account or client account in the case of expiry or exchange of these securities for not more

than fifteen days on occasion shall not be construed as a breach of the aforesaid condition. Taxpayers shall be entitled to claim the above-specified tax incentive for reducing the pre-tax profit only if the controlled foreign company has declared the income from which the dividend is paid on or before 30 June 2008, recognized as revenue.

(2) In the process of determining the special tax liability for the 2008 and 2009 tax years by the application of Paragraph a) of Subsection (3) of Section 3 of the BTA, taxpayers shall have the option to deduct from their special tax base 75 per cent of the dividend and profit-sharing received or due from a controlled foreign company, provided that the taxpayer invests an amount equivalent to 50 per cent of such income - by 30 June 2009 - in debt securities issued by the Hungarian State (government securities), and keeps this sum exclusively in such government securities for a period of two years from the time of the original investment. Having transferred the invested sum into a bank account or client account in the case of expiry or exchange of these securities for not more than fifteen days on occasion shall not be construed as a breach of the aforesaid condition. Taxpayers shall be entitled to claim the above-specified tax incentive for reducing the pre-tax profit only if the controlled foreign company has declared the income from which the dividend is paid on or before 30 June 2008, recognized as revenue.

(3) In the process of determining the personal income tax liability for the 2008 and 2009 tax years, private individuals shall pay the tax at the rate specified in Paragraph a) of Subsection (2) of Section 66 of the PIA, as established by this Act, on their income specified in Subsections (12) and (13) of Section 28 of the PIA, provided that the private individual invests an amount equivalent to 50 per cent of such income - within thirty days of acquiring the income or by 30 June 2009 at the latest - in debt securities issued by the Hungarian State (government securities), and keeps this sum exclusively in such government securities for a period of two years from the time of the original investment. Having transferred the invested sum into a bank account or client account in the case of expiry or exchange of these securities for not more than fifteen days on occasion shall not be construed as a breach of the aforesaid condition. Private individuals shall indicate the amount of income invested in accordance with this Subsection in the tax return filed without assistance from the tax authority for information purposes. Taxpayers shall be entitled to claim the above-specified tax incentive only if the controlled foreign company has declared the income from which the dividend is paid on or before 30 June 2008, recognized as revenue.

(4) The provisions set out in Subsections (1)-(3) above shall not apply to any income:

a) received from a controlled foreign company (other organization) that is established in a low tax-rate state that is not a member of the Organization for Economic Cooperation and Development (OECD), such as Andorra, Monaco or Liechtenstein;

b) that originates from criminal activities.

(5) For the purposes of tax liability, the income of private individuals taken into account in accordance with Subsections (1)-(3) shall not be construed as enrichment, and in connection with such income enrichment cannot be presumed or declared.

### *Section 277*

(1) Where the taxpayer claims either of the benefits described in Subsections (1)-(3) of Section 276 and if the taxpayer invests the income received from the person described in these provisions by way of the means specified therein in the percentages indicated in Subsections (1)-(3) of Section 276, the income acquired through any dealings of the person providing the aforesaid income, underlying the incomes (or parts of them) referred to in Subsections (1), (2) or (3) of Section 276, and the payee has declared the income from which the said income was paid on or before 30 June 2008, recognized as revenue, the taxpayer, nor any other person falling within the scope of the Corporate Tax Act or the PIA and the persons to whom the Corporate Tax Act or the PIA does not apply

a) may not be subjected to retrospective tax assessment within the meaning of the RTA, the Corporate Tax Act, the PIA or the BTA, nor within the meaning of any other legislation on taxation or duties; and

b) no criminal liability may be established relating to the origin and receipt of such income in terms of tax and duty obligations, accounting obligations, and in terms of making out documents relating to the origin and receipt of such income, including the use of such documents, nor in terms of any financial transactions conducted with such income.

The exemption referred to in this Subsection shall expressly apply to those persons as well, who did not declare the revenue received from such payees as income for tax purposes.

(2) The competent authority shall be entitled to request - in the process of audit of a taxpayer who claimed either of the benefits described in Subsections (1)-(3) of Section 276 of this Act - the taxpayer to produce a written statement as to which of his income comprised the revenue mentioned in Subsections (1)-(3) of Section 276. If the taxpayer provides the said statement to the tax authority within thirty days of receipt of notice, the tax authority's jurisdiction shall be limited to check the authenticity of the statement.

*Section 207.*

- (1) These provisions shall initially apply to tax liability for the 2009 tax year.
- (2) These provisions shall apply to tax liability for the 2010 tax year.
- (3) These provisions may be applied if the tax base for the 2009 is negative.

*Schedule No. 1 to Act LXXXI of 1996*

**Depreciation**

1. Where different rules and depreciation rates are contained in the schedules in respect of the same assets, taxpayers shall have the option to choose at their discretion.

2. Intangible assets and tangible assets may be depreciated from the day they were commissioned or validated (including the day after the transformation in respect of assets that had already been received by the successor and put into operation by the predecessor) until the asset is retired (or if transferred to the current assets account) or until the day the taxpayer is terminated, as applicable. The depreciation shall be prorated for the period in which the asset was in service.

3. Depreciation shall be calculated as consistent with the cost of the tangible asset depreciated. A tangible asset that had been put into operation by the predecessor may also be calculated on the basis of the cost shown by the predecessor at the time of transformation. The amount of depreciation deducted from the pre-tax profit shall not exceed the cost of the asset shown in the taxpayer's records.

4. Assets for which no ordinary depreciation can be claimed according to the Accounting Act as well as assets that do not depreciate shall not be depreciated. This provision shall not apply with respect to assets whose recorded book value indicates zero or - on account of claiming ordinary depreciation - the residual value after it has been fully depreciated, or in connection with which any extraordinary depreciation has been claimed in accordance with the Accounting Act pursuant to separate provisions of this Act, and in connection with buildings and similar structures. If a parcel of land comprises part of a tangible asset, the purchase price of the land must be recorded separately.

5. Ordinary depreciation, as defined in the Accounting Act, (including lump-sum depreciation) may be claimed on:

- a) intangible assets and rights to immovables, in consideration of the provisions contained in Point 13,
- b) tangible assets realized within the framework of concession,
- c) tangible assets of industrial parks qualifying as public utilities thereof, engineering works of roads, water, sewage, energy and telecommunications lines,
- d) in mining, for buildings, engineering structures, special machines, fittings and furnishings, equipment, underground mine spaces and structures serving one particular mine, as well as related special machinery and land area used, furthermore, in the electricity industry, for the technical buildings and structures of nuclear power stations,
- e) tangible assets with a cost of 200,000 forints or less and tangible assets falling under the 33 per cent rate as defined in Paragraph a) of Chapter IV of Schedule No. 2,
- f) brood stock,
- g) tangible assets that are used exclusively for basic research, applied research and/or experimental development,
- h) motor vehicles used for the carriage of passengers.

6. A 30 per cent per annum depreciation may be claimed on machines and equipment put into operation by the taxpayer or its predecessor after 31 December 1995 and never used previously, falling under headings 8401, 8405-8408, 8410-8430, 8432-8447, 8449-8465, 8467, 8468, 8474-8485, 8508, 8515, 8701, 8709 and 8716 HS; electric apparatuses falling under headings 8501, 8502, 8504-8507, 8511-8513, 8530, 8531, 8535-8537, 8539, 8543-8548, 9006 and 9405 HS; boilers falling under heading 8403 HS; and steam generation equipment falling under heading 8402 HS.

7. Lessors may claim a 5 per cent depreciation allowance for leased buildings, engineering structures and plantations stated among their assets, and a 30 per cent depreciation allowance for all other leased tangible assets.

7/a. Taxpayers operating in the commercial lodging and hospitality sector may apply 3 per cent depreciation during the full tax year for buildings of long-life structure recorded under tangible assets and directly serving the said activities.

8. Taxpayers may claim 50 per cent depreciation in connection with general purpose computers and computer accessories falling under heading 8471 HS.

8.a) Taxpayers may claim 50 per cent depreciation in connection with equipment exclusively serving motion picture and video production.

9. Taxpayers may claim 50 per cent depreciation in connection with brand new tangible assets that are acquired or produced in 2003 or subsequently and are subject to a 33 or 14.5 per cent rate under Chapter IV of Schedule No. 2, and intellectual property purchased or produced in 2003 or subsequently, and the capitalized value of experimental development.

10. Extraordinary depreciation may be claimed on the assets listed below in accordance with the Accounting Act, if they are in service on the last day of the tax year:

a) concessions or similar rights that can only be exercised to a limited extent or cannot be exercised at all due to the amendment of the contract;

b) capitalized value of experimental development, if the activities to be realized through the completion of the experimental development are limited, terminated or unsuccessful;

c) such assets (excluding those in the course of construction) for which no ordinary depreciation is allowed according to the Accounting Act or that do not depreciate;

d) intellectual property and tangible assets (including those in the course of construction) not referred to in Paragraphs a)-c) that have been damaged owing to unavoidable external reasons.

10/a. If the taxpayer has opted - under Point 10 - not to claim the amount of extraordinary depreciation for the tax year in his tax base, the amount of extraordinary depreciation assessed for the tax year, and left unclaimed, may be claimed subsequently during the following four tax years in equal installments.

11. The amount applied on the basis of Subsection (9) of Section 29/D shall be deemed as depreciation deducted from the tax base.

12. Any depreciation allowance claimed during a liquidation proceeding shall be treated as reducing the pre-tax profit, as well as any sums spent (released) in connection with the purchase or production of a tangible asset according to Subsection (15) of Section 7 or Subsection (1) of Section 29/D from provisions set aside for developments; depreciation of the tangible asset may proceed as of the first day of the tax year or the day on which it is put into operation.

13. The value of goodwill recorded by the taxpayer according to Point 1. c) of Subsection (5) of Section 3 of Act C of 2000 on Accounting, less the amount of ordinary depreciation claimed - if the taxpayer merges with another company after the date it was recorded - shall be treated as depreciation to be deducted from the pre-tax profit, if the purchased company fails to revalue its assets to market value during the merger.

14. Small and medium-sized enterprises so qualified on the last day of the tax year may claim - during the tax year when commissioned - 100 per cent depreciation on the historical cost of machinery, equipment, accessories - not including passenger cars - and tangible assets shown under vehicles, that have never been used previously, if these tangible assets are used in any one of the regions or communities deemed most underprivileged pursuant to the relevant legislation. One per cent of the historical cost of the tangible asset deducted from the pre-tax profit, 3 per cent for vehicles, for the purposes of the provisions governing State aid, if the investment serves the purpose of primary agricultural production, it may be claimed as an aid provided according to Article 4 of Commission Regulation (EC) No. 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products, in all other cases it shall be treated, at the taxpayer's choice:

a) as de minimis aid received for the tax year, or

b) as aid provided under the Commission Regulation on State aid to small and medium-sized enterprises.

## Schedule No. 2 to Act LXXXI of 1996

### List of Depreciation Rates

#### I. BUILDINGS

Type of building	Depreciation rate %
1. Long-life	2,0

structures	
2. Medium-life structures	3,0
3. Short-life structures	6,0

Classification of buildings according to technical criteria within the categories listed:

Category	Rising (vertical) bearing structures	Filling/dividing (non-bearing) walls	Horizontal bearing structures (middle structures and roofs, and combined bearing/partitioning roof structures)
Structures of long economic life	Concrete and reinforced concrete, burnt brick, stone, slag and steel structures	Brick, block, panel, poured walls, sheet metal, glass concrete and profile glass	Prefabricated and monolithic reinforced concrete, filling elements between steel supports, and vaulted roofs
Structures of intermediate economic life	Light steel and other metal structures, gas silicate structures, bauxite concrete, tufa- and slag block structures, sawed lumber framing, cob or adobe walls on insulated foundations	Asbestos, plastic and other partitioning-walls	Beam (covered and dense beam), 'Mátra' roof, light steel roofs and combined steel structures with light filling elements
Structures of short economic life	Industrial timber and plank framing, slab wall structures, temporary brick masonry walls	Wooden partitions, plasterboard panels pressed into frames	Industrial timber, adobe and other simple sheet-flooring

From among the three different criteria, the type of building shall be defined by the one of the shortest lifecycle.

The depreciation of building equipment and instruments may also be claimed independent of the building, using the depreciation rates provided for machinery.

The depreciation allowance for equipment and instruments incorporated into a building, and the conduits and cables of such, shall be established independent of the building, by the depreciation rates provided for machines and conduits.

## II. STRUCTURES

Type of building	Depreciation rate (%)
Industrial structures	2.0
Agricultural structures	3.0
including: independent buttress system	15.0
Meliorations	10.0
Access and service roads, for taxpayers engaged in agricultural activities	5.0
Public railways and ancillary structures, including industrial rail sidings	4.0

Other rail structures (suburban railways, trams, underground rail tracks, etc.)	7.0
Hydrostructures (in water)	2.0
Bridges	4.0
Power lines, including telecommunications cables	8.0
Crude oil and natural gas pipelines, gas mains	6.0
Steam, hot water and thermal water pipes, natural gas transmission pipelines, thermal wells	10.0
Tram and trolley-bus (power) lines on public roads	25.0
All other lines and conduits	3.0
Tunnels and underground structures (except mining structures)	1.0
Assets installed on land other than own (leased)	6.0
Type of building	Depreciation rate (%)
Waste disposal facilities	20.0
Structures used exclusively for motion picture and video production	15.0
All other structures	2.0
including: waste treatment and recovery installations	15.0

‘Waste disposal facility’ shall mean a building or structure installed for the storage and treatment of waste in compliance with the Act on Waste Management. Depreciation for the parcel of land used for the waste disposal facility shall be claimed under the same rate as for the waste disposal facility.

‘Waste recovery installation’ shall mean a building or structure, not including land, installed for recovery operations in compliance with the Act on Waste Management.

‘Melioration’ shall mean a process to regulate water sources in unincorporated areas to promote the use of cropland, gardens, orchards, vineyards, grassland and forestry and arable land for agricultural purposes; soil-amelioration with an effective range of at least six years and installations for earthwork.

### III. PLANTATIONS

Categories	Depreciation rate (%)
Group 1: apple, pear, quince, medlar, cherry, sour cherry, plum, grape, viticulture, almonds, hazelnuts	6,0
Group 2: peach, apricot, gooseberry, currant, hop, fruit orchard, willow plantation	10,0
Group 3: asparagus, raspberry, blackberry, horse radish	15,0
Group 4: walnut, chestnut	4,0
Group 5: other plants	5,0

The buttress system for plantations is not an asset on its own but an accessory, and shall be depreciated by the same rate as the plantation to which it belongs. The land area and the fences of plantations, however, are treated as independent tangible assets.

#### IV. MACHINERY, EQUIPMENT, FURNITURE, VEHICLES AND BROOD STOCK

- a) tangible assets subject to 33 per cent rate
1. Program controlled and numeric controlled machinery and equipment falling under heading 8456-8465, 8479 HS.
  2. Controlling and general purpose computers and computer accessories falling under headings 8471, 8530, 8537 HS.
  3. Industrial robots falling under Chapters 84 and 85 HS.
  4. Transmission, special industrial testing instruments and special gauging and testing equipment operating on complex principles falling under headings 9012, 9014-9017, 9024-9032 HS.
  5. Headings 8469, 8470, 8472, 9009 HS and subheading 8443 5100 00 HS.
  6. Subheading 8419 11 00 00, 8541 40 90 00 HS.
  7. Fluid-bed coal dust fueled equipment, as well as heat generation equipment fueled by combustion of saturated agricultural and forestry by-products falling under headings 8402, 8403, 8416, 8417 HS.
  8. Subheading 8417 80 10 00 HS, and waste disposal, treatment, neutralizing and recycling equipment falling under heading 8514 HS.
  9. Subheading 8421 21 HS.
  10. Equipment for separation and filtering of pollutants falling under headings 8419, 8421 HS.
  11. Subheadings 8421 31, 8421 39 HS.
  12. Subheading 8419 20 00 00 HS, and medical, therapeutic and laboratory instruments falling under headings 9018-9022 HS.
- b) tangible assets subject to 20 per cent rate  
Vehicles falling under heading 8701 HS, and headings 8702-8705, 8710, 8711 HS.
- c) tangible assets subject to 14.5 per cent rate  
All other tangible assets not listed in Paragraphs a) and b).

#### Schedule No. 3 to Act LXXXI of 1996

#### ***Regulations for Claiming Costs and Expenses***

A)

#### **Costs and Expenses Not Incurred in the Interest of Business Operations**

For the purposes of Paragraph d) of Subsection (1) of Section 8, the following, in particular, shall not qualify as costs or expenses incurred in the interest of business operations:

- 1.
- 2.
- 3.
4. the consideration (whether in full or in part) for a service in excess of 200,000 forints without value added tax, if - by evidence of the prevailing circumstances (such as the taxpayer's business activities, revenue, the type and value of the service) - it is determined beyond reasonable doubt that use of the service contradicts the requirements of reasonable management. The consideration for services provided by the same person under the same title in the tax year shall be taken into account on the aggregate;
5. the book value of missing assets (adjusted book value of intangible assets and tangible assets), if it is determined beyond reasonable doubt that the shortfall would not have occurred if properly cared for (particularly, with regard to the physical attributes, value of the asset, and storage conditions) or if the taxpayer - in view of the requirements of reasonable management - failed to act within his powers to prevent losses and/or shortages;

6. the book value of a tangible asset recorded by value when retired from service, if the fact of retirement and the reason for it are not credibly supported by documents;
7. the health insurance contribution paid on the basis of an agreement concluded in accordance with the provisions of the Act on Eligibility for Social Security Benefits and Private Pensions and the Funding for These Services;
8. the expenditures incurred in connection or associated in any way or form with the felony offenses, by definition of the Criminal Code, of bribery, profiteering with influence, bribery in international relations and profiteering with influence in international relations;
9. the consideration paid to a controlled foreign company, unless the taxpayer is able to prove that it serves the purposes of his business operations taking also into consideration the provisions set out in Point 13;
10. expenses claimed as shown under receivables that cannot be enforced in court or under barred claims.
11. the ratio between the company's own funds and the subscribed capital as prescribed in the Companies Act and the value adjustments of ownership shares obtained through capital increase made to cover losses.
12. in kind benefits shown under other employee benefits and provided in the form of entertainment and gifts in accordance with the Personal Income Tax Act.
13. the book value of any grant or support provided without obligation of repayment, non-repayable liquid assets and assets provided without consideration during the tax year, debts assumed by the taxpayer without consideration and deducted from the pre-tax profit for the tax year, the direct cost of services rendered without consideration during the tax year, and the value added tax charged for these benefits and shown under expenses, if provided to a foreign national or a nonresident entity whose head office is located abroad or the taxpayer does not have a statement in his possession from the recipient stating that his pre-tax profit for the tax year when the benefit was provided will not be negative without the income this benefit represents, that is to be verified thereby following the completion of his annual account.

B)

## **Costs and Expenses Incurred in the Interest of Business Operations**

For the purposes of Paragraph d) of Subsection (1) of Section 8, the following, in particular, shall qualify as costs or expenses incurred in the interest of business operations:

1. support granted by the taxpayer to private individuals in his employment or to private individuals previously in his employment in retirement on their own right [Paragraph f) of Section 4 of the SPA], or to the widows and minor dependents of said private individuals;
2. any discount, price reduction, refund, product or service provided by the taxpayer as an in-kind benefit for business promotion (advertisement) purposes that is made available to general public in a non-discriminatory fashion, furthermore, product samples provided for promotional purposes - and regarded as in-kind benefit according to the Personal Income Tax Act -, other than durable goods and if under the minimum quantity that can be or is marketed in commercial circulation;
3. sums shown under other employee benefits the taxpayer has provided to private individuals in his employment, his executive officers, members who personally participate in operations, or private individuals previously in his employment in retirement on their own right [Paragraph f) of Section 4 of the SPA], as well as to the close relatives of said private individuals with the exception of in kind benefits provided in the form of entertainment and gifts in accordance with the Personal Income Tax Act, and compulsory payments to the various subsystems of the state budget that are related to said benefits as required by law, in due consideration of the provisions of Points 1, 2, 8 and 12;
4. charged value added tax that is non-deductible in accordance with the Value Added Tax Act, provided it is associated with costs and/or expenses that were incurred in the interest of business operations;
5. membership fees or similar charges paid to public bodies as well as the membership fees paid to non-governmental organizations providing interest representation and other services, as stated in the bylaws in connection with the taxpayer's business operations;
6. the costs of electronically supplied communications services (such as fixed-line telephone services and mobile radio telephone services), the costs of company cars, including maintenance and operating costs and including the compulsory payments made in connection with the use of company cars to any subsystem of the central budget as prescribed by law;
7. any payment made by a taxpayer to a volunteer private individual and shown under other employee benefits, if the taxpayer has employed the volunteer for the benefit of his gainful activity or business operation;



8. insurance premiums provided by the taxpayer on policies purchased for private individuals in his employment whether by contract or engaged in voluntary activities, for its executive employees, for members who personally participate in operations, or for vocational school students participating in practical training under apprenticeship agreement as described by law;

9. sums paid to the trade union on the basis of the provisions prescribed by the Labor Code as unclaimed work time allowance;

10. the amount shown under expenses on the basis of organizational and management services in the case of companies leased on the basis of a privatization leasing contract;

11. the amount proportionate to the proprietary ratio recorded by co-owners as maintenance and other common (operating) expenses related to the common property of condominium associations and the property of housing cooperatives; furthermore, the expenses entailed by any commitment of a housing cooperative before registration, provided the underlying contract was subsequently approved by the general meeting;

12. the value of winnings provided in connection with lottery games and promotional contests of chance under the Act on Gambling Operations, shown under expenses;

13. expenses claimed as appropriation from the fellowship funds of cooperative societies for the objectives set out in Subsection (2) of Section 57 of Act X of 2006 on Cooperatives;

14. the costs of training provided by the payer (including the compulsory payments made in connection with such training to any sub-system of the central budget as prescribed by law).

15. the book value of any grant or support provided without obligation of repayment, non-repayable liquid assets and assets provided without consideration during the tax year, debts assumed by the taxpayer without consideration and deducted from the pre-tax profit for the tax year, the direct cost of services rendered without consideration during the tax year, and the value added tax charged for these benefits and shown under expenses, if the grant or support was provided during the tax year without obligation of repayment under Point 36 or Point 38 of Section 4.

#### *Schedule No. 4 to Act LXXXI of 1996*

#### *Schedule No. 5 to Act LXXXI of 1996*

### ***Organizations which are Exempt from Corporate Tax***

1. the Magyar Nemzeti Bank;
2. economic operators created for the statutory employment of prisoners under the supervision of the minister in charge of penal administration;
3. public-benefit organizations established exclusively for the sole purpose of the employment of prisoners, and public-benefit or priority public-benefit nonprofit business associations carrying on their operations;
4. the Tartalék Gazdálkodási Közhasznú Társaság (Reserve Management Public-Benefit Organization), and nonprofit business associations carrying on their operations;
5. the Közlekedési, Hírközlési és Vízügyi Tartalékgazdálkodási Közhasznú Társaság (Transportation, Communications and Water Reserve Management Public-Benefit Organization), and nonprofit business associations carrying on their operations;
6. the Magyar Nemzeti Vagyonkezelő Zrt. (Hungarian National Asset Management Zrt.);
7. public service broadcasters as specified by law;
8. parties subject to liquidation proceedings, as of the initial date of liquidation;
9. political parties;
10. the Magyar Távirati Iroda Részvénytársaság (Hungarian News Agency);
11. limited companies engaged exclusively in providing surety insurance services under the conditions laid down in another act and in other legislation adopted under the authorization of such act;
12. legal persons and business association lacking the legal status of a legal person taxed under the simplified entrepreneurial taxation system during the tax year;
13. institutions of higher learning (including the institutions they have established) operating in the form of budgetary agencies, and student hostels.

#### ***Schedule No. 6 to Act LXXXI of 1996***

**Preferential Activities Carried Out by Foundations, Public Foundations, Non-Governmental Organizations, Public Bodies, Housing Cooperatives, Public-Benefit and Priority Public-Benefit Nonprofit Business Associations, Social Cooperatives and Institutions of Higher Learning**

**A)**

**Preferential Activities Carried Out by Foundations, Public Foundations, Social Organizations and Public Bodies**

For the purposes of this Act, the following shall not be construed as business operations from among the economic activities of foundations, public foundations, non-governmental organizations and public bodies performed for profit on a regular basis and other similar gainful activities, as defined in Subsection (1) of Section 1:

1. the public benefit activities or, if not qualifying as a public-benefit organization or priority public-benefit organization, the activity entailed by the objective specifically indicated in the charter document or bylaws, including in both cases any support, allowance or membership fee received in connection with such activity;
2. the consideration of or revenues from the sale of intangible assets, tangible assets or inventories serving solely the public benefit activities or, if not qualifying as a public-benefit organization or priority public-benefit organization, the activity entailed by the purpose of the foundation, public foundation, non-governmental organization or public bodies;
3. that portion of the interest received from a credit institution or the issuer of a security, on placing or investing available liquid assets in deposits or securities, and of the yield of securities issued by the State, which is represented by the revenues from the public benefit activities or, if not qualifying as a public-benefit organization or priority public-benefit organization, from the activity entailed by the purpose of the foundation, public foundation, social organization or public bodies, in the total revenues, whereby revenues shall be recorded without such interest or yield in either cases.

**B)**

**Preferential Activities Carried Out by Housing Cooperatives**

For the purposes of this Act, the following shall not qualify as business operations from among the economic activities of housing cooperatives performed for profit on a regular basis and other similar gainful activities, as defined in Subsection (1) of Section 1:

1. housing cooperative activities;
2. that portion of the interest received from a credit institution or the issuer of a security on placing or investing available liquid assets in deposits or securities, and of the yield of securities issued by the State, which is represented by the revenues from housing cooperative activities in the total revenues, whereby revenues shall be recorded without such interest or yield in either case.

**C)**

**D)**

**Preferential Activities Carried Out by Institutions of Higher Learning Registered as Public-Benefit Organizations or Priority Public-Benefit Organizations**

For the purposes of this Act, the following shall not be construed as business operations from among the economic activities of institutions of higher learning registered as public-benefit organizations or priority public-benefit organizations performed for profit on a regular basis and other similar gainful activities, as defined in Subsection (1) of Section 1:

1. the public benefit activities, including any support or allowance received in connection with such activity;

2. the consideration of or revenues from the sale of intangible assets, tangible assets or inventories serving solely the public benefit activities;

3. that portion of the interest received from a credit institution or the issuer of a security, on placing or investing available liquid assets in deposits or securities, and of the yield of securities issued by the State, which is represented in the total revenues by the revenues from public benefit activities, where revenues shall be taken into consideration without such interest or yield in either cases.

**E)**

### **Preferential Activities Carried Out by Public-Benefit and Priority Public-Benefit Nonprofit Business Associations and Social Cooperatives**

For the purposes of this Act, the following shall not be construed as business operations from among the economic activities of public-benefit or priority public-benefit nonprofit business associations and social cooperatives performed for profit on a regular basis and other similar gainful activities, as defined in Subsection (1) of Section 1:

1. that part of the revenues from the public benefit activities carried out on the basis of a contract concluded with an agency, local authorities, or an institution having a chapter defined in the annual budget act, or an institution with an independent budget within that chapter, responsible for satisfying common social needs, for the purpose of rendering continuous services, and containing also the fees chargeable for such services, as well as the conditions on any changes of such fees;

2. the grant or support received in connection with the activity referred to in Point 1;

3. that portion of the interest received from a credit institution or the issuer of a security on placing or investing available liquid assets in deposits or securities, and of the yield of securities issued by the State, which is represented by the revenues from public service activities in the total revenues, whereby revenues shall be recorded without such interest or yield in either case.

**F)**

### **Preferential Activities Carried Out by European Groupings of Territorial Cooperation**

For the purposes of this Act, the following shall not be construed as business operations from among the economic activities of European groupings of territorial cooperation performed for profit on a regular basis and other similar gainful activities, as defined in Subsection (1) of Section 1:

1. the activity defined in the articles of association, including any grant or support received in connection with such activity;

2. the consideration of or revenues from the sale of intangible assets, tangible assets or inventories serving solely the activity entailed by the purpose of the European grouping of territorial cooperation;

3. that portion of the interest received from a credit institution or the issuer of a security, on placing or investing available liquid assets in deposits or securities, and of the yield of securities issued by the State, which is represented by the revenues from the designated activity in the total revenues, where revenues shall be recorded without such interest or yield.