



Dear Readers,

March signals the beginning of spring, and it was only a couple of weeks ago when we celebrated women on International Women's Day. It might just be a coincidence, but our newsletter for this month is dominated by female authors too. What is more, we are proud to introduce our new expert, Emese Balog, who examines the social security aspects of today's hottest issue, Brexit, on page 8 of the newsletter.

In this edition you can also read about the legislative amendments of 2019, especially with regard to loss carry-forwards and using such losses, the tax-exempt status of export freight and related services, as well as the introduction of the 2019 family support system. Our labour law expert details in her article what the new system of voluntary overtime actually means.

And if you are already immersed in domestic issues, take a trip round the world with us and browse through the latest WTS Global VAT Newsletter. If you still have questions, feel free to contact us. Our professionals are here to help.

Zoltán Lambert
managing partner

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New legal concept of voluntary overtime in Hungarian Labour Code

"According to the general rules in Hungary, the highest number of unscheduled working hours is **250 hours** per calendar year. As an additional rule, based on an agreement between the employer and the employee on voluntary overtime a maximum of **150 hours** additional unscheduled working hours can be ordered per calendar year."

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With the amendment to Act I of 2012 on the Hungarian Labour Code effective from 1 January 2019, the **rules for unscheduled working hours** were extended with the legal concept of voluntary overtime. In this article we will review the most important rules for voluntary overtime.

Increase in annual unscheduled working hours with an agreement on voluntary overtime

According to the general rules in Hungary, the highest number of unscheduled working

hours is **250 hours** per calendar year. As an additional rule, based on an agreement between the employer and the employee on voluntary overtime a maximum of **150 hours** additional unscheduled working hours can be ordered per calendar year.

Based on a collective agreement provision, the highest number of unscheduled working hours is still **300 hours** per calendar year according to the general rule. Over and above this, a supplementary rule states that based on an agreement between the employer and the employee on voluntary overtime, up to **100 hours** of additional unscheduled work can be ordered per calendar year. continued on page 2

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

Q1 2019

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WTS Value Added Tax
Newsletter

The WTS Global VAT Newsletter edition for Q1 2019 reports on recent or expected changes in VAT and GST regulations in various EU and third countries.

You can download WTS Global VAT Newsletter for Q1 2019 in PDF format here:

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If the employment started during the year and was agreed for a fixed period, or is part-time, you have to bear in mind that the unscheduled working hours must be adjusted proportionally, so in such cases the rules for the maximum annual amount of unscheduled work are applied **pro rata**.

Voluntary overtime based on consensus between the parties

Voluntary overtime is based on a consensus between the employer and the employee, i.e. the parties can freely decide whether they want to conclude the **agreement** on the voluntary overtime. An employee cannot be forced to sign an agreement on voluntary overtime.

Any agreement on voluntary overtime has to be concluded in writing

Based on the Hungarian Labour Code, any agreement on voluntary overtime has to be entered into in writing. What is important is that this can **take place at any time during the calendar year**. The parties have to conclude the agreement on voluntary overtime again every calendar year.

Voluntary overtime and working-hour records

In addition to [normal and unscheduled working hours](#), stand-by duties and [holidays](#), employers **must record** the number of unscheduled working hours completed based on the agreement on voluntary overtime. Additionally, employers have to keep records on the agreements for voluntary overtime.

Termination of agreement on voluntary overtime

An employee **can terminate** the agreement on voluntary overtime **as of the end of the calendar year**, which cannot be penalised

Zoltán Lambert, managing partner of WTS Klient Hungary talked about this topic on InfoRadio.



Listen to the conversation at this link:

wtsklient.hu/2019/03/07/tulmunka/

Please note that the conversation is available only in Hungarian.

by the employer, so this cannot serve as a basis for any detrimental legal consequence or termination of employment.

Employees in Hungary can be motivated to sign an agreement on voluntary overtime by offering them higher remuneration. However, it is important that when concluding an agreement on voluntary overtime and ordering unscheduled working hours based on such agreement, the employer should focus closely on the requirement to ensure healthy and safe working conditions when allocating working hours, and safeguard compliance with general behavioural requirements.

Labour law consulting

Should you have any questions regarding unscheduled working hours, we are happy to assist you as part of our [labour law consulting services](#).

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Family benefits in 2019

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It is common for the **amounts of family benefits to change every year** in Hungary, and this year is no different. However, besides the amounts, this year the form and entitlement to family benefits is also changing, and let's face it, it is not always easy for employees and employers alike to navigate among the amendments. In this article we give a brief overview of what benefits and allowances parents are entitled to in 2019, and what compulsory or optional benefits possibly subject to preferential tax rates companies may offer to their employees with children.

Family benefits in Hungary in 2019

- paternity leave
- supplementary leave for children
- family tax relief
- newlywed allowance
- crèche and nursery services
- maternity benefit, csed, gyed, gyes, gyet

Paternity leave

Following the birth of their child, **fathers are entitled to five days of paid leave**, which they may take in one or in several parts until the end of the second month after the child is born. Any income and taxes related to this period of supplementary leave are reimbursed to the employer by the Hungarian State Treasury.

Supplementary leave for children

In Hungary, both parents have the right to claim extra paid leave based on the number of children they have, which amounts to **two days for one child, four days for two children, and six days for three or more children**. This supplementary leave may first be claimed by parents in the year the child is born, and for the last time in the year the child turns 16.

Family tax relief

Individually or on a shared basis, parents can reduce their consolidated personal income tax base based on the number of children they have. This means the personal income tax base may be reduced by as much as HUF 66,670 (roughly EUR 210) per month with one child, by HUF 133,333 (roughly EUR 420) per child per month with two children, and by HUF 220,000 (roughly EUR 690) per child per month with three or more children. With regard to the amount of tax this translates to a reduction of **HUF 10,000, HUF 20,000 and HUF 33,000** (roughly EUR 31, 63 and 104) per child. Parents can also claim the family tax relief from the 91st day of the pregnancy.

If the personal income tax base is not enough to claim the entire family tax relief, parents may **use this allowance for their health-care contribution or pension contribution** (family contribution relief).

Here we need to mention the **newlywed allowance** too, which can be claimed by couples for 24 months after the wedding where this is the first marriage for at least one of the spouses. Individually, or together, the couple can claim a monthly total **tax base allowance of HUF 33,000** (roughly EUR 105), which in practice reduces tax by HUF 5,000 (roughly EUR 16) – regardless whether the couple claims the family tax relief or not.

Crèche and nursery

Crèche and nursery services for employees' children may be reimbursed as **tax-free benefits** based on an invoice, up to the amount of the cost incurred.

Back-to-school vouchers

In previous years, back-to-school vouchers for primary or secondary school children were a popular element of the fringe benefit system. From 2019, however, this type of benefit is **subject to the same tax rate as wages**.

Family allowance

The Hungarian state provides a family allowance for parents from the birth of their child until the child finishes his or her education, but no later than the school year in which the child turns 20. It amounts to **HUF 12,200 (roughly EUR 38) for one child, HUF 13,300 (roughly EUR 42) per child in the case of two children, and HUF 16,000 (roughly EUR 50) per child if there are three or more children**. Parents raising children on their own – or if the child is terminally ill or seriously disabled – are eligible for a higher family allowance.

Maternity benefit

Women who attended prenatal care at least four times during their pregnancy are eligible for a state-granted maternity benefit amounting to **HUF 64,125 (roughly EUR 200)** in 2019.

Family benefits for childcare

Infant care benefit (csed) is provided for women who had social security for at least 365 days within the two years prior to their child's birth. Infant care benefit is provided for the duration of maternity leave, i.e. for 168 calendar days.

Child care benefit (gyed) is provided until the child turns two, and is paid to women who had social security for at least 365 days within the two years prior to the child's birth. In 2019 the ceiling for the child care benefit is set at HUF 208,600 (roughly EUR 656) per month. With child care benefit the mother is entitled to work regular hours after her child turns six months old.

Child care allowance (gyes) amounts to HUF 28,500 (ca. 90 EUR) per child per month in 2019. With the child care allowance, similarly to the child care benefit, the mother is entitled to work regular hours after the child turns six months old. Parents or grandparents are eligible to receive the child care allowance until the child turns three.

In 2019, parents and grandparents raising three or more children may claim **child raising support (gyet)** of HUF 28,500 (ca. 90 EUR) per month while the youngest child is aged between three and eight. With child raising support, however, the parent or grandparent can only work 30 hours a week, or work from home without any working-hour restrictions.

Other family benefits

The family benefits listed above, applicable in Hungary in 2019, are just the most general and typical cases. Naturally **there are**

special cases and provisions not elaborated here, but our specialists are happy to give you more information for your company about any of the family benefits available in 2019.

Payroll

If you want to learn more about what compulsory or optional forms of benefits you can offer to your employees with children, and possibly with preferential tax rates, do not hesitate to contact [our payroll team!](#)

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Loss carry forwards

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An important change in the Hungarian rules regarding loss carry forwards took effect at the end of 2018. **Loss carry forwards incurred up until the last day of the fiscal year commencing in 2014** and not yet claimed in the tax base may be written off by the taxpayer according to the rules prevailing as of 31 December 2014. Pursuant to the amendment to the Corporate and Dividend Tax Act, companies **may use** such losses **until the fiscal year including 31 December 2030**, not 2025. As the regulation of loss carry forwards has changed, below we summarise all the rules pertaining to losses that can currently be used.

Loss carry forwards

Taxpayers may use their negative tax base from given fiscal years as a deductible item for tax bases in following years, in line with the prevailing rules. This is what we refer to as loss carry forwards.

Over time, the **rules** regarding loss carry forwards and using them have **changed many times**. Different rules apply for business entities operating under unchanged circumstances, companies established via [transformation](#), continuing to operate after transformation, or real estate investment entities, etc. In this article we focus on the time aspect of using losses generated in various fiscal years.

Losses generated prior to 2009

In line with the rules effective **before 2003**, losses **could be used in the following five fiscal years**, and if such losses were not used by the taxpayer they have now expired.

From 2004 losses **could be carried forward indefinitely**, although **some cases** of loss carry forwards **were subject to authorisation**. This authorisation was necessary for losses generated in a company's fourth fiscal year after its foundation or afterwards, if the following conditions were met:

- sales revenues in the given fiscal year did not amount to 50% of the costs and expenses accounted for;
- the company had a negative tax base in the two previous fiscal years.

If neither of these conditions were met by the taxpayer, recognising loss carry forwards required no authorisation.

From 2005, the rules changed somewhat. From then on, loss carry forwards needed authorising if

- the company had a pre-tax loss in the given year **and**
- revenues in the given tax year did not reach 50% of the costs and expenses accounted for, **or**
- the company had a negative tax base in the two previous fiscal years.

New changes

Hungarian legislators accepted a new modification with **the 2009 year-end tax amendments** which could be applied for loss carry forwards in 2009. Losses generated from then on could be carried forward **indefinitely and without authorisation**.

Current rules

According to legislation in effect in Hungary **since 2015** the negative tax base of a given fiscal year can be used by the taxpayer **in the next five fiscal years**. The law includes a **transitional rule** with regard to losses carried forward indefinitely from a previous period. Losses generated in a fiscal year no later than the one including 31 December 2014 may be used as deductibles for tax purposes until no later than the fiscal year including 31 December 2025.

The legislative amendment **extended this deadline until 2030**, meaning that companies may deduct such losses from their tax base in their corporate tax return for the fiscal year including 31 December 2030.

The fact that the law prescribes a **FIFO rule** for using such losses, i.e. earlier losses must be used up first, has created a unique situation. Companies that have substantial loss carry forwards from a period before 2015 may not necessarily be able to use their losses incurred after 2015 since these expire in five years.

The following table shows with a few examples how loss carry forwards can be used with regard to a normal financial year. It is clear that if a company does not use its pre-2015 losses until 2020, it will not be able to use any loss generated in 2020.

Loss incurred	Use expires
2003	expired
2004	2030 (potentially subject to authorisation)
2008	2030 (potentially subject to authorisation)
2009	2030
2014	2030
2015	2020
2020	2025
2025	2030

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WTS Global tops Chambers Ranking

For the 8th time [WTS Global has been ranked](#) in the Tier 1 category on the Chambers Ranking list of global tax advisory networks. Chambers & Partners has been ranking the world's lawyers and law firms in different categories and locations since 1990. The 2019 list was compiled based on thousands of interviews conducted by around 200 researchers at the London-based company, resulting in an excellent rating for WTS Global in the category of "global tax advisory networks".

Loss carry forwards and the use thereof is a key issue. Without proper records we run the risk of **losing the possibility to use these losses**, or the other way round, we use the losses but fail to pay attention to the restricting rules. In this respect we only need to think of the **50% threshold applicable since 2012**, according to which loss carry forwards of previous years may reduce the pre-tax profit by up to 50% of the given fiscal year's tax base without the losses.

Tax consulting

If you wish to know what options your company has with regard to loss carry forwards, and how to use them, and you need expert help, please do not hesitate to contact the [tax advisers](#) at WTS Klient Hungary.

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- » tax planning in all tax types

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Languages

Hungarian, German



Changes to tax-exempt status of export freight

Author: **Tamás László**
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"You need to make sure that you do not accept an invoice including VAT if you are the company that carries out the export, and only this invoice can be tax-exempt in the subcontractor chain. For the previous invoices the VAT in Hungary of 27% has to be added."

The provision of the Hungarian **VAT Act** that regulates the tax-exempt status of **services directly related to exported products**, such as export freight, changed as of 1 January 2019. Based on this change, the **tax-exempt status** is only applicable if the service is provided for the **exporter of the product**. So what was the previous rule, and what is the reason for this small yet all the more important change now? And how will the modified tax-exempt status of export freight affect businesses?

Former taxation practice for export freight

Based on Section 102 (1) b) of the VAT Act, exemption shall be granted for the supply of services if this is directly related to goods which leave the territory of the Community in an export procedure, and this exit from the territory of the Community is verified by the customs authority in the country of exit. In short, this means that a **service** (e.g. forwarding and ancillary services) **related to exported products was tax-exempt**.

Let's take a Hungarian company for example (Company A) that exports products to Brazil, and engages a Hungarian forwarding company (Company B) to transport the product. Company B engages a Hungarian truck company (Company C) to deliver the products to Hamburg where they are loaded onto a ship. In this scenario, Company C issued an invoice without VAT for Company B, which in turn issued an invoice without VAT for Company A, given that the transportation and associated transportation organisation services are related to products exported from Hungary to Brazil.

The applicability of the rule on the tax-exempt status of the export freight was clear, entities in the industry followed this practice.

Case No. C-288/16

The **judgment passed in an EU court case** where the Court focused on the relevant provisions of the VAT directive ("Directive") **changed** the above taxation practice of export freight along with the interpretation of the related rules.

In this case, the Court examined a situation in Latvia that was similar to the above scenario, only that the route ran between Latvia and Belarus, and that (continuing the above example) Company C rented out its means of transport to Company D, whose task was to drive, repair and fuel the transportation vehicle, complete and submit the customs documentation at the border, guard the cargo, transfer it to the recipient, and perform all the loading and unloading work. Since Company D believed the services it provided were related to a goods forwarding procedure, it applied a 0% tax rate to the services.

The related provision of the Directive states that Member States shall exempt the supply of services from tax where such is directly connected with the exportation or importation of goods.

However, based on the decision of the Court **the tax-exempt status** prescribed in this provision **cannot be applied** to a supply of services relating to a transaction consisting in the transport of goods to a third country, such as in this case, **where those services are not provided directly to the consignor or consignee of those goods**.

The judgment of the Court was promulgated on 29 June 2017.

What will change in the tax-exempt status of export freight from 2019?

From 1 January 2019, the prerequisite for the tax-exempt status of export freight and ancillary services is that the service should be provided directly to the exporter of the goods. So the amendment means you need to make sure that you do not accept an invoice including VAT if you are the company that carries out the export, and **only this invoice can be tax-exempt in the subcontractor chain**. For the previous invoices the VAT in Hungary of 27% has to be added. The question that arises in connection with the amendment is that while, based on the Court's judgment, the tax-exempt status may be applied if the service is provided for the consignor or consignee of the goods, the Hungarian VAT Act only allows exemption if the user of the service is the one who carries out the export with the product; in our opinion, this is not necessarily the same thing.

Should we only pay attention to the export then?

It is not just with cases of export freight that we need to pay attention, i.e. when the products are subject to an export procedure and leave the territory of the Community, and all this is verified by the customs office in the country of exit - the **exemption works in the case of other transactions** too (though here the tax-exempt status only applies for invoices issued to the taxpayer performing special transactions). Such special transactions include, for example, when

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Value added tax consulting

There are several international groups among more than four hundred clients of WTS Klient Hungary for whom we provide tax consultancy services in respect of their export activities. Please do not hesitate to contact us if you need expert advice to comply with the changed legislation.

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- work is performed in Hungary on a product imported from a third country, and then the product is transported outside the territory of the Community,
- the product is subject to a temporary importation procedure involving full customs-free status,
- the product is subject to an external Community goods forwarding procedure, or
- the product is subject to temporary safekeeping while it is put through customs procedures,

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



wtsklient.hu/2019/03/21/export-fuvar-adomentessege/
Please note that the conversation is available only in Hungarian.

- the product is entered into a bonded area or bonded warehouse,
- the product is processed under customs supervision.

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- » due diligence reviews

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Brexit effects on social security

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At the end of our [previous article](#) in which we provided a comprehensive overview of the direct and indirect effects of Brexit on taxation, we mentioned a few key factors related to Brexit effects on social security. In this article, prompted by **Bill No. T/4821** submitted by the government and approved by Parliament on 19

“The amendment to the Hungarian regulation ensures the governing rules in accordance with the previously applied provisions on social security systems can still be applied – temporarily, until 31 December 2020 – even if the United Kingdom leaves without a deal.”

March, we look in detail at the Brexit effects on social security that are most likely to affect postings. This law **provides for legislative changes in the event of a disorderly Brexit, thus mitigating the uncertainty related to social security obligations.**

Source of uncertainty regarding Brexit effects on social security

The first and most important change regarding a disorderly Brexit effects on social security is that if the withdrawal agreement is not approved, then upon leaving the European Union the **United Kingdom will become a third country** in terms of [social security issues](#) with immediate effect, as the social union regulations will no longer be applicable.

No social security agreement has been reached between Hungary and the United Kingdom that – similarly to the Coordination Regulation (2004/883/EC) – would provide for applicable social security rules for the contracting countries, for example **rules determining the social security (contribution payment) obligations related to postings between the two countries.**

This raises the question of what procedure should be applied for postings starting after Brexit, and what social security rules should be followed if a posting has started before a disorderly Brexit takes place.

Postings starting after Brexit

Since the United Kingdom would be considered a third country if it is no longer an EU Member State, the so-called **two-year rule** governing postings and set out in Section 11 (2) a) of Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for these Services would need to be applied.

Namely, **social security would not cover employees and they would be exempted from the social security payment obligation** if the following conditions are met:

- the employer is not registered in Hungary,
- the employee is employed in the territory of Hungary,
- the employee classified as a foreign employee according to the Social Security Act is a citizen of a third country (e.g. the United Kingdom),
- **the duration of the posting or employment does not exceed two years,**
- three years have elapsed from the conclusion of the previous work performed in Hungary.

Pursuant to Section 5 (2) d) of Act LII of 2018 on Social Contribution Tax, foreign employers are not obliged to pay social contribution tax.

According to the law, when assessing the three-year condition for employment in Hungary, postings that started before the Brexit date should be ignored until 31 December 2020.

Postings already in progress

Postings that started earlier, before Brexit, either in Hungary or the United Kingdom, **should be regarded as postings** until the date known as of the start date, but until **no later than 31 December 2020**. Consequently, until the above date British employers would be exempted from the obligation to pay social security contribution for postings in progress on the day of the Brexit.

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



Listen to the conversation at this link:

wtsklient.hu/2019/03/28/brexit/

Please note that the conversation is available only in Hungarian.

The ultimate aim of the approved law is to reduce the uncertainty related to the social security effects of a disorderly Brexit. The amendment to the Hungarian regulation ensures the governing rules in accordance with the previously applied provisions on social security systems can still be applied – temporarily, until 31 December 2020 – even if the United Kingdom leaves without a deal.

Expatriate taxation

If you would like more detailed information on how the Brexit effects on social security may affect your company, please get in touch with the [tax experts at WTS Klient Hungary](#).

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