

Hungary - Information on residency for tax purposes

Section I – Criteria for Individuals to be considered as tax resident

Due to the regulations of Section 3 paragraph (2) of Act CXVII of 1995 on Personal Income Tax the following persons are considered as tax residents:

“Resident private individual' shall mean:

a) any citizen of Hungary (with the exception of dual citizens without a permanent or habitual residence - that fits the definition set out in the Act on Keeping Records on the Personal Data and Address of Citizens - in Hungary);

b) any natural person who exercises - in accordance with the Act on Admission and Residence of Persons with the Right of Free Movement and Residence - his/her right of free movement and the right of residence for a period of longer than three months in the territory of Hungary in the calendar year in question for at least 183 days, including the day of entry and the day of exit;

c) who falls under the scope of the Act on the Admission and Residence of Third-Country Nationals and has permanent residence status, or is a stateless person; furthermore

d) any natural person, other than those mentioned in Paragraphs *a)*-*c)*:

da) whose only permanent residence is in Hungary;

db) whose center of vital interests is in Hungary if there is no permanent residence in Hungary or if Hungary is not the only country where they have a permanent residence;

dc) whose habitual residence is in the domestic territory if there is no permanent residence in Hungary or if Hungary is not the only country where they have a permanent residence, and if their center of vital interests is unknown;

where ‘center of vital interests’ means the country to which the private individual is primarily tied by bonds of family and business relations.”

Detailed information on tax residence certificate could be obtained on the website of the National Tax and Customs Administration on http://en.nav.gov.hu/taxation/taxinfo/residence_certificate.html

Section II – Criteria for Entities to be considered as tax resident

Entities (legal persons established under Hungarian law, partnerships, other organizations) that are considered as resident taxpayers in Hungary are determined by paragraphs (2) and (3) of Section 2 of Act LXXXI of 1996 on Corporate Tax and Dividend Tax. Paragraphs state as follows:

“The following resident persons shall be deemed resident taxpayers:

a) business associations (including nonprofit business associations, regulated real estate investment pre-companies, regulated real estate investment companies and regulated real estate investment special purpose companies), 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, associations, public bodies (including any organizational units of such organizations vested with legal personality in the bylaws or charter document), as well as ecclesiastical legal entities, 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;
- k) the European Research Infrastructure Consortium (ERIC).

(3) Any nonresident person whose principal place of business management is in Hungary shall be treated as resident taxpayer.”

Furthermore, paragraph (6) of Section 2 does over trusts into the scope of the Act on Corporate Tax and Dividend Tax stating that “A trust fund managed under a fiduciary asset management contract shall be treated as resident taxpayer.”

Detailed explanation on corporate tax and dividend tax could be obtained on the website of the National Tax and Customs Administration on http://en.nav.gov.hu/taxation/taxinfo/summary_companies.html

Section III – Entity types that are as a rule not considered tax residents

No specific list is included in the legislation. Any entity doing business entity is taxable under the Corporate Income Tax Act. Classical fiscally transparent entities do not exist in Hungary (general partnerships and limited partnerships are tax residents and taxable entities as it is the trust registered in Hungary).

Section IV – Contact point for further information

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