



Dear Readers,

The deadline for submitting 2017 personal income tax returns on 22 May is behind us, while I sincerely hope that everybody managed to prepare their annual financial statements and corporate and local tax returns too, due end of May. Thus our readership, now reinforced in their commitment to us by virtue of the new GDPR standards, may rightfully ask what to make of our May newsletter?

My recommendation is as follows: if you can, take our newsletter home with you on your laptop, sit down in your most comfortable armchair with a drink in one hand and browse through it, forgetting the stress of recent weeks but still quenching your professional thirst to stay on top of things. The topics are intriguing again, and summer is just round the corner!

We hope you enjoy it.

Zoltán Lambert
managing partner

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Tax law judgment on chain transactions based on new case ruling by Court of Justice of European Union

In order to determine whether the VAT treatment is correct you must know the following:

- whether you are taking part in a chain transaction,
- who is transporting the products,
- what kind of tax numbers the participants provide during the transaction.

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In previous articles we reported on important judgments by the Court of Justice of the European Union that may influence Hungarian tax authority practices as well. Such issues included the rulings on [leasing VAT](#) or [reverse charging](#). In recent months the **Court of Justice of the European Union** has again reached decisions in a **number of important cases**, which are

worth taking a closer look at. The [judgment](#) made on 21 February 2018, and reviewed in this article, details which transactions VAT exemption must be applied for in the case of chain transactions, and whether incorrectly charged input VAT can be deducted.

Managing chain transactions

In case no. C-628/16, which provides a new reference for tax law rulings on chain transactions, BP Marketing GmbH a **German taxpayer, sold petroleum products** to BIDI Ltd., a company registered for VAT in Austria. After being paid in advance, BP Marketing provided BIDI with collection numbers and collection permits for the petroleum products in question. BIDI undertook towards BP Marketing that it would deal with the transport of those products from Germany to **Austria**.

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WTS Global is again the European Indirect Tax Firm of the Year

For the second year in a row, WTS Global has been rewarded with the "European Indirect Tax Firm of the Year" by ITR at European Tax Awards Ceremony 2018 held on May 17 in London. WTS Germany was awarded "Germany Transfer Pricing Firm of the Year", ICON was recognized as "Austria Tax Firm of the Year", WTS Consulting as "Ukraine Tax Firm of the Year". Sorainen, won two awards: the "Baltic States Tax Firm of the Year" and the "Baltic States Transfer Pricing Firm of the Year".

BIDI, however, **resold** the goods to Kreuzmayr GmbH (also an Austrian taxpayer) without informing BP Marketing, agreeing that Kreuzmayr would arrange for the transport of the petroleum products from Germany to Austria, which Kreuzmayr did. BP Marketing regarded its supplies to BIDI to be **exempt intra-Community supplies**, while BIDI invoiced the supplies to Kreuzmayr **with Austrian VAT**. Kreuzmayr then used the goods for its taxed transactions and **deducted the previously charged input VAT**.

However, during a tax audit it emerged that BIDI **had neither declared nor paid the Austrian VAT**, which Kreuzmayr was not aware of. BIDI justified this by claiming that the supplies to Kreuzmayr had been invoiced in Germany, therefore they were tax-exempt and as such were not taxable in Austria. Following the audit, BIDI issued amended invoices for Kreuzmayr without VAT, but **did not compensate Kreuzmayr for the VAT previously paid**, as it became insolvent.

VAT exemption and tax deduction during chain transactions

The case passed through several Austrian courts until finally the Austrian Federal Finance Court turned to the Court of Justice of the European Union. Their question to the Court, in brief, was which of the two transactions in the given case (i.e. the one between BP Marketing and BIDI, or the one between BIDI and Kreuzmayr) was VAT exempt, and whether the VAT incorrectly deducted by Kreuzmayr could in fact be deducted considering the principles of tax exemption and the protection of legitimate expectations.

In the judgment of the court in this case, **exemption can be applied to the second transaction because**, according to the reasoning, the second transfer of the owner's right over the products took place **before** the intra-Community **transport** occurs, in other words BIDI already **held the owner's rights over the products** before they were transported from Germany to Austria.

With regard to the other question, the Court stated that where the second supply in a chain of two successive supplies involving a single intra-Community transport is an intra-Community supply, the principle of the protection of legitimate expectations must be interpreted as meaning that the **person ultimately acquiring the goods**, who wrongly claimed a right to deduct input VAT, **may not deduct**, as input VAT, the **VAT** paid to the supplier solely on the basis of the invoices provided by the intermediary operator which incorrectly classified its supply. It is important to note, though, that in the Court's opinion Kreuzmayr may request the repayment from BIDI of the tax paid unduly to BIDI.

This legal case reaffirms how you must pay attention to detail in case of chain transactions: you always need to be aware if you are part of a chain transaction, and you must know the transporter of the goods as well as the tax numbers provided by each participant during the transaction. Only in possession of this information can you determine whether the VAT was handled properly.

Value added tax consulting

WTS Klient Hungary will gladly assist you in identifying participants of even very complex chain transactions during a [preliminary VAT consulting](#) session. We can also help you negotiate with logistics companies and assess the applicable tax burden in advance in consultation with the buyer. Feel free to contact our tax consultants, we're here to help!

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Specialisations

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- » value added tax planning
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- » reviews of transfer pricing documentation obligations
- » due diligence reviews

Languages

Hungarian, German, English

Latest publications

- » [Increasing administration when deducting input VAT](#)
- » [Tax implications of inspections](#)
- » [Another interesting case at the Court of Justice of the European Union – judgement on leasing VAT](#)

Common errors in Hungarian personal income tax returns of foreign private individuals

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May is the month of personal income tax returns. For certain types of income it is not always easy to decide whether it should be declared in the return, and if yes, then how. This is particularly difficult for **foreigners** who are also obliged to submit a tax return in Hungary. In this article we will highlight some of the most common errors.



Personal income tax or property tax

In Hungary, as opposed to many other countries, there is no tax on property, you are only liable for **tax on income** (as well as paying a duty when acquiring certain properties). This means that properties (e.g. real estate) do not need to be included in personal income tax returns, as there is no tax payment obligation on them, or on any increase in their value.

It is a different matter entirely **if you generate income using such property**. If you rent out a real estate or sell it, and the income from the transaction exceeds the deductible costs and expenses, that **income must be reported and taxed**. However, you need to take the location of the property into account as well. If you rent out a property that is not located in Hungary, you need to pay the taxes abroad, since, as we mentioned [in an earlier article](#), the conventions for the avoidance of double taxation essentially allow the income derived from real estate located in a country to be taxed in that country (in the absence of such conventions, there may be a risk of double taxation).

Capital income from abroad

What happens if one of your foreign investments yields income? Tax on such income is often already deducted abroad, therefore we naturally assume that we have nothing else to do here. Unfortunately though, this is not the case.

If a taxpayer qualifies as a Hungarian **tax resident**, income from interest, dividends or stock-exchange transactions are basically taxable in Hungary. This is true for Hungarian and foreign citizens alike.

Awareness of the double taxation convention between the source country and Hungary is vital of course, but generally speaking, **interest and capital gains are taxable in the country of residence**. For dividends, the source country also has the right to tax the income, but the rate of the deductible tax is limited.

The easiest way to **avoid double taxation** is to send an appropriate declaration to the competent foreign financial institution in good time. In this case they will not deduct any withholding tax, or only up to the permitted rate. Consequently, it cannot happen that 25% tax plus a solidarity contribution of 5.5% of the paid tax gets deducted from your interest obtained in Germany, before paying a further 15% tax on it in Hungary. In other words, instead of paying only 15% you are charged tax of 40%, which according to the convention can only be reclaimed through lengthy administrative procedures.

Declaring income taxable abroad

It is possible to find that although you are a Hungarian tax resident, some of your income is taxable not in Hungary but **abroad**, in accordance with relevant double taxation conventions. Nonetheless, you need to include this income in your Hungarian personal income tax returns too.

Private individuals who are tax residents in Hungary have an **unlimited tax liability**, which means they essentially need to **pay tax on their income earned anywhere in the world**. If any such income is not in fact taxable in Hungary pursuant to conventions, you still need to declare this income as tax-exempt in Hungary in your personal income tax return. This essentially means no taxes are paid on such income, but you are obliged to **declare it** to the tax authority nonetheless.

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Tamás Gyányi, partner of WTS Klient Hungary talked about this topic on InfoRadio.



Listen to the conversation at this link:

wtsklient.hu/2018/05/10/szja-bevallas/

Please note that the conversation is available only in Hungarian.

Income from the sale of movable property

Another common mistake is that we assume no tax has to be paid on the sale of movable properties. This is not always the case though. By law, **no tax has to be declared or paid** if you **sell movable property of no more than HUF 600,000 (roughly EUR 1,900) per year**. You are also not obliged to pay any taxes if your **income from sales does not exceed HUF 200,000 (roughly EUR 640)**.

So, it is really important to bear relevant Hungarian, foreign and international legislation in mind when preparing your personal income tax returns.

Expatriate taxation consulting

For many years now, WTS Klient Hungary has kept abreast of the [legislative changes affecting the work of foreigners](#) as well as international developments and applies these in its day-to-day work. If your company has expatriate workers, please contact us, we are happy to assist you even in the preparation of their personal income tax returns.

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- » due diligence reviews
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- » preparation and reviews of transfer pricing documentation obligations
- » tax planning in all tax types

Latest publications

- » [Applying the 183-day rule](#)
- » [Taxing income from employment in Hungary in the case of foreigners](#)
- » [Taxation of foreigners' income by types of income in Hungary](#)

Languages

Hungarian, German



Guidelines on business valuations: what to evaluate, how and for whom?

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Business valuation methods:

- methods based on company's income-generating capability
- methods based on asset values
- comparability methods

Commerce is one of the most ancient business activities of humanity, with price always playing a central role. The establishment of companies created a market for them too, together with

the need for determining the value of companies. In our previous series of articles on the quick evaluation of investments influencing the business decisions of companies, we analysed methods such as [cost comparison](#), [profit comparison](#), [calculating profitability](#) and [calculating depreciation](#). In the series starting with this article we will elaborate on **different methods for business valuations**, highlighting where they can be used.

Price or value?

The price and value of something may not necessarily be the same, the two notions differ in their content. **Value is an amount that can be calculated precisely according to one or more methods, while price is formulated much more through negotiation.** Value can constitute a basis for price negotiations, whereas price may be influenced by countless other factors too. Is there any demand, namely a market for the given product / company? Can further synergies be expected from the acquisition? What resources does the buyer have?

The value of a company is **most often required during the business acquisitions**, but a number of other events can necessitate business valuations.

When might business valuations be required?

The need to determine a company's value can arise in the following situations:

- During the sale and purchase of a company's **ownership share**, negotiations usually start from an objective value.
- If a **member or shareholder leaves** a company, the settlement with them generally involves determining a market price for the company.
- Analysts prepare business valuations to support **investment decisions** and in relation to the sale and purchase of shares on the stock exchange.
- A well-founded enterprise value can be crucial in determining an independent market price for tax purposes during the **sale/purchase** of a business division or an entire company **within a group**.
- When buying a company, **IFRS dictates** that the purchase price must be broken down into its constituent parts. Here, the valuation is carried out under the IFRS 3 Purchase Price Allocation method.
- Assessing a company's value can be vital for **start-up enterprises** when bringing in external capital, which focus more on evaluating a given idea in terms of its feasibility and future success than on the analysis of the company's past or present performance.
- The need for a valuation can also arise when selling an **independent business division**.
- In the event of **closing down a business** it is also worth knowing the value that can be expected following the wind-up of activities.

What methods can be used for business valuations?

Choosing the appropriate valuation method depends on the purpose of the valuation, its circumstances as well as the resources and information available.

The methods used most often for business valuations can be categorised as follows:

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



wtsklient.hu/2018/05/17/cegertek/

Please note that the conversation is available only in Hungarian.

- methods based on company's income-generating capability
- methods based on asset values
- comparability methods

One of the most commonly used **methods based on a company's income-generating capabilities** is the discounted cash flow method (DCF) which is based on future business plans and cash-flow plans, and determines the present value of future cash flows with due consideration of market risks.

The **methods drawing on asset values** generally focus on book values and base their calculations on the difference between the value of assets and liabilities, i.e. the company's equity. The objective is to determine the value of equity adjusted to market value by identifying hidden reserves in assets as well as any off-balance sheet assets and liabilities.

The **comparables approach** is based on market data. This procedure can be carried out by querying and evaluating comparative figures from different databases.

In the forthcoming articles of this series we will present the methods used most often. We will analyse which method is appropriate for which circumstance, and outline the strengths and weaknesses of each method.

Financial consulting

If you have questions about business valuations, please contact our [financial consulting experts!](#)

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- » accounting and tax due diligences
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- » interim management

Languages

Hungarian, English, German

Latest publications

- » [Tax implications of a preferential transformation](#)
- » [Taxation of transformations, and preferential transformations](#)
- » [Accounting tasks during the transformation of companies in Hungary](#)

Basic payroll principles: what employers in Hungary definitely need to know

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What are the key deadlines employers have to observe and what tasks do they have to perform to comply with relevant laws and regulations? These are some of the questions we seek answers to in this article, along with providing some useful information for employers in relation to day-to-day payroll activities.

What employers need to know:

- payment of salaries
- payment of taxes and contributions
- deadline for submitting returns
- reporting employees
- aptitude test

When are salaries due?

The first and most important decision for employers is when to schedule the payment of employees' salaries. In Hungary, a monthly payment is the most common option. According to the Hungarian Labour Code, salaries must be paid no later than **the 10th** following the given month and – [unless the employee works abroad](#) or this is otherwise provided for by law – the salary must be determined and paid in Hungarian forints.

When are taxes and contributions due?

As part of their task, payroll accountants calculate the taxes and contributions payable by employers and employees. The general rule is that employers must pay these amounts on a monthly basis, **no later than the 12th following the given month**, to the defined bank accounts of the National Tax and Customs Administration (NAV). In addition, there is another contribution related to payroll in Hungary but which is only payable to the tax authority on a **quarterly** basis. The [employer is responsible](#) for making sure that the taxes and contributions are deducted from employees and paid to the tax authority. The due dates of taxes normally correspond with the due dates of the tax returns.

When do employers have to submit returns by?

The monthly returns need to be submitted by employers for all employees by **no later than the 12th following the given month**, for the taxes, contributions and additional data related to payments and contributions, including the vocational training contribution. The return must be submitted electronically **via the client gate**. Employers with more than 25 employees need to submit a return on the rehabilitation contribution no later than the 20th day of the month following the given quarter. Failure to comply with return deadlines can result in significant penalties.

What is the deadline for reporting new employees?

The fact that new employees must be reported to the NAV before the start of the employment is a major burden for employers in Hungary. As for the start date of the insurance period, this notification must be submitted on the first day of the employment at the latest, **before starting work**. All the personal details of the new employee are required for the notification report, along with the education, qualifications and professional qualifications of the insured individual, the name of the institution issuing the relevant certificate as well as the number of the certificate. Employers are obliged to submit special notifications regarding agency workers.

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Payroll

The tasks and deadlines mentioned in this article do not cover the entire legal and statutory background employers must comply with. It is important to gather relevant information and entrust a professional with [payroll tasks](#) to **reduce your administration and make sure you don't have to worry about deadlines!** Feel free to contact us if you have any specific questions regarding the payroll obligations of employers.

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What obligations do employers have regarding aptitude tests for positions?

Aptitude tests must be provided by employers before the start of work, as well as **regularly** during the employment, **free of charge**. Aptitude tests must be conducted for each new employee

and prior to any change in position, workplace or working conditions. Conducting these tests is particularly important as employees are categorised as suitable, temporarily unsuitable or unsuitable for the relevant position based on the aptitude test, which may affect further employment possibilities.

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Languages

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Latest publications

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- » [Rules for deductions from wages](#)
- » [Granting holiday entitlements beyond the current year](#)



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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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