

wts klient newsletter

WTS Klient.
The Bridge.

Dear Readers,

I don't know about you, but for us summer has passed by incredibly fast. It feels like yesterday that we sent out our latest newsletter, which was two months ago, and here we are again. Of course, you could hear about us in the time between as well.

We hope you received and enjoyed our regional newsletter, the [#1/2019 edition of the WTS CEE Tax Bridge](#) that was issued in July, in which we took a closer look at the laws applicable to the reporting obligation of beneficial owners in 12 Central and Eastern European countries. (If you wish to receive a freshly printed copy, just write to us and we will happily put one in the mail for you free of charge.)

Furthermore, this summer the experts of WTS Global prepared the debut edition of the [Global Mobility Newsletter](#), and have recently published the latest versions of the [Tax and Investment Facts](#) booklets showcasing the taxation and investment environment of 13 countries in our region. Over the past two months, tax advisers at WTS Klient Hungary have also conducted a thorough review of the VAT tax amendments of this summer, focusing, among others, on regulations concerning call-off stocks and special tax reimbursement. You can read about these, and a number of other important tax issues, in this newsletter. We hope that you will find our articles interesting and valuable.

dr. Ildikó Szopkóné Horváth
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Three wishes regarding rationalisation of the Hungarian tax regime

Now only the local business tax base should be aligned with the corporate tax base

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In 2013 we published a study entitled "Recommendations for the rationalisation of the Hungarian tax regime" which included nearly fifty [modification ideas](#). What were the three main wishes that we elaborated and where are we in terms of achieving them?

Our most important recommendations

From the many recommendations we made based on our interviews with the **tax directors of leading German corporations**, the following three were the [most important change requests](#) for the Hungarian tax administration in terms of their impact:

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Tamás Gyányi among world's leading indirect tax experts

Europe's top magazine on taxation, the International Tax Review, has published its special edition on the world's leading indirect tax experts for the eighth time. Similarly to last year, Tamás Gyányi, tax partner of WTS Klient Hungary, is included as a leading Hungarian expert on indirect taxes in [Indirect Tax Leaders 2019](#) too. [Click](#) for more details!

- The detailed rules for **corporate tax group status** have to be elaborated together with the business community as soon as possible. Big corporations should not face a competitive disadvantage in Hungary just because they have several companies on the Hungarian market.
- As soon as the budget allows, the so-called **top-up** system, i.e. the **advance financing of corporate tax liabilities** should be cancelled. Apart from financial considerations nothing justifies keeping this regime, and it also deters investors.
- The income-taxing character of **local business tax and the innovation contribution** should be strengthened by **aligning their tax base to the corporate tax base**. It is a huge systemic error that an increase in staff and a willingness to invest have no impact on the amount of local business tax liability. Loss-making companies consider local business tax as a taxation of their assets. The taxation of corporate assets should be avoided in the future at all costs.

Implementation of recommendations

After the publication of our study in 2013, some of our less spectacular recommendations formulated with the purpose of rationalisation of the Hungarian tax regime **appeared as early as the tax laws valid from 1 January 2014** (e.g. deductibility of restaurant consumption as costs when paying by bankcard without issuing an invoice).

As for the three wishes above, we enjoyed some smaller **partial results**. On the path towards implementing corporate tax group status, from 2014 **the research costs of entities involved in R&D activities** became deductible from the positive tax base of a company's related entities as well. Also from 2014, companies did not have to pay any default penalties if they did not top up their corporate tax payments to the required level because of FX rate changes between the 20th and 31st days of the month preceding the reporting date of their fiscal year. This small step was followed by another positive modification in 2018: the size of the **default penalty** fell from the incredible 20% to 10%.

The **big breakthrough** surprisingly came after the 2018 general elections. Based on the recommendation of the institution now called again by its old name, the "Ministry of Finance", which in terms of tasks now concentrates on funding the budget and, particularly, the efficiency and fairness of the tax system, **from 1 January 2019** the corporate tax group system was implemented,

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

wtsklient.hu/2019/06/27/javaslat/

Please note that the conversation is available only in Hungarian.



even if not to the fullest extent as recommended by us, while the **summer tax law amendments** this year saw the cancellation of the corporate tax top-up system.

A very important requirement was also fulfilled with the latter. In 2018, I asked Minister of Finance Mihály Varga at several forums whether any specific steps are expected in this regard. He told me that if he is responsible for tax matters in the new government, he will do everything to fulfil this request. He kept his word, and fulfilled the investor requirement of our 2013 study, which was even more important than the three wishes: it stated that **predictability and credibility** influence investors the most when making an investment decision.

The last step towards the rationalisation of the Hungarian tax regime

Just like the prince in the fairy tale, **we only had one essential wish remaining**: aligning the local business tax base with the corporate tax base and therefore avoiding the taxation of loss-making companies. Our other two wishes have been fulfilled, so we can concentrate all our efforts on preparing for the realisation of the third wish. Maybe after the local government elections we will succeed.

Tax consulting

The taxation problems and requests of our clients are at the focus of our consulting services. If you feel we may be able to help you in your tax matters based on our results detailed above, our **tax consultancy team** will be happy to help you. Please feel free to contact our colleagues.

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Languages

Hungarian, German, English

Latest publications

- » [News on supporting spectator team sports with corporate tax allocations](#)
- » [Comprehensive package could further boost employment in Hungary](#)
- » [Busy autumn ahead for companies supporting spectator team sports](#)

Changes to call-off stock rules in Hungary

Simplification conditions to become stricter from 1 January

Author: **András Szadai**

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The transfer did not have to be included in the EU sales listing so far, so taxpayers have to react to this change from a logistics and IT perspective, initiating any developments where necessary.

We are now used to the Hungarian tax system changing from year to year. Sometimes the national rules need to be changed to comply with European Union regulations, but policymakers sometimes initiate changes for other reasons as well of course. This is no different for the **call-off stock rules in the system of value added tax**. In my article below I review the latest changes to the call-off stock rules.

What is call-off stock?

Based on the existing concept, a **foreign taxpayer was able to transfer goods into another Member State without requesting a tax number in that country**. Accordingly, (under certain conditions) the goods were transferred to the warehouse of the future customer in another Member State, and an invoice – on a Community supply – was only issued once the individual products were used (called off).

There were a few conditions attached to the [call-off stock simplification rule](#), and these are now changing somewhat.

What is changing?

As we saw in the [summer tax law amendments](#), the call-off stock rules **will be tighter** as regards applying the simplification rule. Most important changes:

- 12-month rule: the customer has to call off the goods within one year of delivery;
- Notification of transfer: from 2020 the transfer must be included in the EU sales listing;
- Customer: at the time of the transfer, the seller must know who the customer is and what their tax number is.

These changes to the call-off stock rules shall take effect from 1 January 2020. Attention has to be paid to transitional provisions as well, especially with regard to existing call-off stock.

How to prepare for the changes in call-off stock rules in Hungary

In connection with the introduction of the **12-month rule** it is worthwhile examining the contracts currently in force, and the turnover of call-off stock in warehouses at existing partners. If there is a business partner where the stock turnover is slower than 12 months, either the situation has to be regulated from a tax perspective, or the business model needs to be re-designed in consultation with partners.

What is not yet exactly clear is how the tax authority envisages the **notification of the transfer in the EU sales listing**, but there will in all likelihood be some change in the structure of the A60 form. The transfer did not have to be included in the EU sales listing so far (the notification was only required at the time of the call-off), so taxpayers have to react to this change from a logistics and IT perspective, initiating any developments where necessary.

The customer and their tax number were already known to sellers in the majority of cases. It will be important to have **even more precise and thorough documentation** in the future: if the tax authority decides to inspect a taxpayer, then unambiguous evidence must be provided that this information was always available at the time of the transfer.

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

wtsklient.hu/2019/07/04/idobeli-korlat/

Please note that the conversation is available only in Hungarian.



What other detailed rules should you look out for?**What happens if you cannot comply with the call-off stock rules?**

If you are unable to fulfil all the conditions of the call-off stock rules, then as a taxpayer you cannot apply the call-off stock simplification rule. In this case, the legal effect associated with an intra-Community transaction prevails, which means we have an intra-Community transaction (similarly to a traditional intra-Community supply). Consequently, a **tax number must be requested in the target country**, and there will presumably be a **notification obligation too** (EU sales listing).

How to treat destroyed or stolen goods?

It can happen that goods are destroyed in transit, or perhaps there is a fire at the customer's warehouse, or the goods stored in the warehouse simply disappear without a trace. In this case, it is important to note from a call-off stock perspective that when the goods are destroyed or the theft is detected, the rules for call-off stock simplification are no longer met, so at this time the transfer of goods for call-off stock **qualifies as an intra-Community transaction**. Consequently, a tax number has to be requested as well, and the competent authorities in both countries must be notified of the movement of goods.

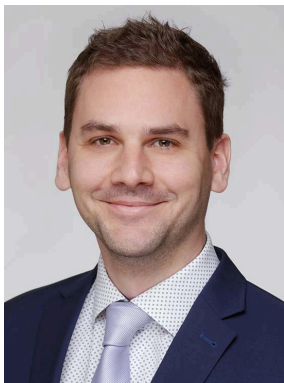
What if the customer does not call off the goods, but someone else would buy them?

This is possible, under certain conditions. We need to keep an eye on the 12 month rule, the new customer needs to meet general requirements of the customers, and we need to modify our notification on the transfer.

Tax planning and consulting based on international and Hungarian standards

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.

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- » international taxation of foreign workers
- » representation of companies during tax inspections

Latest publications

- » [Most common questions about tax from foreign nationals](#)
- » [Business division transfer](#)
- » [Hungarian-Turkish social security agreement takes effect](#)

Languages

Hungarian, German, English

Changes to VAT in Hungarian summer tax law amendments

Amendments entering into force from 1 January 2020 also affect chain transactions, among other things

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Areas affected by changes to VAT entering into force from 2020:

- call-off stock rules
- management of chain transactions
- importance of VAT ID number

In a Newsflash in June we have already put together a brief summary of the main aspects of the Hungarian [summer tax law amendments](#), and looking at the related changes to VAT you could read the details of the new rules regarding call-off stock on the previous pages. We would now like to explore some other parts of the summer tax law amendments concerning value added tax in a bit more detail, examining which changes to VAT affect cross-border transactions.

Quick fixes affecting VAT

On 4 December 2018 the Council of the European Union adopted a [new directive](#), which is aimed at improving the **harmonisation of VAT rules between Member States and preventing VAT fraud in intra-Community transactions**. The proposals amending the VAT Act were included in the domestic summer tax law amendments in line with the provisions of the directive. The changes to VAT entering into force in Hungary from 1 January 2020 affect the following areas:

- call-off stock rules
- treatment of chain transactions
- role of EU VAT numbers in tax-exempt intra-Community supplies

How do the changes to VAT affect chain transactions?

A [chain transaction](#) is a chain of consecutive supply of goods, where the goods are the subject of just one intra-Community transportation, i.e. the **goods are sold several times but transported only once**. The intra-Community movement of the goods may only be assigned to one of the supplies, and the tax exemption for intra-Community supplies may only be associated to such supply. The other parts of the chain are taxable either in the country of departure or in the destination country, which can mean that the vendor has to have a tax number in the Member State where the sale took place.

The purpose of regulating chain transactions is to avoid Member States using different approaches that might lead to double taxation or the avoidance of taxation. Fortunately, the statutory rules on chain transactions currently in force were already detailed and clear, and the system in Hungary largely complied with the new regulations. What will be different with the changes to VAT entering into force from January in Hungary is that the intermediate entity can decide to take part in the chain in the capacity of a vendor, and **all that is required here is to provide its tax number issued by the country of departure**.

Importance of EU VAT number

When the amendment takes effect, the existence of an EU VAT number will no longer just be a formal but also a material condition to apply the tax exemption for intra-Community supplies. In accordance with the new rule, an intra-Community supply will be tax exempt if the customer is a registered VAT taxpayer (obliged to pay tax) in another Member State, and it has a tax number issued to it by such latter Member State which is disclosed to the vendor. Furthermore, the vendor must also comply with its obligation to submit an EC sales list.

If the vendor submits the EC sales list incorrectly, then it must prove that this failure, error or default occurred while acting in good faith, and the correct data must be submitted to the tax authority as soon as possible. In practice, this means that when the changes to VAT recommended in the Hungarian summer tax law amendments enter into force, **we may not issue an invoice on a tax-exempt Community supply without the customer's VAT ID number; furthermore, it will not be possible to complete the EC sales list by only giving the country code and omitting the customer's VAT ID number**.

Changes to VAT for services related to imported goods

In our [earlier article](#) we looked in detail at the changes to VAT entering into force in Hungary from 1 January 2019 which affect the tax exemption of services related directly to exported goods. The new exemption rule in force from 1 January 2019 essentially means that exemption for services related to exported goods may only be claimed if the service is provided to the exporter. This amendment was required to bring the Hungarian VAT Act in line with the interpretation of EU laws as detailed in the judgment of the court adopted in Case C-288/16.

However, according to the provision of the EU VAT directive examined in the case above, Member States shall exempt the supply of services from tax where such is directly connected with the exportation or importation of goods. Reflecting to this, the applicability of the exemption for services related to imported goods is supplemented with a further condition, according to which **services included in the import VAT base are only tax-exempt if they are provided directly to the importer.**

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

wtsklient.hu/2019/07/25/afatorveny-2020/

Please note that the conversation is available only in Hungarian.



Changes to VAT for services related to goods under customs procedures

Based on the changes to VAT entering into force from January, the VAT exemption conditions are to tighten also for services related to certain goods under or subject to customs procedures. This means that **services related to goods** subject to temporary storage, free zone or free warehouse procedures, customs warehousing or inward processing procedures, imported temporarily free of duty or subject to external transit procedures **are only exempt from VAT if they are provided to the taxpayer selling or purchasing the goods.**

Value added tax consulting and compliance work

When providing [preliminary consulting on value added tax](#), WTS Klient Hungary helps its clients determine VAT burdens as part of very complex chain transactions, in relation to imported goods or in the case of services subject to customs procedures. Please do not hesitate to contact us if you have any questions on the changes to VAT outlined in our article, or on any other related issues.

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Languages

Hungarian, German, English

Latest publications

- » [VAT reclaim – Turkish and Serbian VAT will be reclaimable](#)
- » [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](#)

Electronic invoices

What they entail in practice and what rules apply

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As prerequisites for electronic invoices the Hungarian VAT Act prescribes the recipient's approval, and a preliminary written agreement between the parties about the use of the EDI system.

Today you can hear the phrases electronic invoices (e-invoice), i.e. electronically transmitted invoices, and [online data reporting](#) almost daily as they have become part and parcel of everyday life in Hungary. What do these phrases mean exactly? What rules apply to the data content and storage of electronic invoices? Who are subject to online data reporting and how can you comply with the rules? These are just some of the questions we want to answer in our current series of articles.

Definition of electronic invoices

An invoice can be issued on paper or electronically. Based on the definition set out in the Hungarian VAT Act an invoice qualifies as electronic if it contains the data prescribed in the VAT Act and **was issued and accepted electronically**. (According to the information booklet on invoices issued by the Hungarian Tax and Customs Administration (NAV), an invoice is only considered electronic if it was sent to the recipient in an email, regardless whether the document is attached to the email via invoicing software or as the scanned version of a paper-based document.)

These invoices **do not need to be sent by post**, however, there are technical conditions for the entity purchasing the product / using the service with regard to receiving electronic invoices and in relation to the taxpayer's obligation set forth in the VAT Act in respect of authenticity of origin, integrity of data and readability of the invoice. Consequently, **cooperation between the parties is vital** for electronic invoicing. As prerequisites for electronic invoices the Hungarian VAT Act prescribes the **recipient's approval** (which doesn't just have to be formal, i.e. it can be implied by payment of the amount on the invoice as well), and a preliminary written agreement between the parties about the use of the EDI (electronic data interchange) system.

Ensuring authenticity, integrity and readability

As we have already mentioned, according to the legislation governing such invoices, the authenticity of origin, the integrity of data and the readability of electronic invoices must be guaranteed. The Hungarian VAT Act provides two ways to comply with these rules:

- the invoice is issued with a **qualified electronic signature**, or
- **it is created and transmitted within the EDI system**. There are only two entities in the electronic data interchange system, which means that the authenticity and integrity of the invoice data is ensured by the closed system, which does not allow for unauthorised persons to access data. Electronic signatures are not a basic requirement of the EDI system, however, the parties must agree in advance on the exact format used and the technological background required for this.

When issuing invoices through the electronic data interchange system, **prior, written agreement** on the application and use of the system **is obligatory**.

Archiving electronic invoices

Electronic invoices (including those accepted and those issued by the taxpayer) **must be stored in electronic format**. Stored electronic invoice data might have to be presented during a [tax authority inspection](#). If the storage is carried out pursuant to the rules of digital archiving, a copy of the invoice generated by invoicing software and printed on paper may be retained as electronic data at the issuer.

Invoices issued by invoicing software entail a reporting obligation with regard to the software. **Any newly acquired invoicing software must be reported to the Hungarian tax authority within 30 days** of the usage on the designated form ("Szamlazo").

continued on page 8

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



Listen to the conversation at this link:

wtsklient.hu/2019/08/15/online-szamlaz/

Please note that the conversation is available only in Hungarian.

Storing and archiving electronic invoices is governed by the **decree on the rules of digital archiving**. In line with this decree, the entity subject to safekeeping invoices must ensure the integrity of the electronic document during the storage and make sure it is not damaged, subsequently modified, deleted or prematurely erased.

In the second part of our series of articles (in our October issue) we will look at the data content of electronic invoices and the online data reporting obligation.

Accounting services

During their work the [accountants of WTS Klient Hungary](#) also prefer to forward and store documents electronically since bearing the requirements of digitalisation in mind we constantly strive to develop modern solutions to enhance the efficiency of work processes and provide data as quickly as possible. We look forward to hearing from you should you need a reliable team with expertise in electronic invoicing.

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Languages

Hungarian, English

Latest publications

- » [Simplified voluntary liquidation](#)
- » [Family benefits in 2019 in Hungary](#)
- » [Strategic aspects of accounting in a foreign currency](#)



The first edition of the WTS Global Mobility Newsletter has been released



The first edition of the brand-new WTS publication, the WTS Global Mobility Newsletter offers you a brief overview of recent or expected changes in the area of international employee deployment in Austria, Belgium, China, France, Netherlands, Sweden, Switzerland, in the United Kingdom and generally in EU-/EEA-Member States.

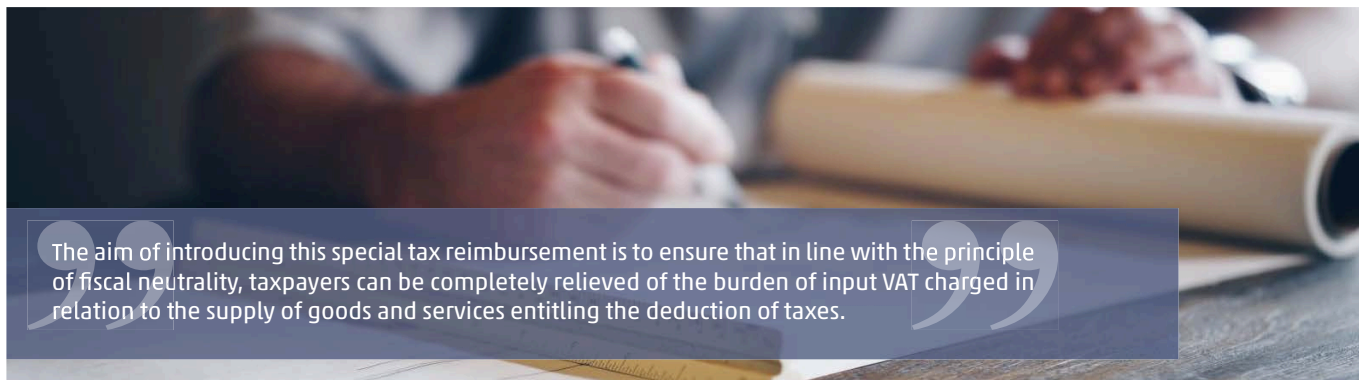
You can download WTS Global Mobility Newsletter #1/2019 in PDF format here:
[WTS Global Mobility Newsletter #1/2019](#)

Special tax reimbursement in Hungary

New rule in the VAT Act

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From 1 January 2020 a special rule on VAT reimbursement will take effect as part of the Hungarian VAT Act. We already wrote about this in [our Newsflash](#) on the summer amendments to tax laws. Let us now take a closer look at what is behind the special tax reimbursement rule.

Essence and purpose of new rule

According to the special tax reimbursement rule, taxpayers will have the opportunity to claim reimbursement of [input VAT](#) – that they cannot otherwise recover – no later than **six months prior to the expiry of the limitation period**.

Taxpayers lose this right after the deadline expires, and the request must be filed in writing. In the request, taxpayers **will have to provide evidence that they cannot reclaim the input VAT in any other way due to reasons beyond their control**. The Hungarian tax authority will approve the reimbursement if the VAT has been paid into the budget.

The aim of introducing this special tax reimbursement is to ensure that in line with the principle of fiscal neutrality, taxpayers can be completely relieved of the burden of input VAT charged in relation to the supply of goods and services [entitling the deduction of taxes](#). Tax deduction rules are intended to ensure this principle is enforced. Yet in some cases, certain companies may still be unable to recover the VAT amount despite doing everything in their power.

When can the special tax reimbursement rule be applied?

The rule on special tax reimbursement may be applied, for instance, if the supplier of a company **incorrectly charges VAT**,

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



Listen to the conversation at this link:

wtsklient.hu/2019/08/29/kulonos-afa-visszaterites/
Please note that the conversation is available only in Hungarian.

instead of issuing a reverse VAT invoice, and **the VAT is paid by the company to the supplier**. The issuer of the invoice pays the VAT to the Hungarian tax authority, and the company receiving the invoice deducts this amount. At a subsequent tax inspection, the tax authority finds that no VAT should have been charged for the given service in the first place, so the company was not entitled to deduct said VAT. By default, the receiver of the invoice may claim the reimbursement of the unlawfully charged VAT from the supplier in such cases. If, however, the supplier has since been terminated or become insolvent, reclaiming the charged VAT becomes impossible.

Decision of the Court of Justice of the European Union

The new rule presented above is based on a [decision](#) of the Court of Justice of the European Union in a case involving a Hungarian party.

The Hungarian tax authority conducted an inspection at **PORR Építési Kft.** (PORR Building Ltd.), during which it found a VAT shortfall. The company accepted several invoices for construction activities, on which the service providers charged VAT. PORR Kft. paid the invoices to the service providers and deducted the amounts of VAT charged thereon, before reclaiming the VAT. However, the tax authority found that the business transactions on the invoices were **related to construction activities**, so the invoices should have been issued with a reverse charge. Consequently, a tax shortfall was established and a tax penalty with late payment interest was levied on the taxpayer.

PORR Kft. should have reclaimed the VAT unlawfully charged to it by the issuer of the invoices, who could have reclaimed the unduly paid VAT from the tax authority. However, **in the meantime the suppliers had become insolvent and were under bankruptcy proceedings**, so the company could not recover the unlawfully charged VAT. In PORR Kft.'s opinion, if we accept that the tax authority can deny the right of the invoice receiver to deduct the VAT without ordering the invoice issuer to apply a **reverse charge procedure** and correct the invoices at the same time, the receiver would have to pay the same tax twice.

The solution: special tax reimbursement

According to the **Hungarian court** involved in the case, before denying the company's right to deduct taxes related to VAT paid erroneously to the invoice issuers, the tax authority must examine whether the issuers are able to correct the relevant invoices and repay the VAT included therein to the taxpayer.

Based on the **decision by the Court of Justice of the European Union**, the principle of fiscal neutrality and that of effectiveness is not violated if the tax authority denies reimbursement of unduly paid VAT without reviewing in advance whether the issuer of the invoices is able to repay the unlawfully charged VAT to the user of the services.

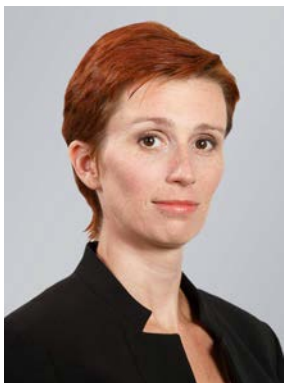
However, if the reimbursement of the unduly invoiced value added tax by the supplier to the recipient of the services becomes impossible or excessively difficult, in particular if the supplier is insolvent, those principles dictate that the recipient of the services may address their application for reimbursement to the tax authority directly.

Value added tax consulting and compliance work

When providing **preliminary consulting on value added tax**, WTS Klient Hungary helps its clients determine VAT burdens as part of even very complex transactions and situations. Please do not hesitate to contact us if you have any questions on the application of the special tax reimbursement rule, or on any other issues related to **changes in VAT**.

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

Latest publications

- » [Loss carry forwards](#)
- » [Employer housing loans from 2019: what's on the way after employer housing support?](#)
- » [Common errors in Hungarian personal income tax returns of foreign private individuals](#)

Languages

Hungarian, German



The 2019 editions of WTS Tax and Investment Facts for CEE have been released

We are happy to introduce you the 2019 editions of the Tax and Investment Facts booklets for 13 countries of the Central and Eastern European Region: Austria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Serbia, Slovakia, Slovenia and Turkey. The booklets give a glimpse at taxation and investment in each country and contain all relevant information on their tax and legal system.

You can download the Tax and Investment Facts for each CEE country in PDF format here: [Tax & Investment Facts – A glimpse at taxation and investment in Central and Eastern Europe 2019](#)

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:

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