

wts klient newsletter

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The Bridge.



Dear Readers,

Last October, at the 20th birthday celebrations of WTS Klient, Zoltán Lambert, our managing director made a remarkable statement. He said that without renewal and constant technological improvement there is no future, you cannot be at the pinnacle of your industry, and you cannot retain the hard-earned trust of your customers, in this case you. On the path marked out by WTS Global and after many months of preparation, this April our website has been renewed. You will find the usual wealth of constantly up-dated professional content at the customary [website address](#), but in a totally new format and with a fresh design. Together with this revamped website our monthly newsletter has undergone its own visual renewal too, providing you with up-to-date information on our sectors with the same accuracy and authenticity, but with more colour and pictures. Among other things, this month we elaborate on how to increase employment in Hungary, what GDPR prescribes for keeping records of personal data breaches, and our newly joined expert, Gábor Németh, will tell you all about the new interest deduction limitation rules that took effect this year. We hope you enjoy the newsletter and the website!

Esther Lausek
marketing, pr

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Comprehensive package could further boost employment in Hungary

Supporting mobility and retraining are key factors here

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Employment figures in Hungary are at an all-time high, and unemployment rates are at their lowest in recent years. Nevertheless, experts in the field – the Ministry of Finance included – believe the system still has untapped potential. Regional disparities persist, and there is still labour market potential to lure the inactive population into work. **Employment could be boosted further by retraining, supporting mobility, and via tax allowances which encourage flexible and part-time forms of employment.** However, in the long run the desired economic growth can only be sustained with technological developments aimed at replacing human labour.

Who are the employed and the unemployed?

The latest **unemployment rate of 3.6%** published by the Hungarian Central Statistical Office is now close to full employment even according to relevant literature. Pushing the rate below 3% verges on the impossible since there are always people incapable of working or those who do not want to do so. Since the impact of the government's current family support measures will only be felt in the labour market in 15-20 years, we might conclude from the unemployment and employment figures that the [labour shortage](#) in Hungary is not likely to be remedied soon.

However, the employment and unemployment in economic activity are not two factors that fully complement each other. There is a third, large group, the **inactives**, in whom Hungary still has a wealth of potential. In Budapest alone, the economic activity among 15-75 year-olds barely exceeded 60% a few years ago, indicating 524,000 people aged 15-74 not working compared to around 800,000 workers. The number of those unemployed was around 40,000, which meant 10-15 times as many inactive people as those unemployed. These inactive people could still be students, pensioners, or possibly even women on maternity or childcare leave. These groups **could indeed be lured back to the labour market** if there was a **comprehensive package** encouraging employers to recruit people from this inactive population.

Boosting employment through retraining and mobility

A comprehensive package should in all cases include **mobility support**. The employment ratio in Budapest detailed at the beginning of this article is 8-10 percentage points higher than in Southern Transdanubia and Northern Hungary, so until workplaces are established where they should be, it seems practical to move employees to regions and counties struggling with labour shortages.

To help labour mobility, employers were able to provide tax exempt accommodation cost compensation until the end of 2018. Yet this allowance fell victim to the cuts in the fringe benefit system as of 1 January 2019, even though the inclination of Hungarian employees to move is quite low to begin with. From 1 January **the preferential tax rate of the housing allowance to facilitate mobility was abolished** due to the impact falling short of expectations, but we believe it could have been an effective system had the government allowed more time for it to exert an effect.

Retraining, in other words re-education, is another significant factor which needs to be included in the afore-mentioned comprehensive package. Although the government funds retraining from EU and other sources, **employers** should be involved more and be given some sort of **beneficial support** to facilitate growth in such training and to help an increasing number of employees acquire the professional qualifications they need for their given jobs.

Flexible forms of employment and the role of automation

Employers could claim a [social contribution tax](#) allowance on employing people above the age of 55, young career-starters or

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



wtsklient.hu/2019/02/21/munkaeropiac/

Please note that the conversation is available only in Hungarian.

young mothers returning to the labour market. However, this allowance was insufficient in itself to increase employment rates. The majority of these groups are not necessarily ready to work eight hours, so **the possibility of part-time employment or working from home (home office)** could be a decisive factor for them. To this end, companies need to have an interest – through local business tax allowances for instance – in offering part-time positions and establishing the conditions for working from home and other similar opportunities. This would most certainly have a beneficial effect on the labour market pressure companies find themselves under.

Supporting innovative investments for **SMEs** to allow for the replacement of human labour by machines would also be helpful in reducing labour shortages. In Hungary the social resistance towards such developments is still quite strong, but we have to realise that this is the current trend in Western Europe, with companies increasingly automating their processes to solve the issue of labour shortages. Retraining employees to be able to hold positions requiring higher expertise, as discussed above, and thus **the replacement of human labour by machines** could most certainly reduce the labour shortage in Hungary.

Just raising wages and salaries is not enough

It is clear that the more than 10% annual rise in wages and salaries in the last three years has not resolved the labour shortage issue; in other words, higher wages did not create more or many more employees or a higher rate of employment. Such **wage and salary growth should be coupled with better efficiency** and this could primarily be achieved by technological investments at Hungarian companies. The two processes together could lead to a scenario where small and medium-sized companies are not destroyed by such wage and salary hikes, companies that incidentally could make an immense contribution to the sustainability of economic growth.

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- » due diligence

Languages

Hungarian, German, English

Latest publications

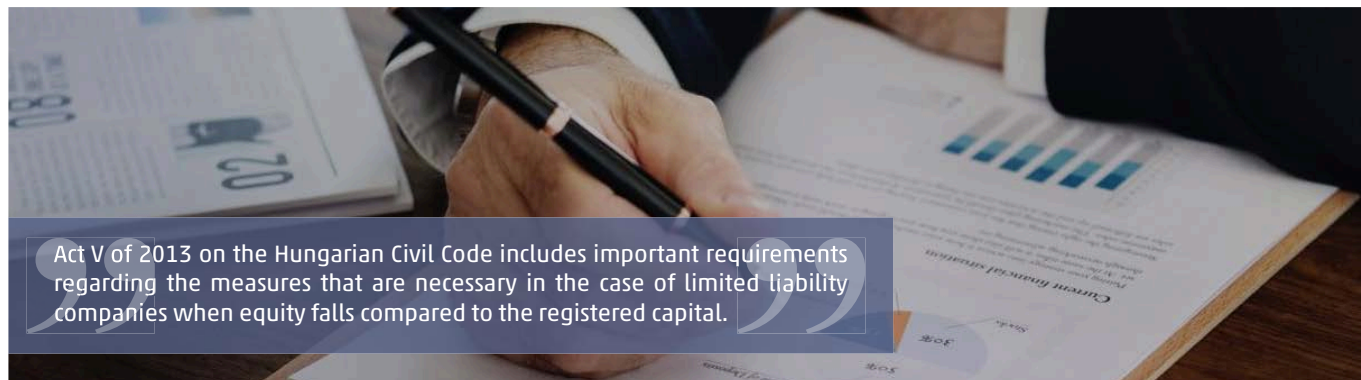
- » [Busy autumn ahead for companies supporting spectator team sports](#)
- » [Proposals to revise tax regime in Hungary](#)
- » [What is the connection between the construction boom and the VAT on new apartments?](#)

Equity components in Hungary

Changes in equity reflect the profitability of a business, while its composition is shaped by shareholders

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Act V of 2013 on the Hungarian Civil Code includes important requirements regarding the measures that are necessary in the case of limited liability companies when equity falls compared to the registered capital.

A company's operations are financed by its equity. Equity consists of **several elements**, and both its size and composition provide important information on the financial position of the business. Changes to equity require continuous control by shareholders along with action where necessary.

Registered capital, a basic element of equity

Looking at the equity components, **registered capital** (share capital) is one of the basic elements for financing operations. If this has not been paid, it is recognised in a separate row of the balance sheet: **registered capital not yet paid**.

The mandatory minimum amount of registered capital is regulated by law for certain business types, while the expected size of other capital elements also has to be taken into account when it is determined. Act V of 2013 on the Hungarian Civil Code includes important requirements regarding the measures that are necessary in the case of limited liability companies when equity falls compared to the registered capital. Accordingly, a managing director must convene the members' meeting without delay to take the necessary measures if it comes to his/her knowledge that:

- the company's equity has fallen to half of the share capital due to a loss;
- the company's equity has fallen below the statutory minimum amount of share capital;

- insolvency is looming over the company or it has stopped making payments;
- or the company's assets do not cover its debts.

In these cases the members have to make a decision on making supplementary contributions, providing equity totalling the amount of share capital in another way, or decreasing the share capital. For lack of all these, a decision must be made to transform, merge or separate the company, or terminate it without a legal successor. The relevant resolutions of the members' meeting must be carried out within three months. If this does not happen the share capital has to be decreased.

Reserves

If capital falls, the amount of any supplementary capital contribution must be recognised as an increase in the **allocated reserve**. Supplementary contributions are regulated in the articles of association. Supplementary contributions that are not necessary to make up for the loss have to be repaid to the members on the list of members as of the date of repayment.

Shareholders can decide to settle the capital situation by increasing the **capital reserve** too; in this case the registered capital has to be increased, and the Court of Registration registers the amount based on the relevant members' resolution. The amount put into the capital reserve can later be reduced by means of a capital decrease or

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European Tax Awards 2019: WTS Klient Hungary on the shortlist

WTS Klient Hungary has been shortlisted in two categories for the European Tax Awards 2019 giving it a good chance at receiving the Hungary Tax Firm of the Year and the Hungary Transfer Pricing Firm of the Year titles. WTS Global, who won the Indirect Tax Firm of the Year award in 2018 as well as in 2017, has reached the finals of this category this year too, and is also shortlisted for the European Transfer Pricing Firm of the Year award. Jürgen Scholz, managing partner of WTS Germany and the most acknowledged VAT specialist in the country, was nominated for the European Tax Practice Leader of the Year 2019 award. [Click](#) for more details!

rearrangement, and in the case of a capital decrease it must be ensured that all capital elements fall proportionally. The amount of the capital reserve can be transferred to offset any negative retained earnings if required.

In terms of the additional equity components, **retained earnings** show the accumulated earnings of previous years, which, provided equity is at an appropriate level and other conditions are also fulfilled, [can be distributed as a dividend](#) and used to increase registered capital.

The **valuation reserve** includes the valuation difference of assets at market value (valuation reserve for upwards revaluations) and the fair value reserve. Having such a reserve always needs contribution from an audit firm.

Profit after tax

Equity includes the **profit after tax** of the business for the reporting year, which, if the necessary conditions are met, [can be distributed as a dividend](#) to shareholders.

Accounting advisory

It is best to define the method for financing operations along with the elements and the amounts of equity when establishing the business, and to modify these during operations in light of the options allowed by Hungarian law. Taking appropriate measures ensures an optimal composition of equity, which will comply with statutory regulations, shareholders' interests and provide protection for lenders. Should you need an expert for planning purposes, just contact the [accounting consultants](#) of WTS Klient Hungary.

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Specialisations

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- » controlling reports
- » reporting (general and special cases)
- » support of tax inspections, liaising with tax authority

Latest publications

- » [Electronic communication in taxation](#)
- » [Tasks of business entities after a company registration](#)
- » [Strategic aspects of comprehensive tax inspections](#)

Languages

Hungarian, German, English



New interest deduction limitation rules in Hungarian corporate taxation

Interest deduction limitation based on EBITDA instead of thin capitalisation

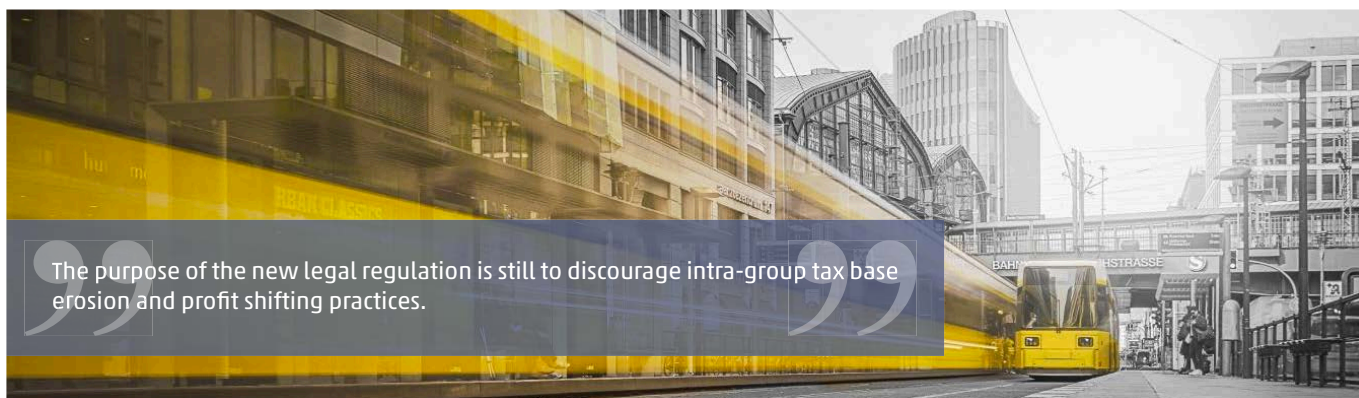
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As of 1 January 2019, as a result of Hungary adopting the provisions of Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market i.e. the [ATAD I Directive](#), new interest deduction limitation rules [entered into force](#) in Hungary. The former, equity-based corporate tax rule on thin capitalisation was replaced by a **provision on limiting interest deductions based on EBITDA (earnings before interest, taxes, depreciation and amortisation)**. The purpose of the new legal regulation is still to discourage intra-group tax base erosion and profit shifting practices.

The new regulation introduced the concept of net borrowing costs which, taking a profit & loss approach, considers the "expense" balance of borrowing costs and (taxable) interest and similar income (financing costs higher than interest-type income). **Net borrowing costs** defined above can be claimed in the corporate tax base up to 30% of EBITDA or HUF 939,810,000 (roughly EUR 2.9 million), whichever is higher.

Applying the new interest deduction limitation rules is **mandatory in Hungary from 1 January 2019**, but for financing contracts concluded prior to 17 June 2016, the new rules are only applicable from an increase in the financing amount and/or an extension of the term (in respect of the modified amount or term). The new



“The purpose of the new legal regulation is still to discourage intra-group tax base erosion and profit shifting practices.”

interest deduction limitation rules may also be applied in respect of the period preceding the modification should the taxpayer decide to do so. This can be an option if the new interest deduction limitation rules might result in a more favourable tax base position for the taxpayer.

New rules

The interest on **liabilities to financial institutions (banks, credit institutions)** used to be ignored for the purposes of thin capitalisation. **However, through net borrowing costs, the provisions effective from 2019 will include all types of interest expense in calculating the new tax base modifying item.** So even businesses that fully finance their activities from financial-institution loans and thus formerly did not have to apply the thin capitalisation rule can be affected by the interest deduction limitation.

When defining borrowing costs, the new interest deduction limitation rules mean that not only expenses qualifying as interest are taken into account, but also costs and expenses that are equivalent to interest from an economic point of view, as well as **costs and expenses incurred in connection with the raising of finance**. Guarantee fees related to a financing scheme as per the non-exhaustive list of the ATAD I Directive as well as transactional fees and other, similar costs related to the use of funding fall into this latter category.

Unchanged concept

In the case of financing between related companies, the amount of any adjustment necessary from a transfer pricing perspective – due to deviations from the arm's length price – still has to be considered as **deemed interest expense or income** when determining net borrowing costs.

As for **businesses involved in group financing**, if they achieve a **profit on** intra-group financing (received and given loans) it is important that they still do not have to apply the rules on limiting

interest deductions. This means that if taxable interest and equivalent income from an economic point of view exceed business-related financing costs, the interest deduction limitation rule does not have to be applied (this case there are no net borrowing costs as per the relevant laws).

What about tax groups?

Starting from 2019, tax groups can be created not only for VAT but also for corporate tax purposes. In the case of tax groups, the rules on limiting interest deductions have to be applied separately for each group member. The general limit of HUF 939,810,000 (roughly EUR 2.9 million) can be **taken into account by the group member based on its net borrowing costs relative to the net borrowing costs at group level**. At the group member and compared to the general rules this **may result in a lower general limit**.

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Tax consulting

The new rules may result in a worse corporate tax base position for businesses with low EBITDA but high or extremely high net borrowing costs. Case-by-case reviews are needed to optimise operations and to identify related risks. Should you wish to entrust such a review to an expert, please do not hesitate to contact the **tax consultancy team at WTS Klient Hungary**. We will be happy to assist you.

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Expected impacts of the new interest deduction limitation rules

Given the average borrowing costs of Hungarian businesses it is likely that **the majority will be able to claim their full net borrowing costs in the corporate tax base** under the new interest deduction limitation rules (if this does not exceed the HUF 939,810,000 – roughly EUR 2.9 million – limit).

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



wtsklient.hu/2019/04/18/kamatlevonas-korlatozasi-szabalyok/
Please note that the conversation is available only in Hungarian.

Would you like to know how other countries implemented the Directive?

Read the [WTS Study](#): Interest Limitation Rules in the EU!

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Keeping records of personal data breaches

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A controller may receive an administrative fine if it

- fails to comply with its obligations related to keeping records of personal data breaches or does not keep proper records or
- refuses to hand over records of personal data breaches to the supervisory authority upon request.

In a [previous article](#) we explained that the General Data Protection Regulation (GDPR) of the European Union sets out obligations for controllers on keeping records of processing activities. In this article, we describe the controller's additional obligation for keeping records of personal data breaches.

A **personal data breach** means any breach of security that leads to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed. A personal data breach, for example, is when masses of emails are sent out without using BCC or if an

employee unlawfully takes possession of some data stock of the employer (e.g. client list, price list).

Records of personal data breaches are documents kept by controllers that record any personal data breaches as well as all related facts, data and circumstances in order to prove compliance with the GDPR (accountability principle). The records of personal data breaches may also include the documents used to support the justification of the controller's decisions in connection with the personal data breaches.

The records of personal data breaches not only include personal data breaches reported to the National Authority for Data Protection and Freedom of Information (hereinafter: the NAIH)

Preamble 85 of the GDPR states that a personal data breach may, if not addressed in an appropriate and timely manner, result in physical, material or non-material damage to natural persons such as loss of control over their personal data or limitation of their rights, discrimination, identity theft or fraud, financial loss, unauthorised reversal of pseudonymisation, damage to reputation, loss of confidentiality of personal data protected by professional secrecy or any other significant economic or social disadvantage to the natural person concerned.

Consequently, the controller shall notify the NAIH about the personal data breach without undue delay and, where feasible, not later than 72 hours after having become aware of it, unless the controller is able to demonstrate, in accordance with the accountability principle, that the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons (Article 33 of the GDPR).

The records of personal data breaches implicitly include the personal data breaches subject to this supervisory reporting, while **the controller shall also record any personal data breaches that are not subject to such reporting.**

Content requirements on keeping records of personal data breaches

The GDPR defines the minimum content requirements for keeping records of personal data breaches, according to which the controller must keep records of the **facts related to the breaches** (in particular, the date, nature and circumstances of the personal data breach as well as those affected and the nature of the data affected). Additionally, the **impacts and consequences** of the personal data breaches as well as the **measures taken to remedy them** have to be recorded.

In the records of personal data breaches it is recommended to note the date of becoming aware of the personal data breach and the date such was reported to the NAIH. It is also justified to record which facts and circumstances served as the basis for the controller's decisions made in connection with the personal data breach.

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



wtsklient.hu/2019/04/25/adatvedelmi-incidensek/

Please note that the conversation is available only in Hungarian.

Formal requirements on keeping records of personal data breaches

Records of personal data breaches shall be kept in writing, either **on paper or in electronic format** (e.g. xls file). There are no requirements in the GDPR about the language used for records of personal data breaches. If there are no special circumstances justifying keeping records in a foreign language, it is recommended to keep the records in Hungarian. It is also best to indicate in the records the documents related to the personal data breach and its reporting to the supervisory authority, and where such documents are available (e.g. risk analysis, reporting of breach and other related declarations).

A controller **may receive an administrative fine** if it fails to comply with its obligations related to maintaining records of personal data breaches – which means it does not or does not properly keep the records, or refuses to hand such over to the supervisory authority upon request.

Data protection due diligence

If you are interested in checking whether your company's data management practices meet the GDPR requirements, please contact us and we will review your current practices in a [data protection due diligence](#).

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- » labour law
- » competition law

Languages

Hungarian, German, English

Latest publications

- » [Maintaining records of processing activities](#)
- » [Review of HR activities and processes in Hungary based on GDPR](#)
- » [Checking email accounts used for work purposes](#)

This WTS information does not constitute advice and it serves only to provide general information about selected topics.

Any information contained herein shall thus not be considered exhaustive, and nor may it be relied upon instead of advisory services in individual cases. We accept no liability for the accuracy of the content.

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.

Services of the WTS Klient Hungary:

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

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