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EMERGING CORPORATE TAX LAW IN HUNGARY IN THE LIGHT OF THE APPROXIMATION OF EU LAW

*Daniel Deak**

The scope of this paper is limited to the review of corporate taxation in Hungary in comparison to developments within the EC and EU in the harmonization of corporate tax laws. Accordingly, major areas are highlighted in relation to the Merger Directive, the Parent and Subsidiary Directive, to the directive proposal for the tax treatment of interest and royalties (which has recently been withdrawn), and to the proposed directive for tax arrangements for foreign losses. Mergers under Hungarian legal regulations will be discussed from the perspective of merger opportunities provided by EC laws. The idea of roll-over relieves for the taxation of capital gains arising from qualifying merger transactions has not yet been accepted in Hungary. Accrued capital gains from the appreciation of capital are therefore taxable, although not in the hands of the shareholders but at the legal successor's level. In this respect, some tax relieves are also available. Major aspects of refining Hungarian tax laws on inbound and outbound dividends are summarized on the basis of comparison with foreign examples. For the purpose of easing the economic double taxation of dividends, Hungary applies a classical system but with participation exemption. Dividends remitted abroad are also exempt from withholding taxes. However, a deficiency in Hungarian law is revealed in this respect. This is not because Hungary is short of tax incentives. On the contrary, anti-avoidance legislation should be introduced so as to combat abuses.

Concerning tax implications for interest and royalties, the paper is not confined to the subject of withholding taxation but also covers issues in the taxation of interest and royalty payments generating income and incurred as expenses. A special emphasis is placed on the tax treatment of related parties. This way, Hungarian practice, involved in spheres of transfer pricing, hybrid financing and thin capitalization, is depicted. Internal and treaty law considerations of withholding taxation are discussed in terms of the 1992 revised model tax convention on income and on capital. Tax arrangements for losses subtained by foreign branches and subsidiaries are in their infancy in Hungary. It is important to point out the undeveloped state of laws detrimental to the state budget. Also, it is reasonable to outline foreign models by giving a comprehensive table of techniques of regulation and sample calculations. I do not think that the system of Hungarian corporate taxation must be overhauled. I do, however, suggest reforms so that the approximation of laws to EU standards should be advanced in the intricate area of corporate taxation in a country like Hungary, associate with the EU.

* Professor, Department of Finance at the College of Finance and Accountancy, Budapest.