

wts klient newsflash

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The Bridge.

- 2018 tax laws
- Acquisition of member shares

2018 tax laws

On 13 June 2017, the Hungarian Parliament approved the 2018 tax laws.

In our opinion, the most important change for our clients compared to the bill (the contents of which were already described in a previous [newsletter](#)) is that following a technical clarification to the law it is now clear that VAT-registered foreign companies will not need to notify the tax authority of their accounts held at foreign credit institutions (we contacted the Ministry for National Economy for this purpose and presented our proposal; it looks like our efforts were successful). With the adoption of the 2018 tax laws it also became clear that the mandatory online data reporting from invoicing software will only be rolled out from July 2018 after a trial period. Below we have listed some of the most important changes that have been approved.

Act on Rules of Taxation

- **The online "connection" of invoicing software programmes has been delayed.** The provisions of the Act on Rules of Taxation prescribing the decrease of the aggregate threshold for "itemised VAT" from HUF 1 million (approx. EUR 3,200) to HUF 100,000 (approx. EUR 320), and the real time reporting obligation for data on invoices issued using invoicing software and containing VAT exceeding HUF 100,000 (approx. EUR 320) will enter into force from 1 July 2018.
- **Notification rules – foreign bank account numbers.** The new requirement has been limited to taxpayers subject to company registration. Accordingly, only taxpayers subject to company registration are obliged to notify the tax authority, within 15 days of registering, of the numbers of all their bank accounts held at foreign financial institutions, the names of the financial institutions as well as the dates the accounts are opened and closed. One important change in the 2018 tax laws compared to the bill is that under the adopted law this notification obligation will definitely not apply to VAT-registered taxpayers.

- **Tax payment collateral.** Tax collateral is a new legal institution in Hungary, designed to ensure payment of taxpayers' tax debts in certain cases.
- **Registered office service providers.** Companies which used registered office services from their current provider prior to 1 January 2017 as well will have to submit notification to the tax authority by the end of September.
- **Exception to prohibition of aggravation.** If an inspection (oversight inspection) precedes a new resolution and the minutes thereon is handed over or posted within one year, then a resolution containing more serious findings for the taxpayer can be adopted within a period of no longer than 18 months, even after the default period of one year.
- **Zero net tax debt for preferential procedures.** The tax authority can allow a taxpayer to deviate favourably from the general rules with a view to fulfilling tax liabilities (aside from payment relief and tax reductions), if the taxpayer does not have a net tax debt on the day the request is submitted.
- The components of the simplification bill featured in our previous [newsletter](#) regarding **late payment interest** were not incorporated into the final wording of the law.

Personal income tax

- **Increase of amount of housing allowance to facilitate mobility that can be provided tax-free.** The law substantially increases the amount that can currently be provided tax-free.
- **Hospitality activity (AirBnb).** In the final version of the 2018 tax laws it has been accepted that those who let out their apartment or holiday home regularly in Hungary for short periods can also opt for the favourable, itemised flat-rate tax, even if they offer such a service for three properties instead of the current one property.

Corporate tax

- **Reported shares.** The ten percent participation threshold has been removed from the law, which means regardless of the level of participation acquired, shares can be notified and the corporate tax base relief related to reported shares will be applicable.
- **Building rental apartments for employees / Installing charging stations for electric cars.** Subject to certain conditions, corporate tax bases can be reduced with the cost of rental apartments built for employees, in the fiscal year when the investment project was completed, and with the cost of the investment (or part thereof) when installing charging stations for electric cars, also subject to certain restrictions.
- **Start-up companies.** The provision that one employee of a start-up company must be a researcher/developer has been removed from the legislation.
- **Income from controlled foreign companies.** In terms of income derived from controlled foreign companies in periods prior to 18 January 2017, under certain conditions taxpayers may opt to apply the legislative provisions valid on 17 January 2017 (an option available for the last time in respect of fiscal years ending on 31 December 2018).

Health care contribution

- **Income from letting property.** As expected, the health care contribution payment liability for income derived from letting property has been abolished.

Value added tax

- **Preferential VAT on internet services, fish and slaughter by-products of pork.** As suspected, from 2018 the VAT on internet access services and the VAT on fish for human consumption (with the exception of shark meat) will be reduced in Hungary to 5 percent, from 18 percent and 27 percent respectively. The adopted law also expanded the preferential rate to the slaughter by-products and offal of domestic pigs suitable for human consumption.

Excise tax

- **More transparent procedural rules.** The Act on Rules of Taxation will provide the background legislation for general procedural law for the Act on Excise Duties from 2018, in line with the provisions contained in the bill.
- **Collateral certificate.** The provision according to which collateral certificates can also be provided as financial collateral has been adopted.

30 June is an important deadline in case of acquisition of member shares: here is the reporting form!

If defined member shares were acquired free of price, the person acquiring them needs to report this to the NAV no later than 30 June 2017.

Act CXCV of 2011 on the Economic Stability of Hungary ("Gst.") enables shares issued by legal entities and other organisations, or other transferable member shares, to be acquired with no tax payment liability for the acquiring party.

It is important to clarify right at the beginning that such a favourable rule is only applicable for the acquisition of certain defined member shares (for instance, in the case of Hungarian companies it is only applicable if the shares belong to a legal entity or organisation without a registered office in Hungary, or to a natural person who does not have a registered permanent residence in Hungary). There are also administrative tasks that need to be considered.

The deadline of 30 June is particularly important in several respects. The transfer of member shares as of 30 June 2017

must be contained in a public document or a document endorsed by a lawyer or legal counsel if the acquisition is not free.

If **the acquisition is free**, the acquiring party must report it on the form used for this purpose by no later than 30 June 2017, to the competent state tax authority (NAV) according to the permanent address of taxpayer.

The devil is in the details. In the case of a free acquisition, the acquirer is obliged to provide data and simultaneously becomes "visible" to the NAV – what is more **the form requires details about the transferring party too**. Such reporting does not arise if the acquisition was concluded for a price.

The document available on the NAV website (https://www.nav.gov.hu/data/cms437879/Bejelentes_tagi_reszesedes ingyenes_megszerzeser_l.pdf) needs to be submitted in two copies, in paper format. Shares may be acquired from natural persons, legal entities or other organisations too. In the first section of the form the data of the acquiring entity must be given, while in the second section, the data of the transferring party. The size of the share transfer, the number of shares and the conclusion date of the sale and purchase contract together with its ID or reference number must be provided in the form.

Tax exemption in the case of a free share acquisition may be proven with a certificate issued by the competent tax authority (which, usefully, is one of the two copies of the submitted reporting form duly signed by the tax authority).

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- » Financial advisory
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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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