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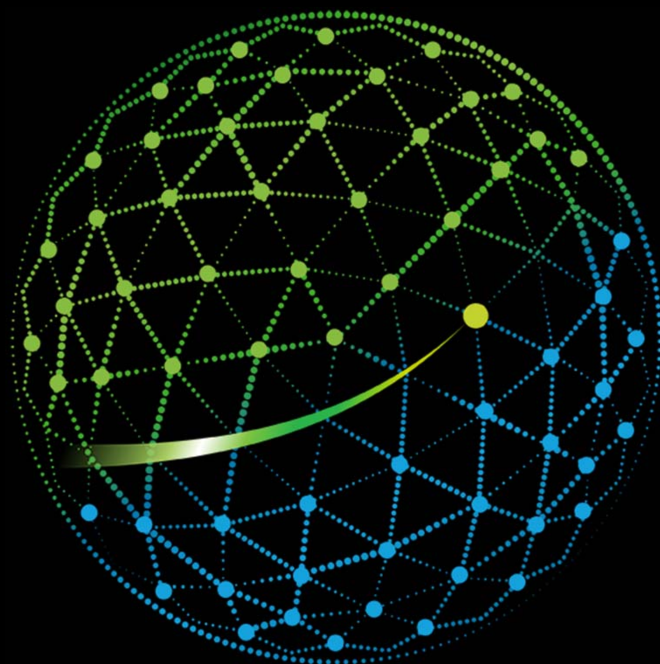

# Doing business in the USA

## US and Hungarian tax and legal considerations

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# US inbound tax and legal considerations

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High-level overview of the US tax system

## Income tax considerations

- **The general federal CIT rate is 21%** (may be decreased by tax incentives or foreign tax credits).
- **Additional state and / or local business taxes** (e.g., state corporate tax or gross receipts tax) **may apply.**
- **Foreign payments may be subject to withholding tax** (up to 30%) and may trigger anti-base erosion tax (BEAT). Withholding taxes may be reduced under the effective double tax treaties.
- **Income inclusion** should be considered with respect to subsidiaries (e.g., under GILTI, Subpart F rules or check-the-box election).
- Taxpayers should generally keep their books according to the **US GAAP** and whose fiscal year follows the calendar year should file their income tax returns by **April 15**.

## Recent developments

- **Alternative Minimum Tax (AMT)**: This generally imposes 15% minimum tax on the adjusted book income of corporations with more than USD 1 billion financial statement income.
- **Global Minimum Tax (Pillar Two)**: This is expected to apply as of December 31, 2023 in the currently implementing jurisdictions. The concept would generally top up the effective tax rate of groups in each jurisdiction to 15%. This may result in additional top-up tax with respect to the US operations of groups (with annual revenue of at least EUR 750 million) even if the US does not implement the related rules.

# US inbound tax and legal considerations

## High-level overview of the US tax system

**Preferred type of business entity**

- **Taxable entities** are subject to federal income tax, **while flow-through entities** are not (their owners should be subject to income tax). Flow-through entities may include partnerships, single-member LLCs and S-corporations.
- **Branch offices** are not separate legal entities but should be liable to tax at 21% after their income effectively connected to US trade or business. Additional branch profit tax (30%) may also be applicable.

**Entity financing**

- Entities may be financed either with **equity or debt**. Interest should be generally deductible for tax purposes, while dividends should be paid from taxed profits in most cases.
- The returns of **equity financing** (e.g., dividends, capital returns) may be paid as per the relevant US corporate law regulations.
- In terms of **debt financing**, transfer pricing, interest deduction limitation and anti-hybrid rules should be taken into account.
- Withholding tax implications should be analyzed in both cases.

# Hungarian outbound tax and legal considerations

# Hungarian outbound tax and legal considerations

High-level overview

**Preferred type of business entity**

- Establishing a US branch office or a US company should not have material Hungarian legal consequences.
- Differences may arise in terms of the possible cash repatriation options and the Hungarian tax treatment thereof.

**US-HU Double Tax Treaty**

- Hungary and the USA concluded a double tax treaty ("Treaty") to avoid the double taxation of the same income derived by the resident of one country from the other country.
- The US terminated the currently effective Treaty with Hungary which should be still effective until December 31, 2023.
- Negotiations may start to replace the currently effective Treaty, but it is expected that the no treaty will be in force as of next year.

# Hungarian outbound tax and legal considerations

High-level overview

**Hungarian tax implications in 2023**

- Business income that may be taxable in the US (e.g., branch income) should be exempted in Hungary in accordance with the Treaty currently in force. US and Hungarian transfer pricing rules should be carefully considered when assessing the US branch income.
- Dividend, interest and royalty payments may be subject to limited US withholding tax rates (i.e., 0% on interest and royalties, 5%/15% on dividends). Interest, royalties and other payments should be potentially subject to Hungarian corporate tax at 9%, while dividends may be exempted from Hungarian corporate tax (subject to certain conditions).
- Special anti-abuse rules (e.g., CFC and anti-hybrid rules) should be considered.

**Hungarian Tax implications as from 2024**

- In the absence of an effective treaty, 90% of the tax levied in the US (generally 30% withholding tax and 21% tax on branch income) should be credited against the Hungarian CIT liability triggered by the same income (exemption may be available for dividends).
- Special anti-abuse rules (e.g., CFC and anti-hybrid rules) should be considered.

# Doing business in the USA

## Contact details for tax and legal considerations

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