

## wts klient newsletter

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The Bridge.

Dear Readers,

Transitioning to IFRS in Hungary is governed by Act CLXXVIII of 2015. The legal regulation specifies some requirements that the companies planning to switch have to fulfil. Perhaps the most important thing is that the transition has to be reported to the National Tax and Customs Administration of Hungary 30 days before the switch date, and in the case of companies operating in the financial sector, to the National Bank of Hungary as well.

The company in question must have its preparedness for IFRS bookkeeping verified by an IFRS-certified auditor. As a general rule, and apart from a few exceptions, switching back to bookkeeping according to Hungarian accounting rules is only possible after five closed financial years. To avoid the legal pitfalls please do not hesitate to contact us, and until then, take a look at the latest part of our video series on switching to IFRS (available only in Hungarian) at the following link, where I talk about these very issues.

[wtsklient.hu/2017/03/31/ifrs-atallas-jog/](http://wtsklient.hu/2017/03/31/ifrs-atallas-jog/)

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**Intercompany postings**

It is vital to review the labour law framework for intercompany postings because this affects the tax law and social security situations of such employment.

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One great advantage of a cost comparison is that it is the simplest calculation method, the benefit value of the project does not need to be determined.

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**Labour law framework for intercompany postings**

In the case of **intercompany postings**, address the employment scheme from the perspective of

- labour law
- social security and
- income taxation

and **harmonise** these independent systems!

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It is increasingly common for foreign parent companies to send their employees, particularly expert professionals, middle-level and senior executives, to work at their Hungarian subsidiaries. Reviewing the labour law framework for intercompany postings, also looking at tax and social security implications, is vital here.

**Typical labour law models for intercompany postings****1. Posting agreement**

In the case of short postings, the parties often modify the labour contract between the posting employer and the posted employee by mutual consent for a set period. The parties define the main conditions of the posting in a **posting agreement**. These conditions have to be in line with the minimum working conditions contained in Section 295 (1) of the Hungarian Labour Code, which include specifying the longest working hours or the shortest rest period, the lowest salary amount and the conditions for employing the different categories of vulnerable people.

**2. Multiple-contract model**

If the intercompany posting is for a longer period, the parties generally set out the legal framework for the posting based on the multiple-contract model. The **multiple-contract model** is primarily seen with intercompany secondments where the posted employee comes to Hungary for several years (usually appointed as a senior executive at the subsidiary and performing tasks as a senior employee). In these cases, the posting employer and the employee mutually agree to "suspend" the employment relationship (i.e. the main responsibilities derived from the foreign labour contract, the availability obligation and the salary payment obligation, are suspended) and the employee continues working at the Hungarian employer which is part of the group.

Then a labour contract usually subject to Hungarian labour law is concluded between the receiving employer and the posted employee for a set period.

### Intercompany posting: a triangular legal relationship

An intercompany posting is a triangular relationship where, in addition to the labour contract, there is a legal relationship between the home country employer and the host country employer. The civil law agreement between the parties is particularly important because it affects the decision as to which employer qualifies as the **economic employer**. This has legal consequences in terms of tax law and social security.

### Content of agreement between host country and posting employer

The content of the agreement between the host country and the posting employer is determined freely under the given legal framework. The integration test applied in tax law can provide a starting point for deciding which issues should be agreed upon. It can be established based on the integration test which employer qualifies as the economic employer. This is designed to reveal whether the posted employee is organically integrated into the activity of the receiving employer or not. It is very important which enterprise bears the responsibility or risk for the results of the work by the posted employee.

In addition, the following aspects, among others, should be reviewed as part of the intercompany posting:

- who is entitled to exercise the right to give instructions,
- who is authorised to exercise control and who must undertake responsibility for the place of work,
- whether the formal employer shifts the responsibility for the employee's remuneration directly to the company where the employee actually works,
- who provides the tools and materials necessary for working,
- who is in a position to determine the number and qualifications of the employees working,
- who is entitled to select the employee, who exercises the right to terminate the employment,
- who is authorised to apply sanctions under labour law,
- who determines the rules for leave and work schedules.

These issues and others have to be reviewed when establishing the content of the agreement between the parties.

In light of the above, it is essential with intercompany postings to address the employment scheme in terms of labour law, social security and income taxation, and harmonise these independent systems.



wts TAX LEGAL CONSULTING

"An increasing number of Hungarian companies may choose to apply IFRS provisions when compiling their separate financial statements."

**Zoltán Lambert, WTS Klient Hungary  
Managing Partner**

Source: inforadio.hu



### Have you heard?



Zoltán Lambert, managing partner at WTS Klient Hungary, has voiced his views on switching to IFRS on InfoRadio. "The consolidated Hungarian subsidiaries of multinational companies could be relieved of a huge extra administrative workload if they only keep their books according to IFRS from now on" – he said.

[Listen to the conversation at this link!](#)

Please note that the conversation is available only in Hungarian.

## Employment audit from a legal perspective

During an **employment audit** the following problems can be explored:

- failure by employer to hand over notification of employees;
- invalid provisions in labour contracts;
- internal practices violating principle of equal treatment;
- erroneous records of working hours and holidays;
- unlawful management of personal data;
- failure to make statements and provide data.

an employment audit in Hungary is to offer efficient tools for the employer to minimise/eliminate the labour risks detected (e.g. by preparing sample labour contracts and templates for the notifications, or developing internal policies and supporting their implementation).

### Employment audit process

An employment audit can be divided into the following three phases:

#### 1. Data and information collection

During the data collection, the following labour documents are collected from the employer:

- labour contracts;
- notifications provided by employer (which are or may be related to, among others, material working conditions and changes thereto, foreign postings, the beginning and end of working time-frame);
- study contracts;
- non-competition agreements;
- working hours and holiday records;
- employer policies.

Additionally, other issues with inherent labour law risks are also explored, including established practices at the employer (e.g. what the local and generally known way of communication is), whether there is a trade union with representation, whether there is a works council or whether the employer is subject to a collective agreement.

#### 2. Processing

In light of the available data and information it is checked whether the legal tools applied by the employer are in line with effective legal requirements, thus primarily the provisions of the Hungarian Labour Code and the Act on Occupational Safety and Labour Inspections. At the same time, it is important to take into consideration that the employer also has to pay attention to other legal regulations during the employment, such as the Act on Informational Self-Determination and the Freedom of Information.

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The dynamically changing and increasingly complex legal environment in Hungary constantly poses new challenges for employers. Compliance with prevailing legal regulations (in particular, but not limited to, avoiding penalties and ensuring lawful labour relationships) is an employer requirement that can be facilitated through an employment audit.

#### Goal of the employment audit

The aim of an employment audit is to evaluate legally relevant circumstances by reviewing labour law documents on relationships between the employer and employees, as well as to map and analyse the critical segments that may imply inherent risks from the perspective of Hungarian labour law. Only some of the problems detected during an employment audit are derived from legal non-compliance. This is because labour law documents that cannot be challenged from a legal perspective, but which are still not able to cover the relationships (and intentions) between the parties in full, can also cause problems. One further objective of

### 3. Evaluation

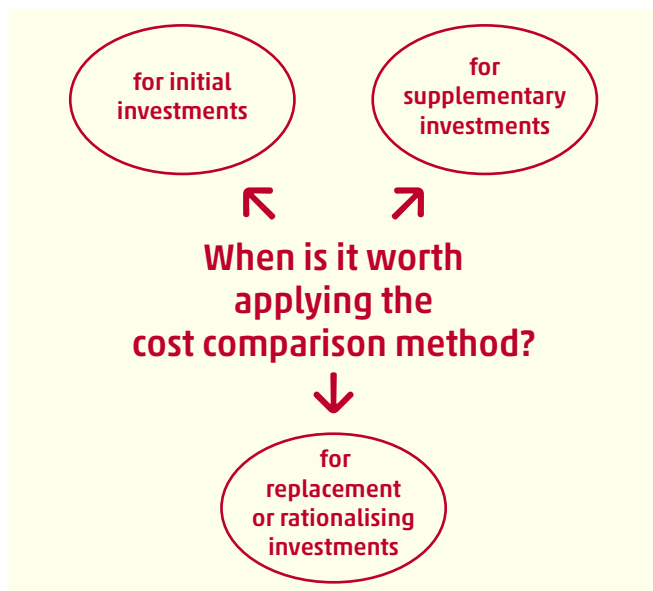
During an employment audit in Hungary, the following problems are generally explored when examining practices at employers:

- failure by employer to hand over the so called "notification by the employer";
- invalid provisions in labour contracts;
- internal practices or policies violating principle of equal treatment;
- erroneous and/or incomplete records of working hours and holidays;
- unlawful management of personal data, primarily in connection with the right of scrutiny (e.g. checking work e-mails);
- failure to make statements and provide data.

An employment audit provides appropriate and efficient tools for resolving the employment problems identified.

Accordingly, an employment audit can help the employer develop an appropriate, risk-free legal environment.

## Quick evaluation of investments – cost comparison



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Every day, situations arise at companies when we have to make decisions on smaller or bigger investments, or have to work on such decisions. The general problem is that the personal bias or convictions of the person making the decision or the owner are too influential in the investment decision. Investment calculations are not usually simple, they require effort, and so they are frequently omitted and the decisions are made without them.

### Quick evaluation of investments – can this be done professionally?

Yes, it can, but we have to clarify some principles and find appropriate practical solutions. Then we have to keep to the set path.

Necessary principles:

- investment calculations should be the starting point of any investment decision
- select the appropriate calculation method for each investment category
- make more thorough and quicker decisions with the new method

There are two main groups in terms of the methods applied for investment calculations: **static and dynamic methods**. With the static methods, we can focus on **costs** (cost comparison is important here), **profits, profitability and depreciation**. With the dynamic methods, **the value of capital, annuity calculations** and possibly the **internal rate of return** can be important.

### Cost comparison

In this case, we compare the costs of two or more processes or projects. Generally speaking we have a process, and we already know what kind of result it will produce; then we choose an alternative process for it, which at the very least has to reach the same result in terms of output, and ideally at a lower cost.

The disadvantage of the cost comparison is that it does not take the project's capital investment requirements and potential yields into account, we can only define the annual costs once, so they remain unchanged. Additionally, we cannot record the changes in value occurring during the project, so we have to work with averages.

One great advantage though is that this is one of the simplest calculation methods. Determining costs is still the simplest task, and defining the value of future benefits does not complicate our lives either.

#### **When is it worth applying the cost comparison method?**

- for initial investments, when we know what the required performance is and we can achieve it with several alternatives
- for supplementary investments, when we want to achieve a specific increase in turnover, and we can choose from several investments
- for replacement or rationalising investments, when we replace some of our manufacturing capacity, so only costs can be compared

#### **When is the cost comparison method not enough?**

If the investment focuses on two assets with very similar performances (in terms of both technical parameters and the initial acquisition value), then the annual costs due in the following period have to be taken into account during the investment.

If we see there is a difference in performance between the investment options, we have to switch to defining item costs.

However, this latter alternative is only useful as long as the investment with the greater utilisation level enables a lower item cost with unchanged quality. If the quality changes in the meantime, the performance will also change, and then we have to examine the results too, so the profit comparison method will be the right option instead of cost comparison.

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- » Tax consulting
- » Financial advisory
- » Legal consulting
- » Accounting
- » Payroll

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Should you have any questions regarding the above or any other professional issues, please do not hesitate to get in touch with your WTS advisor or use any of the contact details below.

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