

Declaration to evidence eligibility for preferential local business tax

Dear Partner,

In order to be eligible for the preferential rate of local business tax effective from 01.01.2021, you will need to **declare by 25.02.2021** that you comply with the relevant conditions set out below.

1. You classify as a micro-, small or medium-sized enterprise*
2. You are eligible to receive – as transitional support – the amount classifying as aid**
3. As of 31 December 2019, you did not classify as a company in difficulty as defined in Government Decree no. 37/2011. (III. 22.)***
4. You register the address of your place of business, if you have not already done so****

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An undertaking classifies as a medium-sized enterprise (**for the purposes of local business tax relief**) if

a) its total employee headcount is below 250 **and**
b) its annual net revenues are no more than HUF 4 billion or its balance sheet total amounts to no more than HUF 4 billion.

(2) With the SME category, an undertaking classifies as a small enterprise if

a) its total employee headcount is below 50 **and**
b) its annual net revenues or balance sheet total is a HUF amount equivalent to no more than EUR 10 million.

(3) With the SME category, an undertaking classifies as a micro-enterprise if

a) its total employee headcount is below 10 **and**
b) its annual net revenues or balance sheet total is a HUF amount equivalent to no more than EUR 2 million.

If the enterprise has partner or related undertakings, the above data should be based on the consolidated annual report or, if none is available, the records of the company.

The figures of the company's partner undertakings that are either its direct owners or are directly owned by it are to be added to the data mentioned above. When consolidating the figures, these data should be weighted by the higher of the equity interest or voting ratios. With cross-holdings, the higher of the percentages should be used.

To be added to the above figures are, in full, the data of undertakings directly or indirectly related to the enterprise if those data are not included in the consolidated annual report.

Partner undertakings are enterprises that

a) do not classify as related undertakings, **and**
b) in whose relationship one undertaking holds, on its own or jointly with other related undertakings, at least 25% of the subscribed capital or voting rights of some other undertaking.

Related undertakings are enterprises that are in one of the relationships listed below:

a) an undertaking holds the majority of voting rights in another undertaking, or
b) an undertaking has the right to elect or recall the majority of the directors or board members of another undertaking, or
c) an undertaking has a controlling interest in another undertaking pursuant to a provision in the agreement with the owners (shareholders) or in the memorandum of association (regardless of ownership share, voting rights or the right to elect and recall), or
d) an undertaking is the sole holder of the majority of voting rights in another undertaking pursuant to an agreement with the owners (shareholders).

Related undertakings also include the enterprises and investors that are in a relationship defined above via one or more other undertakings.

Furthermore, the definition of related undertaking also includes enterprises that are in a relationship as defined above via a natural person or a group of natural persons acting together if they conduct their operations, or part of their operations, on the relevant market or on adjacent markets. Adjacent market: a market of the given product or service that is located vertically before or after the given market within the production/sales process created to deliver the product or service to the end user;

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According to Government Decree no. 640/2020. (XII.22.), the **granting of the preferential local business tax rate** effective from 01.01.2021 (Government Decree no. 639/2020. (XII. 22.)) classifies as **state aid** under Article 107 (1) of the Treaty on the Functioning of the European Union. Communication from the Commission no. 2020/C 91 I/01 dated 19 March 2020 (hereinafter: the Communication) declares in Section 3.1 that such aid may be granted as **transitional aid** (hereinafter: transitional aid).

The aid component of the transitional aid will be an **amount equal to** the tax base used in calculating the local business tax advance due at the first tax advance payment date in 2021 **multiplied by the difference**

between the tax rate stated in the local government decree for the tax year ending in 2021 (general tax rate) and the 1% tax rate (reduced tax rate) **(aid component)**.

The above aid component will be confirmed, by 30 April 2021 at the latest, by the local government authority with competence at the registered seat/place of business of the taxpayer after receiving the declaration submitted by the 25.02.2021 deadline.

The aid component of the transitional aid plus any other aid received under Section 3.1 of Communication from the Commission no. 2020/C 91 I/01 **must not exceed a HUF amount equivalent to EUR 800,000** per undertaking, **also taking into consideration** the company's **affiliated undertakings** as defined in Section 4 (23) of Act LXXXI of 1996 on Corporate Tax and Withholding Tax (a HUF amount equivalent to EUR 100,000 in the case of undertakings active in the primary production of agricultural products, or to EUR 120,000 in the fisheries and aquaculture sector).

De minimis aid received previously will not reduce the highest transitional aid amount available.

Company in difficulty (if falling into any one of the following categories):

a) in the case of companies where the liability of the members for the debts of the company is limited, thus especially in the case of companies limited by shares and limited liability companies, if the undertaking has lost due to its accumulated losses more than half of its subscribed capital including the payments above nominal value, especially if, after deducting the accumulated losses from the component classifying as own resources, the resulting profit or loss is a loss greater than half of the subscribed capital,

b) in the case of companies where at least certain members have unlimited liability for the debts of the company, thus especially unlimited partnerships, limited partnerships, joint ventures, associations and sole proprietorships, if the undertaking has lost due to its accumulated losses more than half of its equity,

c) an undertaking against which insolvency proceedings have been brought under the EU directive on insolvency proceedings or against which such insolvency proceedings may be brought by its creditors under its own laws,

d) an undertaking that

da) has received rescue aid and has not yet repaid the loan or the guarantee period has not yet expired, or

db) has received restructuring aid and is still subject to the restructuring plan,

e) with the exception of small and medium-sized enterprises, an undertaking where, in the preceding two years, the proportion of the book value of debt capital to equity exceeded 7.5 and the interest coverage ratio calculated from profits before interest, taxes and depreciation was less than 1.0.

The above subsections a) and b) do not apply

a) to small and medium-sized enterprises in existence for less than three years and

b) as regards eligibility for risk finance aid, to small and medium-sized enterprises where seven years have not yet passed since their first commercial sale, provided that the small and medium-sized enterprise is eligible for risk finance investment according to the official due diligence of the selected financial intermediary.

In accordance with Section 29 (1) of Annex 1 to Act CL of 2017 on the Rules of Taxation, local business tax payers **have been able to register** the address of their place of business with the national tax and customs authority. If you have not done so already, **you will need to do this now**.