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Acquisition of property in startups will be tax-free

The employees of the startups received good news, but the new opportunity also has conditions. We show you the details.
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The old dream of startup companies will come true from January 1.

From next year, these companies will be able to give tax-free shares to their employees and senior executives.

Thus, the ownership approach and motivation of these persons can now be ensured in a tax-efficient manner, even without detours. The Jalsovszky Law Firm helped to summarize the changes.
The commitment and long-term motivation of managers and employees play a major role in the success and success of a startup. One of the best ways to do this in start-up companies is to give people who play a key role in the company's life an ownership stake in the company, either through an immediate benefit or a callable option.
However, this has been extremely cumbersome and expensive from a tax point of view until now. In fact, at the moment when the employee or senior official acquired a share, the market value of the ownership share had to be taxed as income from employment. The tax rules made it particularly difficult to launch option programs: in such cases, the market value of the acquired share had to be assessed when the option was exercised. However, this - if the company experienced real market development and an increase in company value - meant a significant tax burden at the time the option was exercised. It is no wonder that, due to tax disadvantages, very few people chose this motivational tool (which is very common in international practice anyway).

From January, the tax barrier will disappear

The above problem is remedied by an amendment to the tax law that was adopted a few days ago and will enter into force in January. According to this, employees and senior officials of 'start-ups' may in the future acquire shares in the given company tax-free. The tax exemption also applies to options:
the acquisition of shares realized through the exercise of the purchase right, in which the employee or the senior official received the purchase right when the company met the concept of a start-up, will also be tax-free.
According to the new regulations, micro and small enterprises registered for no more than 5 years, not listed on the stock exchange, which have not yet distributed profits and which were not created through a merger or division, will be considered 'start-ups'. 'The new provision therefore focuses specifically on startups and helps those businesses that are still in the early stages of their operations to develop ownership motivations,' says Zsóka Erdősy, lawyer, tax consultant.

The tax exemption is also conditional on the employee or senior executive remaining the owner of the startup business for at least 3 years after acquiring the share. In the case of granting an option, this rule must be interpreted as meaning that at least three years must elapse between the opening of the option and the sale of the share acquired from it. If the right to exercise the option opens up in time, the regulation also provides a tax-efficient solution for the classic case when the employee exercises his option right before the exit.

How do you have to pay taxes then?

As long as the employee does not sell the acquired share, he is not liable to pay tax. In addition, once you become an owner, you can withdraw part of your income as a dividend, subject to a tax burden of only 15%.

If the individual sells his share, the total purchase price from the sale (reduced by the value that may have been spent to acquire the share) is taxed as capital income, which is significantly more favorable than the tax and contribution burden on wages.

If someone doesn't comply... the MRP remains

If a company does not comply with the opportunity provided by the new legislation, it does not have to give up the possibility of motivation through the ownership approach.
These businesses can still establish an employee ownership program (MRP), through which employees can earn income that is taxable as capital income.
- concludes the Jalsovszky expert.