

Hungary: 98% retroactive tax on severance payments annulled

An article by the CMS CEE Tax Group

May 2011

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The special 98% tax on severance payments has been annulled by the Constitutional Court.

The court ruled that the retroactive nature of the tax (not its high rate) infringed human dignity.

It is likely that the tax will be introduced but without retroactive effect. In fact, it could still be imposed for severance payments paid in the 2010 and subsequent tax years because the statutory deadline for filing personal income tax returns for 2010 is not considered 'closed' until 20 May 2011.

A special 98% tax was previously imposed in October 2010 on severance payments above HUF 2 million received after 1 January 2010. This was almost immediately ruled unconstitutional by the Constitutional Court and annulled in October 2010.

In November 2010, Parliament adopted a bill with almost identical content but, this time, with retroactive effect from 1 January 2005. The Constitution was simultaneously amended to restrict the Constitutional Court's jurisdiction to review budgetary laws unless they infringed principles such as human dignity and non-discrimination.

The decision demonstrates that the Constitutional Court has accepted the limitations imposed on its authority to review budgetary laws.

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