

# DEMPE TEST

## ANALYSIS OF TRANSACTIONS RELATED TO INTANGIBLE ASSETS

### EXECUTIVE SUMMARY – CHANGES IN THE REGULATORY ENVIRONMENT

Under the **new Hungarian transfer pricing regulations, which will be mandatorily applicable from the 2026 business year**, Hungarian taxpayers are required to prepare a so-called **DEMPE Test** in respect of their documented intercompany transactions involving intangible assets, intellectual properties (hereinafter: IP).

The preparation of the DEMPE Test represents a new **transfer pricing obligation** for Hungarian taxpayers, one that has so far occurred only very rarely in practice. Therefore, preparations should be started in due time in order to ensure a smooth documentation process for the 2026 business year.

Accordingly, in order to prepare the DEMPE Test, **Niveus' transfer pricing team** will begin the preparatory work and the analyses during 2026, with the aim of achieving the following business benefits:

- **More time available** to complete the tasks in full;
- **Early identification of risk areas**, enabling intervention already during the business year under review;
- The possibility of offering **cost-effective advisory fees**.

### THE DETAILS OF THE DEMPE TEST

The DEMPE test is a **transfer pricing methodology** aimed at determining which related party performs **the value-creating activities related to an IP** and, consequently, where **the resulting profit should appropriately be allocated**. Under the new transfer pricing rules, the tax authority may require the preparation of a detailed DEMPE Test. It is therefore **crucial for companies to support the legitimacy and arm's length nature of IP income with appropriate documentation**.

The **DEMPE** acronym consists of the following elements:

- **D – Development;**
- **E – Enhancement;**
- **M – Maintenance;**
- **P – Protection;**
- **E – Exploitation.**

Within the framework of a DEMPE analysis, **the legal owner and the economic owner of an intangible asset are distinguished from each other**. From a tax perspective, the entity that is the legal owner of the IP is not necessarily entitled to collect the income derived from **the exploitation of that IP**.

Before the introduction of the DEMPE requirements, multinational company groups had the opportunity of **allocating IP ownership to a group member established in a low-tax jurisdiction** and, on that basis, also allocating a significant portion of the revenues and profits related to the IP to that entity.

Under the DEMPE rules, however, if an IP owner company is merely the legal owner of the IP but does not participate in its development, enhancement, maintenance, protection or exploitation, then in reality **the activities performed by the company actually involved in value creation constitute the economic substance**. Accordingly, a larger portion of the profit related to the IP should be recognised by the entity participating in such value creation.

According to paragraph 6.47 of the OECD Transfer Pricing Guidelines: “a determination that a particular group member is the legal owner of intangibles does not, in and of itself, necessarily imply that the legal owner is entitled to any income generated by the business after compensating other members of the MNE group for their contributions in the form of functions performed, assets used, and risks assumed.”

In line with the above, under the new Hungarian regulations, it will be necessary in the future to support, on the basis of **a detailed functional and value-creation analysis**, that arm's length revenues and profits related to an IP are recognised by the actual economic owner of the IP.

## CONCLUSION

**Applying the DEMPE Test is essential** for ensuring compliance with transfer pricing regulations and mitigating tax risks. **Companies must support the legitimacy of IP income with detailed documentation**, presenting the background of such income, the added value contributed by the company realising the IP revenues, and the economic rationale of the transaction. If the above criteria are met, the determination and recognition of the transfer pricing of IP income becomes defensible from a tax authority perspective as well.

**Should you have any questions regarding the above, please do not hesitate to contact us.**



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