



Dear Readers,

Online data reporting, in other words, the online invoicing system to be introduced on 1 July 2018, poses serious challenges for taxpayers. The technical specifications published in January but not yet finalised amount to almost 400 pages, and it is by no means an understatement to say that for anyone not well-versed in technical developments, it could just as well have been written in Chinese. My colleague dr. Tamás Felsmann summarises the most significant changes of the proposed system on page 3.

The four months until the rollout is not too long, and understandably, many would not mind an extension to the implementation date, or at least if the tax authority waived its right to impose sanctions for a lengthy period, similarly to the introduction of the EKAER system. We will try to bridge the gap between developers and taxpayers, and by examining the already [obligatory data exports](#) we can help you identify areas where you might experience problems during the implementation phase. If needed, we can advise you on how to avoid such errors.

Please feel free to contact us.

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What is the connection between the construction boom and the VAT on new apartments?

To apply the 5% tax rate, the sold property should comply with all the following conditions:

- it should qualify as a new property
- it should qualify as a residential property
- the useful floor area of the residential property should be below the threshold
 - » less than 150 m² in the case of a block of flats
 - » less than 300 m² in the case of a family house

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According to preliminary data from 2017 the **performance of the construction industry** has improved by **more than 30%**, which is far above the 4% growth of the Hungarian economy. Apart from the lower base data for the previous year, the **tax relief measures** approved in Hungary in respect of the VAT on new apartments also contributed to this, resulting in a drastic rise in the construction of new apartments.

So what are these relief measures and how did they impact on the construction industry in 2017? How will the discontinuation of these relief measures from 1 January 2020 impact the construction industry in Hungary in the next two years and beyond, and how could we manage the related extremes? These are the questions we seek answers to in our article.

VAT on new apartments preferential for four years

From 1 January 2016, the VAT on new apartments was [lowered](#) from 27% to 5%. According to the current regulation, the VAT on new apartments will be preferential **until 31 December 2019** in Hungary, after which the 27% tax rate has to be applied again.

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The latest edition of the WTS Global VAT Newsletter has been released

Q1 2018
#1.2018

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WTS Value Added Tax
Newsletter

The WTS Global VAT Newsletter edition for Q1 2018 focuses on changes in compliance duties in 2018 in eight EU countries in order to inform, especially non-resident companies, about their VAT compliance duties in the foreign countries in which they do business.

You can download the publication in PDF format here:
[WTS Global VAT Newsletter #1/2018](#)

If a **private individual** builds on their own property in a way that the work is not performed by a general contractor but by several contractors at the same time, the project will be subject to the general VAT rate of 27%. In specific cases, however, the builder **may reclaim** the VAT content of invoices issued in its name **up to HUF 5 million (approx. EUR 16,000)**.

If it is not a private project as outlined above then a new apartment with a net value of approximately HUF 18 million (approx. EUR 58,000) can be purchased for less than HUF 19 million (approx. EUR 61,500) instead of the nearly HUF 23 million (approx. EUR 74,500) it used to be. Similarly, the former gross cost of the private apartment construction can also be reduced from HUF 23 million (approx. EUR 74,500) to nearly HUF 18 million (approx. EUR 58,000) if the maximum VAT amount of HUF 5 million (approx. EUR 16,000) is reclaimed. So up to this amount, the two types of relief are similar. If a new apartment with a value higher than this is sold (and here only the relatively generous size restriction is the limit), then the savings gradually increase, in contrast to the fixed VAT relief of private projects.

The upswing in the Hungarian construction industry in 2017 can naturally be attributed to several reasons, but besides the low baseline figures and the equally generous allowances for building family homes, the aforementioned tax benefits and the VAT on new apartments also played a significant role.

Higher prices and labour shortage

These processes have now led to a situation where the general rise in the labour shortage in the construction industry means **projects are frequently rejected**; parallel to this, **prices are increasing significantly** alongside such disproportionate supply and demand. It is not by accident that the government is paying close attention to the construction industry. For example, not long ago they created funding of HUF 20 billion (approx. EUR 65 million) to support engineering investments by companies in the construction industry, and thus mitigate the acute labour shortage.

But what is causing this overheated situation that is not being curbed even by the higher prices?

In my opinion, the deadline of 31 December 2019 for applying the preferential 5% rate plays a significant role. Upon starting the

construction of 20-50 or possibly 100 apartments, not even today can a general contractor be sure that the completed apartments will be sold by 31 December 2019. So the number of apartments which are almost 20% cheaper will soon become a fixed number, and demand will be a multiple of this, which suggests rocketing prices.

You can listen to the radio interview about this topic by clicking here:



wtsklient.hu/2018/01/18/epitoipar-drasztikus-novekedese/
Please note that the conversation is available only in Hungarian.

What is the solution then?

There is a willingness on the part of the government to **prolong** the deadline for applying the preferential VAT rate, but the decision on this is not expected before autumn this year. Even if the situation can be managed somehow until then, it would still be worth drawing up the temporary detailed rules that will be in force when the 5% rate is increased to 27%. During the opposite transition at the end of 2015 and at the beginning of 2016 the VAT of services billed with advance or partial invoices remained at 27% in Hungary, and the preferential 5% rate was only applicable to payments in 2016. In the reverse case it can only be hoped that the temporary detailed rules will change in the same way, but advantageously for taxpayers, i.e. all paid advances and partial payments will be subject to 5% VAT. In this case, whether the parties agreed on gross or net settlements will make the difference. **Creating these detailed rules as soon as possible could mitigate the overheated situation even now.**

If the regulation is even more generous, i.e. the government ensures the application of the preferential VAT rate for the whole period of commenced construction projects, the situation could be normalised almost completely, apart from the fact that an unusually high number of constructions would start prior to 1 January 2020. However, this would secure an appropriate construction volume in 2020-21.

If the above is implemented the prolongation of the 2019 year-end deadline would only be the icing on the cake, and announcing it would not be that urgent either.

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Languages

Hungarian, German, English

New draft decree on live invoicing, or online data reporting

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Now that the draft decree containing the rules of live invoicing has been updated on the Hungarian government's website, it is worthwhile reviewing the rules of live invoicing entering into force from 1 July 2018, along with the changes made compared to the [previous concept](#).

What to watch out for in relation to the start of live invoicing from 1 July 2018?

- invoices containing a high amount of VAT and issued to another registered taxpayer must be reported online (VAT ≥ HUF 100,000 – approx. EUR 320)
- paper-based invoices must be recorded as well (VAT ≥ HUF 100,000 – approx. EUR 320)
- invoicing software must be updated
- the technical information is available on the NAV website
- penalties can amount to HUF 500,000 (approx. EUR 1,600) per invoice

Just as a reminder: what is live invoicing?

With [real-time data reporting](#) through live invoicing, the NAV requires taxpayers to provide immediate access to **invoices issued with invoicing software and having a VAT amount equal to or more than HUF 100,000 (approx. EUR 320)**, provided the recipient of the invoice is a taxpayer registered in Hungary.

Although not real time, the **online data reporting of hand-written invoices or those issued using a printed document** also fall within the category of live invoicing in Hungary. If the amount of the tax payable by a taxpayer registered in Hungary equals or is more than HUF 100,000 (approx. EUR 320), but is less than HUF 500,000 (approx. EUR 1,600), data must be reported within 5 calendar days of the invoice issue date, while if the amount of VAT equals or is more than HUF 500,000 (approx. EUR 1,600), the data must be provided within 1 calendar day of the invoice issue date, on the online platform.

Will live invoicing replace the domestic summary report?

With the introduction of live invoicing, there will no longer be any point to reporting domestic, outgoing invoices in the summary report (known as "sheet M"), however, this reporting obligation still applies to incoming invoices.

Access to incoming invoices

According to information provided by the government, a new service developed by the NAV in the system is that we will also be able to access the invoices issued to us which fall within the category of online data reporting.

VAT-registered entities also subject to law

All taxpayers registered in Hungary are subject to the data reporting obligation, so this includes foreign – i.e. not Hungarian resident – [taxpayers registered for VAT](#). Entities with a reporting obligation must register at the NAV in advance to use the service.

What changes have been made to the draft decree compared to the previous concept?

The live invoicing rules have essentially been integrated into the VAT Act and the so-called invoicing decree. Based on information from the government, the aim of the amended decree is to define

- the data reporting process,
- the confirmation sent for successful and unsuccessful reports,
- how to re-send information once errors have been corrected,
- and the procedure to be followed in the event of shutdowns or malfunctions.

A number of specific rules have been changed compared to the previous draft, but the most evident change is probably that **the data structure of the data reporting is not integrated into the schedule of the invoicing decree as previously planned**, the NAV must publish a statement on this instead. It's also good news that invoices can be recorded manually in case of lengthy problems or system shutdowns.

What are the penalties for incorrect data reporting?

Unfortunately, the penalties prescribed are quite strict: in the event of incorrect data reporting the tax authority may impose a default penalty amounting to HUF 500,000 (approx. EUR 1,600) per invoice. However, when defining the default penalty, the tax authority always has the option, and indeed the obligation, to weigh up the circumstances and assess the severity, frequency and duration of the default.

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Review of the invoicing software

Taxpayers can already be required to perform an [IT data export](#) for inspection purposes in Hungary, i.e. to provide electronic data in a specific data structure to the tax authority. As we see that there are many questions regarding this topic, [WTS Klient Hungary has set up an expert team](#) to solve any upcoming problems.

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What should companies and taxpayers prepare in advance for in connection with online invoicing?

The transition obviously requires the developers of invoicing software programmes to make further IT developments. Relevant **technical information** is available (also in English) on [the website of the NAV](#). It is easy to see that this change particularly affects foreign, and as already mentioned VAT-registered, companies, as they have to adapt their ERP systems to comply with the Hungarian requirements.

You can listen to the radio interview about this topic by clicking here:



wtsklient.hu/2018/01/25/adatexport-adatszerkezeze/

Please note that the conversation is available only in Hungarian.

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- » [A new Act on Rules of Taxation and tax administration procedure law](#)

Languages

Hungarian, German, English



New transfer pricing documentation decree allows for self-revisions

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Old and new rules in transfer pricing documentation

What has not changed?

- **Exemption** in the case of product and service sales recharged without a mark-up from an independent party.
- **Simplified documentation** for intragroup services of low added value (under certain conditions).

What has changed?

- **Mandatory joint documentation:**
master file + local file
- **Possibility of self-revision**

The term "self-revision" appeared in the text of the transfer pricing documentation decree in effect from 2018. Enabling the sub-

sequent correction of errors is one of the most important new features in the legal regulation **published on 18 October 2017** in issue no. 169 of the Hungarian Gazette. Compared to the draft detailed in our [previous article](#), the final approved text does not include any new measures or points, but there are a few specific rules that are worth discussing.

New transfer pricing documentation decree makes joint documentation mandatory

Based on the new transfer pricing documentation decree, from 2018 it is no longer possible to prepare independent documentation. This system has been replaced by one comprising two separate documents: the master file and the local file. Large corporate groups tend to prepare transfer pricing policies (or guidelines) at group level, describing related-party transactions from the perspective of the group as a whole. Preparing joint documentation was permitted based on the previous decree, but now, **the master file and the local file have become mandatory elements of transfer pricing documentation**. In our [previous article](#) we discussed these mandatory elements in detail; now we would like to draw attention to a few practical issues.

What should you look out for?

A local transfer price documentation used to be prepared from the international master files. A lot of important information could be extracted from these documents, but they had to be supplemented with the mandatory formal content elements of the transfer pricing decree, for example, presenting court cases that were in progress. Based on the new transfer pricing documentation decree **the master file can have mandatory elements that the headquarters of the group have not considered, and so it is up to us to remedy this**. For example, some companies might not consider it necessary to present the driving forces behind business results, but in Hungary, not having this information could easily result in a default penalty.

Self-revisions now included

As mentioned before, the other important change compared to the previous transfer pricing decrees is the **ability to prepare self-revisions**. Modifying records was allowed before, but taxpayers typically used this at most to rectify formal deficiencies. The new rule clearly states that making changes is allowed even if we detect an error affecting taxes or arm's length prices in a completed document.

What should you look out for?

If you have a related party transaction in 2017 that you have not yet prepared transfer price documentation for, then as a taxpayer applying a normal financial year you still have time to rectify the problem without any legal consequences in Hungary until the deadline for the 2017 corporate tax return. The size of the penalty imposed for incomplete documentation will not change in 2018, it is still very high. **It can amount to HUF 2 million (approx. EUR 6,500) per incomplete document, and as much as HUF 4 million (approx. EUR 13,000) in the case of a repeated failure to comply with the laws.**

You can listen to the radio interview about this topic by clicking here:



wtsklient.hu/2018/02/01/transzferar-nyilvantartas/
Please note that the conversation is available only in Hungarian.

What has not changed?

Given that compiling a transfer pricing document takes a lot of time and energy, and thus ultimately means a financial burden for companies active in Hungary, it is worth seeking the points in the decree that result in either **exemption** or the possibility to compile a **simpler document**.

You do not have to prepare documentation on product and service sales recharged without a mark-up, provided that you transacted with an independent party. Under certain conditions you can still prepare simplified documentation for intragroup services of low added value.

What should you look out for?

When recharging without a mark-up, often only a portion of the costs is invoiced to several subsidiaries of the group. In this case, **the distribution of costs has to be verified by presenting the right distribution rate**, since the total cost from the independent party can be verifiably qualified as being a market cost, but the ratios have to be supported (the right indicator for this might be the number of employees for example).

Transfer pricing consulting

If you are interested in the [transfer pricing regulations](#) of other countries in the Central and Eastern European region please contact our regional transfer pricing expert!

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Languages

Hungarian, German, English

How to reclaim money from the NAV: the benefits of health fund membership

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The benefits of health fund membership			
	Can you claim the 20% tax allowance?	Who is liable for tax?	
		15% personal income tax	19.5% healthcare contribution
Employer payment	no	employer (on 1.18 times the paid amount)	employer (on 1.18 times the paid amount)
Employer donation	yes	health fund member (on 84% of the amount)	health fund member (on 84% of the amount)

I doubt there is anybody in Hungary who hasn't yet heard of health funds. Many take advantage of the **20% tax credit** that can be reclaimed from personal income tax through health funds. In our experience, however, plenty of people, even members, are not fully aware of the benefits of health fund membership, and the tax allowances members can be entitled to. In my article I intend to answer some of the most important questions regarding health funds, including, but not limited to, the advantages you can enjoy from health fund membership and how to obtain them.

Who stands to benefit from a health fund membership?

Any private individual who faces medical expenditures on a regular basis, or who is planning to spend a large amount on healthcare (e.g. corrective eye surgery) should consider becoming a health fund member. It is important to note that **health funds can finance the healthcare expenses** not only of members but also of **their close relatives**. However, this does require the prior registration of the close relatives at the health fund. In light of this, there are barely any families in Hungary where at least one person would not benefit from joining a health fund.

How do health funds work?

For a membership fee, health fund members can use well-defined and mostly healthcare services through the health funds (with significant discounts in many cases). The funds reimburse their healthcare expenses (e.g. medicines, glasses, dental treatments, etc.) from the amounts paid into the members' individual accounts held at the fund, after receiving the invoices.

Health fund members **may reclaim 20% of the amount credited** on their individual **accounts from their personal income tax, but no more than an annual sum of HUF 150,000 (approx. EUR 480)**. This is then credited to their individual health fund accounts, and can thus be used to cover the expenses of further healthcare services.

Another benefit of health fund membership is that any amount paid into members' individual accounts but not used can be put into a deposit, generating a return. What is more, a 10% tax credit can also be claimed on any amounts deposited for at least 24 months.

Are only members entitled to pay into their health fund accounts?

Employers of health fund members **may also pay into** their employees' individual accounts, with no limitations on these amounts. Such payments are regarded as **other benefits** on which the employer is liable for 15% personal income tax, and from 1 January 2018 a 19.5% healthcare contribution as well (total charge from 1 January 2018: 40.71%).

You can listen to the radio interview about this topic by clicking here: wtsklient.hu/2018/02/15/munkaltatoi-befizetes/
 Please note that the conversation is available only in Hungarian.

What other services can be financed from health fund accounts?

Besides healthcare, several other services **can also be financed from health fund accounts** that many people simply wouldn't think of. For example, such services include, but are not limited to, **contributions to child birth benefits, support for starting years of childcare and school, contributions to funeral expenses** or even to **instalments of housing mortgage loans**. For this financing it is very important that members need to report their claims for such contributions to the health fund by a specific time, and the amounts paid into the individual accounts may only be used to reimburse the expenses of the above services after a "waiting" period of 180 days. Moreover, legislation defines further rules for claiming the above-mentioned services. For instance, monthly contributions to instalments of housing loans may not be claimed in excess of 15% of the minimum wage valid on the first day of the given year, which in 2018 amounts to HUF 20,700 (approx. EUR 67)/month. Naturally, by claiming the contribution to a housing loan repayment instalment totalling HUF 20,700 (approx. EUR 67), the fund member becomes entitled to the 20% tax credit as well.

What should you look out for when preparing your personal income tax returns?

The 20% tax allowance for health fund payments is **not given automatically**. Health fund members need to make a declaration as part of their personal income tax return to claim the transfer of the tax allowance. It is worth noting though that the 20% tax allowance cannot be claimed on regular contributions by employers.

Can a health fund membership create a tax payment liability?

In the Hungarian tax system there are certain cases when private individual health fund members are faced with tax payment obligations. These cases can generally be divided into two groups. One is **when an unauthorised payment is made to the fund member**, because of a lack of required medical certificates for instance, or a relative not being registered at the fund. The other is **when the member is given a donation** (e.g. an amount donated by the employer). These payments are accounted as other income of the individual; on 84% of these payments the health fund member is liable to pay 15% personal income tax and a 19.5% healthcare contribution (total charge: 28.98%), which must be declared in the personal income tax return.

Optimized health fund contributions

Contributions to employees' health fund accounts can be beneficial for employers for several reasons. Firstly, payments made to employees in this way can be accounted for as expense, and secondly, employees can be supported financially this way through means that are **taxed more favourably than wages**, which ultimately has an impact on retaining workers. Send us an [e-mail](#) and we will gladly explain to you how this works!

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