TAXATION MATTERS OF PVPP ESTABLISHMENT IN HUNGARY

The below summary is based on the applicable Hungarian, EU and international laws. However, the statements and summaries are not intended to be an exhaustive explanation of the relevant Hungarian, EU and international legal provisions.

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Overview of the Hungarian taxation system	
Corporate Income Tax (CIT)	Flat 9% on the company's profit-before tax adjusted with certain CIT base amending items. Payable by a Hungarian company or a Hungarian permanent establishment of a foreign company. Special tax exemption applies to Hungarian holding regimes.
Withholding Tax	There is no withholding tax on dividends, royalty or interest paid from Hungary.
Value Added Tax (VAT)	Harmonized with EU VAT laws. Standard rate is 27%. The taxable person has the right to deduct input VAT on goods, services if the taxable person uses such goods, services for his taxable transactions. Payable by the seller or by the customer in case of reverse charge VAT.
Real Estate Transfer Tax	Payable upon the acquisition of real estate located in Hungary or upon the acquisition of at least 75% of the shares of a Hungarian real estate company (a company having more than 75% real estates on its balance sheet). The tax rate is 4% up to HUF 1 billion (approx. EUR 3.1 million) fair market value and 2% above that. The payable tax is capped at HUF 200 million (approx. EUR 625.000) per real estate.
Local Business Tax	The local business tax is payable by the enterprise carrying out business activity in the territory of the local government.

	Special rules apply to constructions. Reduced tax rate: maximum HUF 5.000 per day General tax rate: annual maximum 2% The tax base is the net sales revenues of the company minus certain deductible costs (acquisition costs of the goods sold and the value of the services mediated; sums paid to subcontractors; material costs; R&D costs).
Local Building/Plot Tax	Buildings and plots located in the local government's territory are taxable. The tax is payable by the person registered as owner in the land registry on the first day of the calendar year. The tax base is the useful area of the building or plot (in m^2). In 2019, the annual maximum tax rate is around HUF 1.850 (EUR 5.7) per m^2 for buildings and HUF 330 (EUR 1) per m^2 for plots.
Payroll Taxes/Social Security Charges	Must be withheld by the Hungarian employer monthly. The total employment cost of an employee is approx. twice the employee's net salary.
Special Income Tax on Energy Providers	Not applicable if the electricity producer holds a PV power plant not exceeding 50 MW while selling energy in the KÁT-METÁR system.

Applicable taxes to PVPP activities by foreigners in Hungary	
Development of new PV projects	
Establishment of the SPV	Not subject to considerable costs, charges etc.
Purchasing land	Real estate transfer tax: Payable under the general rules (standard 4% tax rate).
	VAT: depends on the type of the land (27% under the general rules, VAT exempt or 27% under reverse charged mechanism) The SPV should have the right to deduct VAT on preparatory acts such as purchasing land.
Operation during the development	CIT: the SPV will not realize income, thus no CIT should arise.
	VAT: reverse charge VAT will apply to the general EPC contractor activity performed by the foreign company to the SPV.

	The SPV should have the right to deduct VAT related to the EPC activities.
	Local business tax: the SPV will not realize net sales revenues, thus no payable local business tax should arise.
	Local building/plot tax: if the SPV is the registered owner on the first day of the calendar year, the SPV will likely have to pay local building/plot tax (subject to the local decree).
Selling the SPV	CIT: the sale of the SPV shares is taxable at the level of the shareholder. If the shareholder is a Hungarian company: flat 9% CIT on the capital gains. However, special tax exemption may apply if the shareholder previously reported to shares to the Hungarian tax authority and 1 calendar has year elapsed. If the shareholder is a foreign company: subject to the foreign tax laws. No double taxation in case of a certain shareholder companies.
	VAT: if Hungarian VAT laws applicable, the sale of SPV shares is VAT exempt.
	Local business tax: the sale of SPV shares does not trigger local business tax.
Acquisition of PV projects under development	
Acquisition of the SPV	Real estate transfer tax: the purchased SPV likely qualifies as a Hungarian real estate company and such triggers real estate transfer tax. Standard tax rate is 4%. We suggest to obtain a non-binding tax ruling from the tax authority if the company would like to purchase land with solar panels already planted (in 2019, it is disputed by the Hungarian courts whether solar panels are movable or immovable property).
	VAT: if Hungarian VAT laws applicable, the acquisition of SPV shares is not subject to VAT.
Operation during the development	Same as for the operation of a newly established SPV
Selling the SPV	Same as for selling a newly established SPV
Holding structure to acquire the SPVs	

Foreign holding company	No withholding tax on the payments from the SPVs to the foreign holding company.
	The sale of the SPV shares is taxable at the level of the foreign holding company according to the foreign tax laws.
	No double taxation in case of an EU and certain other foreign holding company (list of excluded double taxation should always be checked). We do not recommend e.g. a Luxembourgish holding company because of potential double taxation under the new Hungarian-Luxembourgish double tax treaty.
Hungarian holding company	No withholding tax on the payments (i) from the SPVs to the Hungarian holding company and (ii) from the Hungarian holding company to foreign companies. The foreign tax laws must be analyzed whether the received dividends from the Hungarian holding company is CIT exempt or not.
	The sale of the SPV shares is subject to flat 9% CIT in Hungary.
	Preferential holding regime: If the Hungarian holding company (i) reported to SPV shares to the Hungarian tax authority within 75 days after establishment/acquisition and (ii) the holds the SPV shares for at least 1 calendar year, then the sale of the SPV shares is fully CIT exempt.
Foreign company as the general EPC contractor	
CIT	The foreign company will usually not be subject to CIT in Hungary if the construction lasts less than 24 months (double tax treaty should be checked). Each construction site must be analyzed separately. We do not recommend to set up directly a fixed place of business PE in Hungary (e.g. branch) for the EPC activity in case the applicable double tax treaty does not grant tax savings in the case at hand.
Local business tax	Depends on the length of the construction: - less than 30 days: no local business tax - between 30 – 180 days: reduced local business tax (approx. HUF 5.000 per day during the construction) - more than 180 day: general tax rules apply (maximum 2% tax rate)

	In case of payable local business tax, the company must file tax return with the local government's tax department.
VAT	Reverse-charge VAT will apply to the handover of the PV power plant as a turn-key project. The SPV will have to self-asses, report and can deduct VAT. It is more likely than not, that the foreign company's general EPC contractor activity will trigger a fixed establishment in Hungary. As a result, the foreign company must obtain a Hungarian tax ID number and issue invoices under its Hungarian tax ID number. However, we have seen that general EPC contractors issue invoices under the foreign tax ID number in a similar PV project. Thus, a foreign company may request a non-binding ruling from the tax authority if it would prefer to issue invoices under its foreign tax ID number. The activities carried out by the subcontractor will usually be subject to reverse charge VAT but we suggest to analyze the VAT treatment on a case-by-case basis.
Importation of the solar panels from China to Hungary	
Customs tariffs	Solar panels falling under CN code 8541 40 90 are import duty free. No EU anti-dumping measures are applicable to solar panels originating from China since 3 September 2018.
VAT	Mainly, there are two methods for the importation: 1. Releasing the modules into free circulation in another EU country preferred other than Hungary for the importation and transporting them to Hungary. This is the more optimal approach from a Hungarian VAT perspective. However, the foreign tax laws must be carefully analyzed as well. 2. Placing the modules under external transit procedure in another EU country and releasing them into free circulation in Hungary. Not recommended because the company would have to effectively pay 27% import Hungarian VAT due to special Hungarian VAT laws before being able to deduct such import VAT in Hungary (negative effect on cash flow).