September 2018

wts klient newsletter

WTS Klient.
The Bridge.

Dear Readers,

WTS Global has conducted a study of more than 70 countries to analyse the implementation status today of Action 13 of the OECD's BEPS action plan. The more than 300-page international study published last week, the WTS Global Transfer Pricing Country Guide 2018 covers the roll-out as well as focusing on other BEPS-related transfer pricing issues.

WTS experts in 73 countries took part in the research, responding to more than 50 questions in eight fields. The WTS research team summarised the results with illustrative graphs and diagrams on 10 pages. Highlighting some of the main findings, we can say that country-by-country reporting (CbCR) has been rolled out in most countries, and national tax authorities are paying close attention to transfer-pricing obligations during tax inspections almost everywhere.

If you have questions about transfer pricing rules in the given countries during your own business activity, it's certainly worth reading the study. The study cannot obviously respond to every practical issue involved, so if you still need information then please do not hesitate to get in touch with us.

The professionals at WTS Global are here to help.

Tamás Gyányi
partner

Contents

Dramatic changes in social contribution tax and health-care contribution system from 2019 » page 1
100% advance an option if residential property not completed by end of 2019 » page 3
VAT reclaim – Turkish and Serbian VAT will be reclaimable » page 5
Call-off stock simplification rule – avoiding registration as a Hungarian taxpayer » page 6

Dramatic changes in social contribution tax and health-care contribution system from 2019

Tax allowances to be discontinued from 2019:

Tax allowances incurred on

- employment of the under 25s
- employment of the over 55s
- businesses operating in completely free enterprise zones

Author: **Marianna Fodor**
marianna.fodor@wtsklient.hu

The Hungarian Parliament has accepted the 2019 tax law amendments aimed at making the tax regime more efficient. In our article we aim to provide some useful information about the consolidation and changes of the health-care contribution (eho) and social contribution tax (szocho) in order to facilitate related business planning for 2019.

Phase-out of health-care contribution

The health-care contribution and social contribution tax are to be consolidated; therefore, a **new act on social contribution tax** has been introduced in Hungary (Act LII of 2018 on Social Contribution Tax), which will come into force on 1 January 2019. The new law is compliant with the two acts (on health-care contribution and social contribution tax) currently in force, and is practically a mixture of the two.

The rate of the social contribution tax remains 19.5% of the tax base. Although the health-care contribution will be phased out as a tax type, the social contribution tax will be payable in the future instead as follows:

continued on page 2

WTS Global opens US desk in San Francisco and New York

After the South American tax market WTS Global now strengthens its footprint in North America by opening US desk in San Francisco and New York. With this step WTS Global will better support clients doing business in the United States. From 1 September, the Dutch tax lawyer Mark van der Linden leads WTS Global new offices as Chief Operating Officer. The office in San Francisco focuses on high-tech and IT driven companies and the New York office will be focusing on other industries.

- in relation to income taxed separately under the Personal Income Tax Act:
  - on fringe benefits [Section 71 of the Personal Income Tax Act],
  - on other benefits not considered fringe benefits [Section 70 of the Personal Income Tax Act], and
  - on income from interest allowances [Section 72 of the Personal Income Tax Act].

- In addition to the above paragraph, a social contribution tax liability (incurring a 14% health-care contribution so far) will arise as follows:
  - on income withdrawn from business accounts [Section 68 of the Personal Income Tax Act],
  - on income from securities lending [Section 65/A of the Personal Income Tax Act],
  - on dividends [Section 66 of the Personal Income Tax Act] and the corporate dividend base [Section 49/C of the Personal Income Tax Act], and
  - on income from exchange gains [Section 67 of the Personal Income Tax Act].

The legislation contains a tax rate of 19.5% instead of the 14% health-care contribution so far.

Consequently, the **tax payable** on these incomes **will increase** in 2019. Currently, the health-care contribution is only paid until the aggregate amount of the health insurance contribution and the 14% health-care contribution paid in one fiscal year reaches HUF 450,000 (approx. EUR 1,400). From 2019 social contribution tax shall only be payable until **the income of the natural person reaches an amount of 24 times the minimum wage in the reporting year**. When calculating this income threshold, fringe benefits, other benefits not considered as fringe benefits and incomes from interest allowances have to be excluded. To be specific, 19.5% of 24 times the 2018 minimum wage (HUF 138,000 – approx. EUR 425) is HUF 645,840 (approx. EUR 2,000), which is significantly higher than this year's ceiling. Additionally, this number will change further due to the change (increase) in the Hungarian minimum wage from 2019.

Changes to social contribution tax allowances

The new act on social contribution tax will partly do away with the tax allowances for employing the under 25s and the over 55s, and the tax allowance for businesses operating in completely free enterprise zones. Nevertheless, **new tax allowances will be introduced**; this way, allowances may also be claimed for employees with a reduced capacity to work and for civil servants, for example. Tax allowances for those entering the labour market will also be introduced.

New tax allowances from 2019:

Tax allowances incurred on

- employees with a reduced capacity to work
- civil servants
- people entering the labour market

Allowances that can be claimed in 2019:

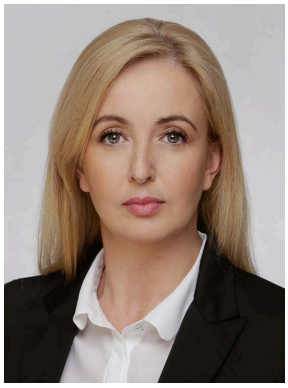
- tax allowances for those working in fields not requiring specialist qualifications and those employed in agriculture
- tax allowances for those entering the labour market
- tax allowances for women raising three or more children and entering the labour market
- tax allowances for employees with a reduced capacity to work
- tax allowances for civil servants
- tax allowances for the employment of researchers
- tax allowances for research and development

Payroll services

Our article does not fully cover the new act on social contribution tax, it only tries to present the most significant changes. Feel free to contact our payroll staff if you have any specific questions regarding the amended act.

Marianna Fodor
payroll services – director
+36 1 887 3766
marianna.fodor@wtsklient.hu

Our expert



Marianna Fodor
payroll services – director
Telephone: +36 1 887 3766
marianna.fodor@wtsklient.hu

Education

- payroll accounting
- social security manager
- tax consultant

Specialisations

- payroll
- social security
- fringe benefit

Languages

Hungarian, English

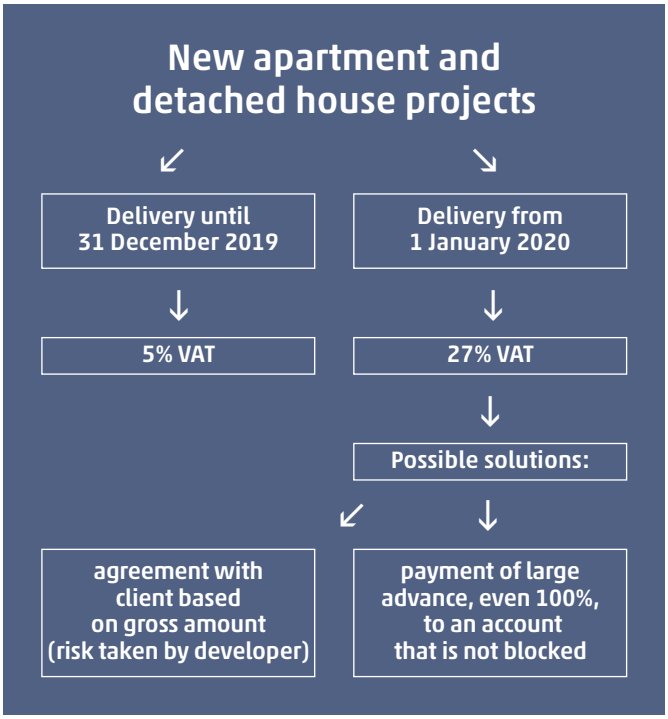
Latest publications

- Basic payroll principles: what employers in Hungary definitely need to know
- Fringe benefit system in 2018 in Hungary: more on offer for employees
- Rules for deductions from wages

100% advance an option if residential property not completed by end of 2019

Author: **Béla Kovács**
bela.kovacs@wtsklient.hu

The current legislative environment is fairly favourable for those buying a new apartment or detached house in Hungary. Only 5% VAT is applicable for such turnkey properties until the end of 2019. What can you do as a property developer, what should you look out for in ongoing construction projects and what is the solution if you already see that a delivery before 2020 is not feasible? How can an increase in the advance be helpful?



Legislative amendment from 2020

Customers and developers already know that instead of the current 5%, a VAT rate of 27% will be charged on new properties from the beginning of 2020, which is only eighteen months away. The main problems Hungarian property developers face are the following:

- How to sell as many properties as possible until this date?
- What to do with the properties not completed by this date?
- How to make properties deliverable in 2020 more attractive?

It is important to know that properties completed but **not already used for their intended purpose** and those already accepted for use but **not sold within two years** from the date of completion are also included in this category.

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

wtsklient.hu/2018/08/30/27-os-afa/
Please note that the conversation is available only in Hungarian.

No problem arises for sales agreements based on **a gross amount** as in such cases there is only a reference to the VAT included in the purchase price, so it is not influenced by a change in the VAT rate. This solution, however, poses a high risk for property developers if the delivery is postponed until after 2019 when the higher VAT rate must be applied.

Delivery date and advance

From a VAT perspective, the VAT rate applied in the invoice is determined by the date of delivery. The problem is that **determining the delivery date is a complex issue** for property sales depending on the agreement of the parties (whether there is an option for a partial delivery, an advance, under what conditions do the parties consider the transaction completed, etc.) As a result, in relation to properties delivered after 2019 the question arises as to whether paying the greatest possible proportion of the purchase price with a lower VAT rate before the date of completion can be a solution for customers. The amount paid to the developer before the date of completion is considered an advance for VAT purposes, with a different delivery date. For amounts paid before 2020 developers have to issue an invoice including a 5% VAT rate: the advance paid will be a gross amount, i.e. the current VAT amount will be included.

Solution: paying a 100% advance?

Based on an opinion regarding taxation that has been known for years (and recently confirmed by the Ministry of Finance), **no further VAT payment liability occurs** on the date of completion if the total amount of the consideration **has been paid as an advance**. Here it means that if the property developer receives the total amount of the consideration as an advance before the date of delivery, the VAT charged on the total amount of the purchase price is determined based on the rate applicable when the amount is paid, which is 5% before 2020. This method is feasible related to any advance amount, and 27% VAT will only be charged on the remaining net amount (provided that the contract includes a net amount plus VAT arrangement). So upon payment of the total purchase price, no portion remains for which 27% VAT is applicable, thus the effect of the change of the VAT rate can be eliminated.

Practical issues

This method can make projects slightly more marketable where property developers cannot guarantee delivery before the end of 2019. However, you need to consider whether your potential customers are willing or able to pay such a large advance, taking into account that the property they wish to buy perhaps only exists on a drawing board. It is clear that the closer the project is to completion in December 2019, the easier it is to convince the parties involved - including financing banks - to "pre-finance".

The opinion recently published by the Hungarian Ministry of Finance clarified another important practical question: what happens if the amount of the **advance received from the bank is**

paid to an escrow account? According to legislation, since an amount is considered an advance if it is available to the seller of the product (received by or credited to the seller's account), and this condition is not satisfied in the case of a blocked account, then according to VAT rules the amount paid **is not considered an advance**.

Value added tax consulting

Should you have any questions, feel free to contact our tax experts, who will gladly help you in assessing tax options related to specific projects.

Béla Kovács
senior manager
+36 1 887 3730
bela.kovacs@wtsklient.hu

→ Our expert

Béla Kovács
senior manager
Telephone: +36 1 887 3730
bela.kovacs@wtsklient.hu

Education

- economist
- certified tax advisor
- certified value added tax expert

Specialisations

- tax advisory in all tax types
- value added tax planning
- tax authority inspections
- reviews of transfer pricing documentation obligations
- due diligence reviews

Languages

Hungarian, German, English

Latest publications

- Transfer tax exemption in property sales in Hungary
- Tax implications of property development
- Lubricating oil and excise tax: whats this about?

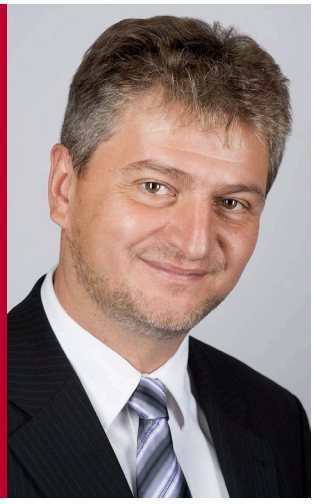
❖ ❖ ❖

wts

"Every contribution entails a tax credit of 7.5% for companies supporting spectator team sports."

Zoltán Lambert , WTS Klient Hungary managing partner

Source: inforadio.hu



Have you heard?

Since its introduction in 2015 the most favourable and popular form of supporting Hungarian spectator team sports is through tax allocations. "To be able to submit your tax return to the national tax authority on 20 December allocating a sum from the year-end corporate tax top-up, you should start examining the potential allocation amount, the terms and conditions that need to be complied with, and the associated administrative measures now", says Zoltán Lambert. The managing partner of WTS Klient Hungary elaborated on the advantages and possibilities of supporting spectator team sports in an interview on InfoRadio. The expert also discussed why a system supporting Hungarian spectator team sports is in the national economic interest.

Listen to the conversation at this link!
Please note that the conversation is available only in Hungarian.

VAT reclaim – Turkish and Serbian VAT will be reclaimable

Author: **Tamás László**
tamas.laszlo@wtsklient.hu

The deadline for any reclaim of foreign VAT is 30 September. Thanks to this special procedure to be initiated at the Hungarian Tax Authority by submitting an **ELEKÁFA form**, VAT on an invoice issued by a German hotel with respect to the accommodation of the managing director of a Hungarian company can be reclaimed. Besides EU countries, Switzerland, Liechtenstein and Norway, we can follow similar procedure to reclaim Serbian or Turkish VAT in the future too.

Strict deadlines applied for a reclaim of foreign VAT

In line with EU regulations, Hungarian taxpayers can reclaim the VAT charged in other Member States. The same applies if there is reciprocity in place between Hungary and a third country. At the moment there is reciprocity with the following countries: **Swiss Confederation**, **Principality of Liechtenstein** and the **Kingdom of Norway**. The request must be submitted **by 30 September of the year following the reporting year** to reclaim VAT from an EU Member State, and it is good to know that no request can be submitted due to failure to comply with this deadline. So for example, if you submit an invoice issued in 2017 on 1 October 2018, or you would now like to submit an invoice issued before 2017, your request will be rejected. Since the procedural rules remained unchanged this year, we recommend our readers check the detailed guidelines on the reclaim procedure we published last year.

One new feature is that according to Act XLI of 2018 on the amendment of certain tax laws and related legislation, the legislator has extended the list of so-called third countries (outside the European Union) with the **Republic of Serbia** and the **Republic of Turkey**, and thanks to the reciprocity, Hungary offers taxable persons established in these countries an opportunity to reclaim VAT.

Reclaiming foreign VAT

The tax consultants at WTS Klient Hungary will be happy to assist you if you need assistance in submitting a foreign VAT reclaim request. Our experience shows that the process does not always go smoothly; if a foreign tax authority rejects the reclaim request of a Hungarian company, we will gladly provide expert support **via the WTS Global offices located in the relevant countries**. Similarly, if a foreign company would like to reclaim Hungarian VAT and receives a decision rejecting their request, we are happy to examine whether it is possible to reclaim the VAT with a well-prepared appeal.

Tamás László
manager
+36 1 887 3748
tamas.laszlo@wtsklient.hu

Reclaimable foreign VAT

Reciprocity with Serbia and Turkey

For Serbia the rule is applicable from 1 January 2019 (based on the verbal briefing received from the NAV for invoices issued after 31 December 2018), while in the case of **Turkey** it takes effect on the day after the decision by the Minister for Tax Policy on the receipt of the notification sent by the Republic of Turkey to Hungary regarding tax refunds granted to taxable persons established in Turkey is published in the Hungarian Gazette. The essence behind this complicated sentence is that a few formal steps are still required in relation to Turkish reclaims, so **the exact date the rule takes effect has not yet been specified**.

The tax refund entitlement of taxable persons established in Turkey for business purposes will be limited to the supply of goods and services as follows:

- fuel and road services purchased for the **transport of goods or passengers**, products or services used for the operation or aintenance of motor vehicles;
- product or service used to attend an **exhibition or fair** as an exhibitor.

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

wtsklient.hu/2018/09/20/afa-visszaigenylese/
Please note that the conversation is available only in Hungarian.

Our expert

Tamás László
manager
Telephone: +36 1 887 3748
tamas.laszlo@wtsklient.hu

Education

- economist
- certified tax advisor
- certified value added tax expert

Specialisations

- tax advisory
- value added tax planning
- tax authority inspections
- reviews of transfer pricing documentation obligations
- due diligence reviews

Languages

Hungarian, German, English

Latest publications

- Right to deduct VAT and right for a refund of VAT
- Tax law judgment on chain transactions based on new case ruling by Court of Justice of European Union
- Increasing administration when deducting input VAT

❖ ❖ ❖

Call-off stock simplification rule – avoiding registration as a Hungarian taxpayer

Author: **Zoltán Cseri**
zoltan.cseri@wtsklient.hu

Manufacturing firms in Hungary normally have a lot of foreign suppliers, mainly from the EU. For taxation purposes it can be particularly important for them to know whether they can apply the call-off stock simplification rule. In this article I would like to respond to the key questions related to applying the call-off stock simplification rule.

What does call-off stock mean?

Call-off stock is given an exact definition by the Hungarian VAT Act. Accordingly, "call-off stock means **goods physically placed in a warehouse owned or rented by the future customer of the goods for stockholding purposes**, which are available to the future customer as the owner during the storage period. In the course of this period neither party is entitled to utilise or make

Call-off stock

- Seller not registered in connection with these goods
- Warehouse owned or rented by customer
- Customer is a Hungarian taxpayer
- Stock remains owned by seller until used by customer
- Seller registered in EU

use of the goods in any other manner, except for testing or trial production purposes. Furthermore, the goods are physically removed from the storage when the supply of goods is initiated by the future customer."

In the context of the Hungarian regulation, call-off stock is thus basically the stock of a seller from another Member State stored at the Hungarian customer (in the warehouse owned or rented by the customer), where the goods are used from the stock and supplied at the customer's discretion, and the seller remains the owner of the goods stored at the customer until they are needed.

What is the essence of the call-off stock simplification rule?

The call-off stock simplification rule means that **the seller from another EU Member State** is not required to register as a Hungarian taxpayer because of the call-off stock stored in Hungary; consequently, it is not necessary to report the stock supply as the shipping of own goods and charge Hungarian VAT when selling the stock later on. **Two transactions become one**, namely, for the seller this means a tax-exempt sale within the EU, while for the customer it is an intra-EU purchase using the stock.

Under what conditions can the call-off stock simplification rule be applied?

Several conditions must be met simultaneously to apply this rule. What is important to note at the outset is that the call-off stock simplification rule may be applied if all the conditions are met, but **it is not mandatory**.

One of the most important rules is that **it is only applicable for partners from EU Member States**. So the simplification rule cannot be applied if a seller from a third country wants to store call-off stock in Hungary, the seller must register as a taxpayer in Hungary. I would also like to note that as the application of the simplification rule is not mandatory at EU level, there are some Member States – including Hungary – who apply the rule while others don't.

Another important condition also included in the definition of call-off stock is that the stock is stored in a warehouse owned or rented by customer. So a **warehouse rented by the seller is not enough** to apply the call-off stock simplification rule. The definition of call-off stock also states that the call-off stock must be **owned by the seller**.

The application of the call-off stock simplification rule is also subject to the **customer being a Hungarian-registered taxpayer** with no special legal status, who is thus qualified to fulfil the tax payment obligation arising from the simplification rule. Last but not least, one further requirement is that the seller may not be registered in Hungary in relation to the sales of the call-off stock.

Tax planning

If your foreign company is a supplier of a Hungarian partner and is considering having stock in Hungary, it is advisable to take a look at the tax planning options related to call-off stock. Feel free to contact us and our experts will gladly help you understand the rules related to call-off stock.

Zoltán Cseri
manager
+36 1 887 3747
zoltan.cseri@wtsklient.hu

What does "relation" mean in the context of selling the call-off stock?

The last requirement probably needs to be clarified in more detail, as having heard about this rule most people ask what kind of "relation" is implied here, and whether it is possible to apply the call-off stock simplification rule if the seller was already registered in Hungary because of a previous transaction.

Basically, if the seller is already registered in Hungary we need to examine **the extent to which the planned supply of goods from the call-off stock is related to the previous transaction for which the registration was made**. If registration was required because of the supply of services and not goods, you can be sure that the above condition is met as the seller was not registered in relation to this transaction. However, the situation is not so simple if the registration was based on the supply of goods. Further examination is required in this case to decide how closely the previous supply of goods is related to the new sale from call-off stock. In our view – and as confirmed by the Hungarian Tax Authority in a tax question from 2017 – if the goods sold, the sales method and the customer are different, there is no close relation between the supplies of goods.

Please note that according to the tax authority's position regarding the tax issue above, the call-off stock option can also be applied if the registered seller has already supplied goods using its Hungarian tax number in relation to the new call-off stock, because the registration was made for different goods.

continued on page 8

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

wtsklient.hu/2018/09/13/vevoi-keszlet/
Please note that the conversation is available only in Hungarian.

The simplification rule in practice

Let's take a simple example to understand the call-off stock simplification rule.

Company "A" is registered in another EU Member State, and was previously registered in Hungary as a taxpayer to provide property services in Hungary to private individuals. "A" is planning to sell spare car parts in the near future in Hungary to a Hungarian automotive company (hereinafter: "B"). "B" has an ongoing need for spare parts, so the parties are considering keeping stock in Hungary. "B" does not have enough warehouse capacity so it recommends a logistic service provider (hereinafter: "C") located near company "A". "C" and "A" enter into an agreement. "A" will use the logistic services of "C", including warehousing, and the goods will remain owned by "A" until they are used by "B".

The question is whether the call-off stock simplification rule can be applied in this case. The answer is no because the warehouse where the stock of "A" is stored is not owned or rented by "B". The simplification rule would be applicable if this condition were changed.

→ Our expert

Zoltán Cseri
manager
Telephone: +36 1 887 3747
zoltan.cseri@wtsklient.hu

Education

- certified VAT expert
- tax consultant
- environmental product fee administrator
- economist

Specialisations

- tax consulting in various taxes
- consulting on environmental product fee
- VAT registration
- preparation of transfer pricing documentation

Languages

Hungarian, German, English

Latest publications

- Product fee warehouse – product fee payment liability can be avoided
- How to reclaim money from the NAV: the benefits of health fund membership
- Changes to the Act on the Environmental Product Fee

❖ ❖ ❖

Services of the WTS Klient Hungary:

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

You can request for our online offer by one single click:

Online offer >

You can sign up for our newsletter by one single click:

Sign up >

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.

WTS Klient Hungary
1143 Budapest • Stefánia út 101-103. • Hungary
Telephone: +36 1 887 3700 • Fax: +36 1 887 3799
info@wtsklient.hu • www.wtsklient.hu

WTS Klient Ltd.
H-1143 Budapest, Stefánia út 101-103.
Registration number: 01-09-930353

WTS Klient Tax Advisory Ltd.
H-1143 Budapest, Stefánia út 101-103.
Registration number: 01-09-978231