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The Bridge.

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Dear Readers,

As the year-end approaches, we believe it is important to draw your attention to the most significant business decisions regarding tax and accounting services. We have also compiled a useful summary of all tax issues in connection with company cars based on client feedback. As a special topic, our legal colleagues have provided you with some insight into how employers can initiate a review of incapacity to work. Our article about the data content of invoices is connected to the overview of digital taxation, online invoicing and related administration, as published in our recent CEE newsletter, Tax Bridge.

In our highlighted article we are delighted to inform you that similarly to last year, and in recognition of our professional work, the International Tax Review has listed our company as Tier 2 in Hungary in the fields of both general tax and transfer pricing consultancy.

We hope we can contribute to your success with our articles and information.

Tamás Gyányi
partner

Employers initiating a review of incapacity to work

The review can be launched at the district government office, and is subject to a fee

Author: **dr. Ildikó Szopkóné Horváth**
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Based on Government Decree No. 102/1995 (VIII. 25.) on the medical assessment of the incapacity and capacity to work and the review thereof, during sick leave or when drawing sick pay employers in Hungary are entitled to initiate a review of incapacity to work at the district government office. In our article we summarise the important issues that arise when initiating a review of incapacity to work.

Content of employer's request initiating a review of incapacity to work

An employer's request initiating a review of incapacity to work should contain the following:

continued on page 2

WTS Klient Hungary again receives excellent ratings in World Tax 2020 and World TP 2020

For the second year in a row WTS Klient Hungary has again been ranked in the "Tier 2" category of the latest World Tax and World TP publications of Euromoney Institutional Investor PLC and the International Tax Review (ITR), signifying excellent ratings in both rankings.

For more information click here.

- name, address, mother's name, date of birth, social security number of the **employee** incapable of working;
- name, registered office, tax number of the **employer**, and name of person authorised to sign on behalf of the company;
- phone and mail address of the employer;
- **reason** for initiating the review.

Initiating a review of incapacity to work is subject to a fee

Initiating a review of incapacity to work in Hungary incurs a procedural fee of **HUF 15,800 (EUR 48)** per employee. This amount should be transferred by the employer to the bank account specified by the **district government office**. The phrase "review of incapacity to work" should be indicated in the remarks to the transfer along with the social security ID number of the affected employee.

Conducting a review of incapacity to work: medical task

The district government office checks the assessment of the incapacity and capacity to work through an **expert consultant physician** who during such assessment is entitled, among other things, to:

- examine the patient in the presence of the attending physician, even at the patient's residence,
- review the patient's documentation,
- refer the patient to a specialist, if necessary,
- establish the incapacity or capacity to work,
- propose the termination of sick pay at the agency disbursing the sick pay.

If the person with the incapacity to work does not give their consent to the examination, or fails to comply with their relevant obligations, and if the insured person incapable of working does not report their place of residence (address) to the doctor carrying out the assessment, or deliberately delays their recovery, the consultant physician shall **initiate the termination of the sick pay** at the agency in Hungary disbursing it.

At the employer's request, the consultant physician will make a decision on the insured person's incapacity or capacity to work based on data in the patient's documentation or, in justified cases, on an examination of the insured person incapable of working. After the decision, they w ill **notify** the employer and the employee **in writing** and **register the decision** in the "Medical log of insured persons with incapacity to work", which is kept by the doctor assessing the incapacity to work.

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

wtsklient.hu/2019/09/05/keresokeptelenseg/
Please note that the conversation is available only in Hungarian.

Legal remedy against decision made during a procedure launched based on initiating a review of incapacity to work

Both the employee and the employer **can initiate a medical examination** to contest the decision **within eight days** of its disclosure at the government district offices in Budapest and the counties responsible for such medical expert matters.

If, after initiating a review of incapacity to work, it is established that the employee was not entitled to a status of incapacity to work, **the employee can expect legal consequences based on labour law, social security law and criminal law**, particularly, the termination of employment and the repayment of the sick pay received without legal grounds. Additionally, the employee's behaviour may qualify as an abuse of social security, social and other welfare benefits, which is punishable by imprisonment in Hungary of up to two years.

Labour law consulting

Should you have any questions as an employer in respect of initiating a review of incapacity to work or any other labour law issues related to your employees in Hungary, our legal experts will be happy to assist you.

Our expert

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Education

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Specialisations

- corporate and economic law
- M&A
- property law
- labour law
- competition law

Languages

Hungarian, German, English

Latest publications

- Keeping records of personal data breaches
- Maintaining records of processing activities
- Review of HR activities and processes in Hungary based on GDPR

Data content of invoices

What data should an invoice contain and when is it obligatory to report this to the NAV?

Authors: **Eszter Balogh –** eszter.balogh@wtsklient.hu
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In the first article of our two-part series on electronically transmitted invoices, the rules of invoicing and online data reporting in Hungary, we looked at the definition of electronic invoices, the conditions for issuing and accepting them and the statutory obligation for archiving such documents. In this second part, we review the regulations pertaining to the data content of invoices, and summarise who are subject to online data reporting and how they can fulfil this obligation.

Mandatory data on invoices

Regardless whether issued by invoicing software, or filled out manually from a printed invoice book, or as an e-invoice, **invoices must always comply with the provisions of the VAT Act**. The mandatory data content of invoices based on the effective provisions of the Hungarian VAT Act is as follows:

- date of issue of invoice
- date of performance, if different from the issue date
- invoice number
- issuer's name, address and tax number
- customer's name, address
- customer's tax number (for reverse charge transactions, tax-exempt intra-community transactions and for invoices issued for resident taxpayers if the VAT reaches or exceeds HUF 100,000 – roughly EUR 308)
- description and amount of goods / services supplied
- net unit price (without tax) of goods / services supplied
- net value of invoice
- percentage and amount of VAT

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-szamla/
Please note that the conversation is available only in Hungarian.

Optional data:

- classification of goods / services supplied (customs tariff codes, SZJ, TESZOR codes)
- payment method
- payment deadline

Provisions on data content of invoices in particular cases

In special cases, such as invoices issued in foreign currencies, reverse charge transactions, tax-exempt intra-community transactions, cash accounting or self-billing, the provisions of the Hungarian VAT Act prescribe other mandatory data as well:

- or invoices issued in foreign currencies, the amount of VAT in Hungarian forints
- for reverse charge transactions, i.e. if the buyer of the goods/ user of the services is the one liable for the VAT payment, the expression "fordított adózás" (reverse charge) shall be added
- for tax-exempt intra-community transactions, a clear reference to the fact that the supply of the goods/services is exempt from tax
- indicating the phrase "pénzforgalmi elszámolás" (cash accounting) if the taxpayer opted for cash accounting
- indicating the phrase "önszámlázás" (self-billing) if the invoice is issued not by the seller/provider (supplier) of the goods/services, but by the customer/user (buyer) of the goods/ services
- in the case of newly-acquired means of transport supplied in the EU without charging VAT, the technical specifications of the vehicle
- indicating the phrase "különbözet szerinti szabályozás – utazási irodák" (margin scheme – tour operators) for the supply of travel organisation services
- indicating the phrase "különbözet szerinti szabályozás – használt cikkek" (margin scheme – second-hand goods) for the supply of second-hand movables

- indicating the phrase "különbözet szerinti szabályozás – műalkotások" (margin scheme – works of art) for the supply of works of art
- indicating the phrase "különbözet szerinti szabályozás – gyűjteménydarabok és régiségek" (margin scheme – collectors' items and antiques) for the supply of collectors' items and antiques
- if using a fiscal representative, the fiscal representative's name, address and tax number

Deadline for issuing invoices

In general, invoices have to be issued **within 15 days of performance** (in the case of advance payments, the day the amount is credited qualifies as the performance date). If payment is made in cash or with non-cash payment instruments, however, the invoice has to be issued **immediately**. In the case of tax-exempt goods supplied within the community, and services where the user of the service is liable for the VAT, the invoice must be issued no later than **by the 15th day of the month following the performance**.

Online data reporting

The online data reporting obligation was introduced in Hungary as of 1 July 2018. The issuer of the invoices is liable for reporting the data in the case of **invoices issued to resident taxpayers with a VAT content equal to or more than HUF 100,000 (roughly EUR 308)**.

If the invoice is issued by invoicing software, the software must have a built-in function to fulfil the immediate data reporting obligation prescribed.

If **invoices are issued manually from a printed invoice book**, the data must be reported by the issuer of the invoice – generally within **five calendar days**. If the VAT content of an invoice issued manually exceeds HUF 500,000 (roughly EUR 1,538), the data must be reported the day after the invoice is issued.

Upon failing to comply with the data reporting obligation outlined above, or submitting reports that are incomplete, include mistakes or have false data, **a default penalty of HUF 200,000 (roughly EUR 615)** per affected invoice may be levied on private individuals, and **HUF 500,000 (roughly EUR 1,538)** per affected invoice on other taxpayers.

Accounting services

The accountants at WTS Klient Hungary have more than 20 years' experience in helping the most varied types of client in accounting their invoices, and are as prepared as they can be to handle the challenges of online data reporting. We look forward to hearing from you should you need a reliable team of accountants to provide solutions specifically tailored to your and your company's needs.

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Specialisations

- accounting
- IFRS
- accounting advisory

Education

- economist
- chartered accountant
- IFRS-certified chartered accountant
- tax advisor

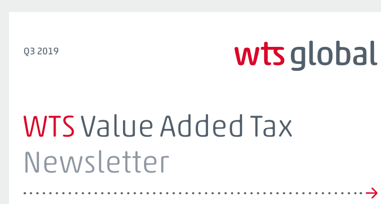
Languages

Hungarian, English

Latest publications

- Electronic invoices
- Simplified voluntary liquidation
- Family benefits in 2019 in Hungary

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



The WTS Global VAT Newsletter edition for Q3 2019 reports recent or expected changes in VAT and GST regulations and compliance duties in nine countries: Angola, China, France, Hungary, Ireland, Italy, Malaysia, Poland and Portugal.

You can download WTS Global VAT Newsletter for Q3 2019 in PDF format here: WTS Global VAT Newsletter Q3/2019

Tax issues regarding company cars

Are you sure you pay attention to everything when you provide company cars for your employees?

Author: **Zoltán Cseri**
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An increasing number of companies provide their employees with a company car, which they can use for private purposes too, as well as for the company's taxable business activity. So company cars are a **kind of benefit** that has its own tax implications. What taxation issues can arise in relation to company cars, and what should those involved watch out for? These are the questions we seek answers to in our article.

Company car tax

The very first type of tax that we think of in connection with company cars is the company car tax. Passenger cars as defined in the Act on Personal Income Tax – except for environmentally-friendly cars – are subject to company car tax. Company car tax has to be paid on passenger cars if they are **not in private ownership and** they are registered in Hungary, namely, they have a **Hungarian licence plate**. Furthermore, passenger cars that are in private ownership or which have a foreign licence plate are also liable for tax if **costs are accounted on them in accordance with the Act on Accounting or the Act on Personal Income Tax**. What is important from a company car tax perspective is that an owned car is treated the same way as a car used under a finance lease agreement.

If a Hungarian company owns a passenger car with a Hungarian licence plate that is a company car, or **leases** such a car, then company car tax has to be paid regardless whether costs are accounted on it or not. The tax obligation commences on the first day of the month following the purchase or the start of the leasing.

What many Hungarian companies do not even consider is that when they have employees on a foreign business trip or on a secondment who **rent a car abroad with a foreign licence plate**, and the company then accounts for certain costs in this respect, this may trigger a company car payment liability for these vehicles.

It is important to mention that in order to rule out double taxation, vehicle tax can be deducted from paid company car tax under certain circumstances.

Value added tax on company cars

Companies generally buy or lease their company cars (including open-end leasing arrangements). In recent years, **the preference was increasingly to lease cars as opposed to buying them**. Until the end of 2018, the reason for this trend was essentially that the leasing companies relieved companies of the extra burden involved in maintaining and running their own vehicles, in return for payment of the lease fee.

From 1 January 2019 a favourable amendment of the Act on VAT entered into force, which permits the deduction of half the input VAT on the leasing of passenger cars without having to keep records of any kind, and this also tipped the balance towards leasing arrangements, as VAT can generally not be deducted when purchasing a car.

Let's take a closer look at what this positive change actually means. Under the previous regulation, the VAT in the lease fee for leased passenger cars used for business and private purposes could be deducted in line with the proportion of use attributable to the company's taxable business activity. This proportion had to be substantiated with various documents – such as route records. However, the amendment that entered into force from the beginning of this year states that 50% of the lease fee may not be deducted due to the private use. In other words, **half of the VAT in the lease fee is deductible**. All that the companies have to do is examine whether the leasing of the passenger car supports, to any extent, the company's business activity that entitles them to deduct the tax. If the answer is yes, then **without any kind of extra records at all** they can deduct 50% of the VAT on the lease fee.

If a car at a given business is used for the taxable business activity to an extent that exceeds 50%, then the company may also decide to deduct the VAT in proportion to the actual business use. In this case, however, there is still a need for route records to be kept.

Additional NAV information on analysis per transaction

It is important to note that **additional information was published on the NAV's website on 9 September**, in relation to that which was previously issued on the subject. The NAV stated that **whether a given passenger car supports a taxable activity** must not be examined for each tax assessment period, but in relation to every individual performance, which generally means every settlement period. This is because according to the supplementary information from the NAV, taxpayers **have to decide for every service used** whether they are entitled to deduct tax or not, and to what extent. And services used can be analysed through performance because the tax payment liability is related to the performance.

In practice, this means that if a company leases passenger cars and agrees to settle up monthly with the leasing firm, then it must be examined monthly whether the criterion of use for a taxable business activity is fulfilled. That said, if a car is leased for a shorter period, then it must be examined within this performance period whether there was any use for business purposes. Business use **can be supported** with any document, **even an email**, which is produced during normal procedures and which verifies the use for business.

From a VAT perspective it is important to note that the **value added tax on fuel and other products** procured to run the passenger car **generally cannot be deducted**, while for services required to run or maintain the passenger car the Act on VAT does not permit the 50% deduction.

Corporate tax in relation to company cars

In accordance with the Act on Corporate Tax, business costs and expenses for a company include the costs and expenses incurred in the course of using, maintaining and running company cars. In this context, companies **do not incur any corporate tax payment obligations and their tax base does not increase**, regardless of whether there is any private use or not.

You can listen to the radio interview about this topic by clicking here:
wtsklient.hu/2019/10/02/cegauto/
Please note that the conversation is available only in Hungarian.

Personal income tax in relation to company cars

In line with Section 8.37 of Schedule 1 to the Act on Personal Income Tax, under in-kind benefits the use of a passenger car supplied by a payer, non-resident legal person or other organisation for private purposes, including the related road passes or tickets, are tax-exempt. Accordingly, the mere fact that employees also use their company cars for private purposes **does not give rise to any personal income tax payment obligation**, and equally **tax-free** are any **motorway tolls** paid for the company cars. It is also important to note that in the definition above, the word "use" can be understood to mean products and services that support the proper running of the passenger car.

Tax consulting

Our article reveals that from a taxation perspective we have to pay attention to a lot of things when providing employees with company cars. Our experience shows that some companies do not handle the tax issues properly, while others do not take the opportunities associated with the favourable taxation of company cars into full account. If you have any questions on this do not hesitate to get in touch, our specialists will be happy to help you.

→ Our expert

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Education

- certified VAT expert
- tax consultant
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- 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

- Have you prepared your documentation in compliance with the new transfer pricing documentation decree?
- CbCR and reporting obligation – What needs to be done by the end of the year?
- Call-off stock simplification rule – avoiding registration as a Hungarian taxpayer

Business decisions before annual closing

What accounting and tax decisions need to be made and what options you can choose from?

Author: **Judit Kondrát**
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In Hungary we are already used to the fact that every year the annual closing creates new tasks for decision-makers and economic experts at businesses. In an optimal scenario, the company management prepares for the annual closing together with accounting and tax colleagues. Why would this be any different this year?

Obligation to top up tax advances now partly optional, and decisions required in other matters too

In previous years, the **top-up deadline of 20 December forced** business entities to reach the most optimal decisions for themselves **during the reporting year**, as part of their preparations for the annual closing.

This year the compulsory top-up system for tax has partly been abolished, which does not mean, however, that the usual calculations are (partly or fully) obsolete, or that making many business decisions before the annual closing has become unnecessary.

Changes to tax advance top-up obligation

- Topping up the **innovation contribution advance** is no longer obligatory.
- The mandatory top-up for **corporate tax advances** has been abolished, but you may still top up your advance on a voluntary basis in 2019. For instance, if someone was to decide on their taxes according to Section 24/a of the CDT Act, it is worth considering a voluntary top-up and submitting the statement to the Hungarian National Tax and Customs Administration in time, since they may be eligible for a bigger tax credit based on the top-up (and the tax advances) than in the corporate tax return.
- The top-up obligation for **local business tax** and the **environmental product fee** has not been abolished.

Aspects relating to exchange rate losses and gains worth taking into account before the annual closing

Having followed the exchange rate trends of recent times, what responsible leader would not consider the impact of exchange rate losses on their year-end result, on dividend payments, or even on planned loans, leasing arrangements, tenders, etc.? **For example, generating a loss can be an obstacle to requesting a tax refund on excise tax**. On the other hand, a significant exchange rate gain (followed by a loss in the following year) may not necessarily be a cause for great joy either.

Let us take a simple example, in which we only consider the impact of exchange rate losses and gains. In both A and B in the example below it is true that the pre-tax result in the previous two years was zero, i.e. the exchange rate gain and loss balanced each other out in this two-year period. However, the amount of corporate tax is different. **If the exchange rate gain is realised first, the corporate tax liability will be higher** since the company cannot use up loss carry forwards before they are actually incurred.

continued on page 8

Andrea Potássy, partner of WTS Klient Hungary talked about this topic on InfoRadio.

Listen to the conversation at this link:

wtsklient.hu/2019/10/17/eves-zaras-elott/
Please note that the conversation is available only in Hungarian.

	A			B		
	2019	2020	2019-2020 total	2019.	2020	2019-2020 total
Exchange rate gain (+)	+1,000	0	+1,000	0	+1,000	+1,000
Exchange rate loss (-)	0	-1,000	-1,000	-1,000	0	-1,000
Loss carry-forward	0	1,000	1,000	1,000	0	1,000
Use of loss carry forwards	0	0	0	0	-500	0
Corporate tax base	1,000	0	–	0	-500	–
Corporate tax	90	0	90	0	45	45

In certain cases of accounting, it is possible to recognise **accruals and deferrals** with regard to exchange rate losses, and reduce or increase the corporate tax base with regard to exchange rate gains and losses.

For businesses exposed to significant exchange rate fluctuations, it is worth considering changing the accounting currency. These decisions have to be made during the reporting year, before the annual closing. Just consider that the accounting in the next year should be carried out in the new foreign currency, so the new books must be opened in this currency too. This decision obviously entails **company law tasks** as well.

What other choices should (also) be considered as the annual closing approaches?

A new and compulsory rule from 2020 means **sales must be accounted for in line with the percentage of completion**, which is an option applicable for 2019 annual reports too. Bear in mind though that accounting sales revenues in proportion to the percentage of completion will increase the local business tax base!

The **ceiling for development reserves** per tax year has been raised to HUF 10 billion (roughly EUR 30 million). These options **can influence equity and tax bases**. The Hungarian Act on Accounting and the Corporate Tax Act contain several other options that are worth considering before the annual closing.

If the figures suggest that the company's equity will not comply with regulations following the annual closing, it might be a good idea **to decide on forgiving receivables or making free transfers**, and implementing this during the reporting year. Depending on the corporate tax base, these methods might be the most cost-effective solutions for restoring equity.

For companies contemplating terminating their operations this year, or for entities under voluntary liquidation already, it might be a wise decision to **postpone the closure** (especially if the voluntary termination is being prompted by insolvent clients). **This is because the VAT on amounts recognised in the books as irrecoverable debts may be reclaimed from 2020**, more precisely, they may be considered retrospectively as items deductible for tax purposes. As is common with favourable tax amendments, there are a number of conditions which should all be met to actually qualify for claiming them. The legal amendment also pertains to receivables where the date of performance for the supply of goods or services underlying the irrecoverable debt falls after 31 December 2015.

As the examples detailed above clearly show, it is indeed justified to consider which accounting and taxation options available for a given company might reduce a reporting-year loss. Furthermore, companies have a number of possibilities with regard to taxation in the following year(s), where the changes need to be reported to the NAV in the reporting year.

Accounting advisory

The experts of WTS Klient Hungary have been serving clients for more than 20 years, helping them make optimal business decisions for their companies. Feel free to contact us if you are uncertain about what decisions to make or which options to choose based on our article.

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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 WTS Klient Hungary:

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