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wts klient newsletter

WTS Klient.
The Bridge.

Dear Readers,

VAT together with import VAT is the "hidden champion" among tax types. At about EUR 1 trillion billion, it is the leading source of annual tax revenue within the EU. Complex relationships with both suppliers and customers involving the provision of goods and services, challenging legal questions in cases of corporate restructuring, and the formal requirements of VAT all contribute to the enormous significance of VAT to any company.
Worldwide, VAT specialists in more than 100 countries act in an advisory capacity for our clients in cooperation with our WTS Global team.
It is our pleasure now to present to you the WTS Global VAT News for Q3 2017. This issue focuses on changes in compliance duties in various EU and non-EU countries in order to inform especially non-resident companies about their VAT and GST compliance duties in the foreign countries where they are doing business:
wts.com/en/img/wts_Newsletter_VAT_1_2017.pdf
We hope that besides reading the WTS Klient Newsletter you will have time also to browse our VAT-News and that you will find them both useful.

Jürgen Scholz, Partner
Head of VAT / Global Co-Head Indirect Tax
WTS Steuerberatung GmbH / WTS Global

Applying the 183-day rule

> **"The number of days spent in the given foreign country must be precisely documented and registered as this can be decisive when assessing tax payment liabilities."**

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An increasing number of Hungarian companies are affected by tax issues related to postings. Almost every large business has already had, or currently has, foreign private individuals working with them for varying lengths of time, and many have posted their employees abroad. Employees usually remain employed by the posting company, they just perform their tasks in a different country, and they remain tax residents in their home country.

Assessing tax payment liabilities in these cases sometimes proves difficult too.

Treaties to avoid double taxation

Given that two countries are involved in the assessment of tax payment obligations in these cases, treaties between the two countries for the avoidance of double taxation (if there are any) have to be reviewed.

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WTS has published a booklet titled "Assignments to Europe 2017"

The international booklet "Assignments to Europe 2017" published by WTS in the summer offers you an overview of the tax, social security and immigration-related legal regulations and environment of nearly 30 European countries. The 90-page information reveals, among others, that in the case of an annual income of 100 thousand euros, Denmark has the highest personal income tax rate (56%), while Bulgaria has the lowest (10%). If you are interested in the details, please click here:
WTS Global Assignments to Europe 2017

If an employee works in a country other than their country of residence, according to the treaties they have to pay taxes on their employment income in the country they work in, as a general rule.

This seems simple enough, doesn't it? Unfortunately, however, tax rules concerning salaries are far more complicated than that. If the salary of an employee is not paid by the host country employer, it is not charged to the permanent establishment of the posting company in the foreign country, and the employee does not spend more than 183 days in the host country, they still pay tax in their country of residence.

The 183-day rule

The simplest case is when the salary is not paid by the host country employer and related expenses are not charged. In this situation, applying the 183-day rule is enough.

It is certainly important though to know the exact wording of the treaty. Under older treaties the 183 days were calculated within a financial or calendar year. Newer treaties, however, consider any 12-month period either starting or ending within a fiscal year as relevant.

Example: Hungarian-German treaty

The new Hungarian-German treaty is one of the latest treaties.

Any 12-month period starting or ending in a fiscal year shall be calculated from a given day of a given month until the given day of the 12th month thereafter. So if a Hungarian company sends an employee to Germany on 1 November 2017, the period to be reviewed will last until 31 October 2018, but the previous 12 months need to be checked too.

Suppose that the given employee returns to Hungary on 15 May 2018. They will not spend 183 days in Germany, either in 2017 or in 2018. However, since the employee will spend more than 183 days in Germany in the 12-month period starting on 1 November 2017, their salary for the period between 1 November 2017 and 15 May 2018 is subject to taxation in Germany.

Important! When reviewing the 183-day rule **all days of presence should be taken into account**, including weekends and paid holidays. So if the employee spends the weekends in Germany, this time must also be considered for the calculation outlined above.

What happens if the employee comes home to Hungary for Christmas? If the person leaves Germany on 22 December 2017 and only returns on 8 January 2018, the time spent in Germany will amount to just 180 days. Consequently, the salary received for the entire period of the posting will be taxable in Hungary.

If the employee returns to Germany again in August, even if only for a week, the posting will reach the threshold and pursuant to the 183-day rule they will be liable to pay taxes in Germany.

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"The new rules for registered office services significantly restrict the contractual freedom of the parties involved."

dr. Tamás Felsmann, WTS Klient Hungary tax law specialist

Source: inforadio.hu

Turn on your radio!

All businesses affected must report their registered office service to the NAV by 29 September 2017. Dr. Tamás Felsmann, tax law specialist at WTS Klient Hungary, discusses the stricter conditions for using these services on Info-Radio on the evening of 17 August. The interview reveals that the tighter rules are mainly designed as an efficient tool against phantom or fictitious businesses.

Listen to the conversation at this link!

Please note that the conversation is available only in Hungarian.

Taxation of the salary package

It is also important to define which parts of the employee's salary package will be subject to taxation in Germany. If an employee receives a **daily foreign allowance** with regard to their posting to Germany, this will be taxable based on German laws since it was received for work carried out in Germany. The employer might support the accommodation costs of the employee during the posting abroad. Based on Hungarian legislation, accommodation costs related to business trips are tax-exempt benefits, but German regulations might not be so favourable. As accommodation for the employee is only reimbursed by the employer because they are working abroad, the **housing allowance** will also be taxable in Germany – provided no exemption rules apply there.

The examples above clearly show that all aspects of a posting have to be analysed, and only a meticulous and comprehensive review can reveal exactly which country may impose taxes on the employment salary. It is important to note that the number of days spent in the given foreign country must be precisely documented and registered as this can be decisive when assessing tax payment liabilities.

Quick evaluation of investments – profit comparison

Profit comparison

Pros
- Opposed to the cost comparison it also considers the revenue aspect.

Cons
- We receive no information on the extent of any capital investment.
- We do not see the profitability.
- If the useful lives of the assets to be acquired are different, we can draw the wrong conclusions in the case of an incorrect calculation.

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In an earlier article we analysed how to prepare investment decisions quickly and efficiently. We clarified the most important principles and separated the investment calculations into a **static** and a **dynamic** group. With the static methods we can examine costs, profits, profitability and depreciation. The most known elements of the dynamic methods are value of capital, internal rate of return and annuity.

Under the static methods we first examined cost comparisons, establishing that this is simple, but if we are interested in the performance side of a project it is not enough. If we can plan the performance or output expected from the asset to be acquired, it can be worth examining the profit comparison method.

In what sense does a profit comparison do more?

In this case, not only the costs of the project or the investment are compared, but also its result and income-generating capacity. Thus, the **performance of the individual projects becomes measurable too**. This means an investment can be deemed more favourable even if it would otherwise have been neglected because of its higher overall cost.

If we manufacture products of nearly the same quality, then looking at the very costly investments it is worth selecting the one where production ensues at a lower unit price due to the higher capacity utilisation. Let us compare our planned costs for the whole year, but also consider the generated results. During a profit comparison calculation **we can convert potential quality differences between the products to be manufactured into HUF**, using the expected sales price difference.

A simple example of a profit comparison may look like this (with approx. EUR amounts)**:**

	old asset		new asset	
acquisition value	HUF 18,000,000	EUR 59,000	HUF 30,000,000	EUR 98,300
manufactured quantity (unit per year)	8,000		12,000	
sales price (per unit)	HUF 1,200	EUR 4	HUF 1,500	EUR 5
total revenues (per year)	HUF 9,600,000	EUR 31,500	HUF 18,000,000	EUR 59,000
total costs (per year)	HUF 1,800,000	EUR 5,900	HUF 6,900,000	EUR 22,600
total profit (per year)	HUF 7,800,000	EUR 25,500	HUF 11,100,000	EUR 36,400

From the example it is clear that while the cost is higher (nearly HUF 7 million – approx. EUR 22,900 – for the new asset as opposed to HUF 1.8 million – approx. EUR 5,900), the expected revenues are also higher (HUF 18 million – approx. EUR 59,000 – for the new asset, and HUF 9.6 million – approx. EUR 31,500 – for the old asset, so the difference is HUF 8,400,000 – approx. EUR 27,500). If we base our decision on the profit comparison, then obviously we will choose to replace the old asset.

What are the advantages and disadvantages of a profit comparison?

It does have a decisive advantage in that, as opposed to the cost comparison mentioned above, it also **considers the revenue aspect**.

The potential disadvantages of the method are as follows:

- We receive no information on the extent of any capital investment.
- We do not see the profitability.
- If the useful lives of the assets to be acquired are different, we can draw the wrong conclusions in the case of an incorrect calculation.
- We did not examine the risks of the investment.

Where can we use it?

- If the assets to be acquired are relatively independent of each other, use of a profit comparison is limited.
- It is the most practical method for a capacity expansion, especially when a profitability ratio can clearly be allocated to the assets.

Finally, do not forget that a profit comparison, as a frequently used static investment evaluation method, does not consider the cost of external financing or depreciation.

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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