

wts klient newsletter

WTS Klient. **The Bridge.**

Dear Readers,

We sincerely hope you had a great summer and had time to rest after all the adversities of the lockdown before the summer, the rapid pace of keeping up with and making sense of the new measures and regulations affecting companies, the challenges of working from home and of online discussions and client meetings, and in certain cases managing your family life as well as the home-education of your children. I am sure it was time for some relaxation, just like it was for us.



However, the challenges, law amendments and the ensuing tasks are far from over yet. Stamp duty rules regarding inheritance and gifts have changed, and the deadline for the publication of financial statements for the normal financial year, which was pushed from May to September, is fast approaching too. In our newsletter you can read useful information about these issues. If your company has chosen or wants to choose a different financial year, then our article on page 3 is for you. Companies employing foreign workers faced some serious taxation and social security issues owing to their employees returning to their home countries because of the pandemic. We give you answers to some of these issues on page 5.

Although the summer is over, the delay in the expected downward curve of the pandemic still does not allow us to return to our regular routines, and as part of the protection against the virus, the staff of WTS Klient Hungary are still working in alternate shifts, partly from home, partly in the office. I can assure you though that we will continue to do everything we can to serve our clients' needs to the highest standard and in the most professional manner.

Life and development do not stop. What is more, in terms of safety at work and compliance with the rules and regulations, online solutions have become more important than ever before, while digitalisation is proceeding faster too. This is also true for taxation and business processes. We have emphasised before that without renewal and constant technological improvement there is no future, you cannot be at the pinnacle of your industry, and we cannot retain the hard-earned trust of our clients, i.e. you. WTS Klient Business Automation, our new branch launched at the beginning of the year, provides great support for this situation and transformation.

Finally, as a small step of our continuous renewal, we have revamped the cover page of our newsletter too. We hope you like it. Browse through it and feel free to contact us if you have further questions about any of the topics.

Zoltán Lambert
managing partner



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New EU tax package for fair and simple taxation

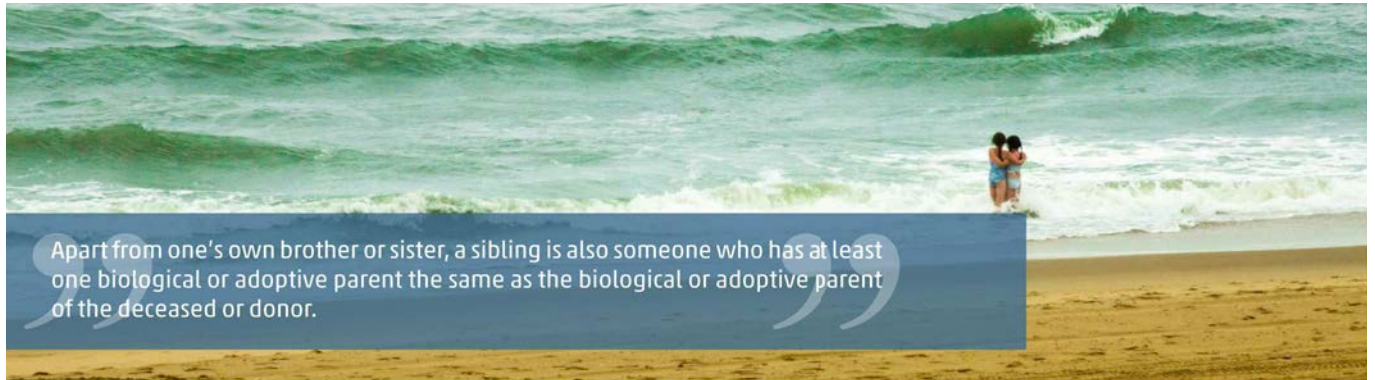
A comprehensive tax package was adopted by the European Commission on 15 July in the fight against tax evasion and tax abuse. The two keywords in the EU action plan are fairness and simplicity. This is because one of the most important objectives is to reduce unfair tax competition and increase tax transparency, whilst also simplifying tax rules and procedures, thereby lowering the administrative burdens on taxpayers. [Click](#) for more details!

Property transfers between siblings: duty-free since 8 July!

The legislative amendment affects inheritance and gifts

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Act LXVI of 2020 entered into force in Hungary on 8 July, according to which duties are no longer payable on property transfers between siblings. The Act was adopted by the Hungarian National Assembly on 16 June 2020 and appeared in edition 2020/150 of the Hungarian Gazette on 23 June. The new rule applies to gifts between siblings and to inheritance between siblings.

What do property transfers between siblings mean?

Upon the elimination of duties for property transfers between siblings, the following rules were added to Act XCIII of 1990 on Duties (Duties Act):

- The **estate** obtained by the sibling of the deceased is exempt from inheritance duty.
- The **gift** obtained by the sibling of the donor is exempt from gift duty.

What was the previous rule for property transfers within families?

According to the regulation effective also before 8 July

- the acquisition of property by a lineal relative (including relatives based on adoption) is exempt from the onerous property transfer duty in the case of **property transfers between lineal relatives** (including relatives based on adoption), and
- the acquisition of property is exempt from the onerous property transfer duty if it originates from a **property transfer between spouses**.

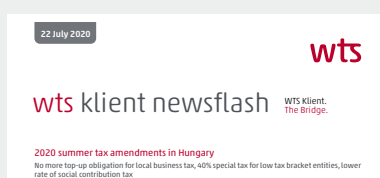
In addition to this – regardless of threshold – the estate or gift acquired by the **lineal relative** (including relatives based on adoption) **and widow(er) of the deceased** is **exempt from inheritance and gift duty**.

To broaden the free transfer of property within families, the amendment – regardless of the value of the bequest or gift – extended the favourable duty rule to inheritance and gifts between siblings too.

According to the amendment, and to reduce the administrative burden of those obtaining property in terms of claiming the duty exemption, any duty-free gift acquired by the sibling **does not have to be reported to the Hungarian tax authority**.

continued on page 3

The latest WTS Klient Newsflash with the 2020 summer tax amendments in Hungary has been released



On 3 July 2020 the Hungarian National Assembly accepted the bill on the 2021 budget. One of the main parts of the law is that following the abolition of the top-up obligation for corporate tax and the innovation contribution, now the same also applies for local business tax. There are also significant changes to the rules on social security, the EKAER and the fixed-rate tax for low tax bracket entities (KATA). The latest WTS Klient Newsflash summarised the main details for local taxation, social security and the "small taxpayers" in particular. Click [here](#) and download it in PDF format!

Who counts as a sibling?

Based on the amendment introducing duty exemption for property transfers between siblings, a precise definition of sibling has also been entered into the Duties Act. Accordingly, a sibling is **"the person who has at least one parent (adoptive parent) the same as the parent (adoptive parent) of the deceased or donor."** So apart from one's own brother or sister, a sibling is also someone who has at least one biological or adoptive parent the same as the biological or adoptive parent of the deceased or donor (i.e. half-siblings and adopted siblings).

The new rules regarding property transfers between siblings **must also be applied in duty cases still awaiting judgement** by the tax authority on 8 July.

Tax consulting

There are a lot of questions that may arise related to the application of this favourable change to the duty rules, including what impact the amendment might have on expats living and working in Hungary. If you have any questions, our [tax consulting](#) colleagues will be glad to help.

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- » tax advisory related to international postings

Latest publications

- » [Verification of intra-community supplies](#)
- » [Tax risks of foreign postings](#)
- » [The tax implications of Brexit](#)

Languages

Hungarian, German, English



Normal financial year or different financial year?

Conditions for defining or changing the financial year

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In some companies, the cyclicity of business may justify preparing the [annual financial statements](#) presenting the activities and operations of the business for a financial year that differs from the normal financial year. Determining the financial year and subsequently modifying it can raise a number of questions. What financial year should a business choose? What kind of companies can choose a different financial year and under what conditions? How can this decision subsequently be changed? In our article we answer these and similar questions.

What does a financial year and a different financial year mean?

A financial year is the period for which a business [must prepare its financial statements](#). **As a general rule, the financial year corresponds to the calendar year** (1 January – 31 December).

A different financial year means that the company decides to apply a financial year that differs from the calendar year. At international level, 31 March and 30 September are the most frequently used balance sheet dates. Hungarian companies founded without a legal predecessor may decide when established to use a different financial year, while businesses already in operation may switch to a different financial year by changing the balance sheet date of the defined financial year.

The financial year and the different financial year both **last for 12 months**; companies may **deviate from this** in the following cases:

- for **companies established without legal predecessors**, the period from the date of foundation (date when the articles of association are signed and notarised) until registered in the



The best way for a company to define its financial year is by adjusting it to the business operations of the company, to serve the information needs of the parent company best.

company register or until the application for company registration is rejected or the [company registration](#) procedure is terminated (as the balance sheet date), irrespective of the duration involved (pre-company period);

- in the year following the pre-company period;
- **switching** from a financial year based on the calendar year to a financial year differing from the calendar year or from a previous (different) financial year to a new (different) financial year;
- for a **new company established by transformation, merger or division** the financial year lasts from the day after the day of [transformation, merger](#) or division until the day designated by the company as the end of the financial year (as the balance sheet date);
- for data presented in the financial statements, when switching [from Hungarian forints to a foreign currency](#), from a foreign currency to Hungarian forints, and **from one foreign currency to another**;
- for a company under **liquidation** or **voluntary liquidation** or undergoing **involuntary deregistration** the financial year shall commence on the day after the balance sheet date of the previous financial year and shall end on the day preceding the date when the liquidation, [voluntary liquidation](#) or the involuntary deregistration procedure begins (as the balance sheet date);
- during the period of liquidation or involuntary deregistration (this is construed as a financial year, regardless of its duration);
- during the period of voluntary liquidation (generally one financial year). If the voluntary liquidation procedure is not concluded within 12 calendar months, the length of the financial year(s) under the voluntary liquidation shall be 12 months, while the last financial year may be less than 12 calendar months.

Who may choose a different financial year?

In Hungary almost any company may choose a different financial year where this is justified by the characteristics of the business activity (such as the cyclicity of business operations, or the parent company's need for information in the case of [consolidated](#) companies). However, companies qualifying as **credit institutions, financial enterprises** or **insurance companies** as well as **foreign higher education institutions** operating in Hungary with a licence and businesses preparing **micro-enterprise simplified annual financial statements** may not choose a different financial year.

When can you choose to switch to a different financial year?

A company may decide to change its balance sheet date for the financial year

- after three financial years closed by financial statements, or
- upon its consolidation, or
- if the parent company changes

with an appropriate modification of the articles of association.

When changing the balance sheet date of the financial year – i.e. when switching from a financial year based on the calendar year or changing the balance sheet date of an already different financial year – the financial statements of the transition year are not prepared for 12 calendar months, so its comparison to both previous and subsequent periods may cause difficulties. The supplementary notes of the annual financial statements prepared with the new balance sheet date **must present**, besides the figures of the balance sheet and the income statement for the given period, a balance sheet and income statement including **base data (from the previous financial year) for comparison**.

Notifications necessary when changing the balance sheet date for the financial year

Following a resolution including the owner's decision, the duly modified articles of association must be submitted to the **Court of Registration** together with a change request. After the registration, the company must notify the **Hungarian national tax authority** and the **local tax authority** about the balance sheet date of the different financial year that deviates from the calendar year.

Advantages and disadvantages of choosing a different financial year

Since parent companies have various information needs, not only for the sake of consolidation, it may be worth for companies not included in the consolidation to consider **switching to the balance sheet date of the parent company** as well. **This may save the company time and human resources.**

Another benefit of having a different financial year is that annual deadlines (such as the submission deadline for annual corporate tax and local business tax returns, or the publication deadline of

the financial statements by the last day of the 5th month after the balance sheet date) are adjusted to the balance sheet date. This can help companies since they do not have to conduct their audit or **annual close** at the “busiest time” of the normal financial year.

This timing advantage could also be a drawback because a balance sheet date of 31 March means a return-filing and financial statement publication deadline of 31 August, which could cause problems because of the summer holidays.

All in all, the best way for a company to define its financial year is by **adjusting it to the business operations of the company, to serve the information needs of the parent company best**. Based on the above, Hungarian companies can adjust the balance sheet date of their financial year so they can present a true and fair

view of the company's financial position, cash flows and financial performance in the year-end financial statements (considering, for instance, the year-end amount of receivables and liabilities or inventories).

Accounting advisory

The **highly experienced accounting professionals at WTS Klient Hungary** will be happy to advise you on how to choose the most optimal financial year for your business, on switching from a normal financial year to a different financial year, or on changing the balance sheet date of an already different financial year. Feel free to contact us.

→ Our expert



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- » accounting advisory

Languages

Hungarian, English

Latest publications

- » [Accounting policies: guide lines for accounting transactions at companies](#)
- » [Significant or not significant error? That is the question...](#)
- » [Publication of annual reports and sanctions in the absence of e-reports](#)



Expat employees working from home

Taxation and social security aspects of postings during the coronavirus pandemic

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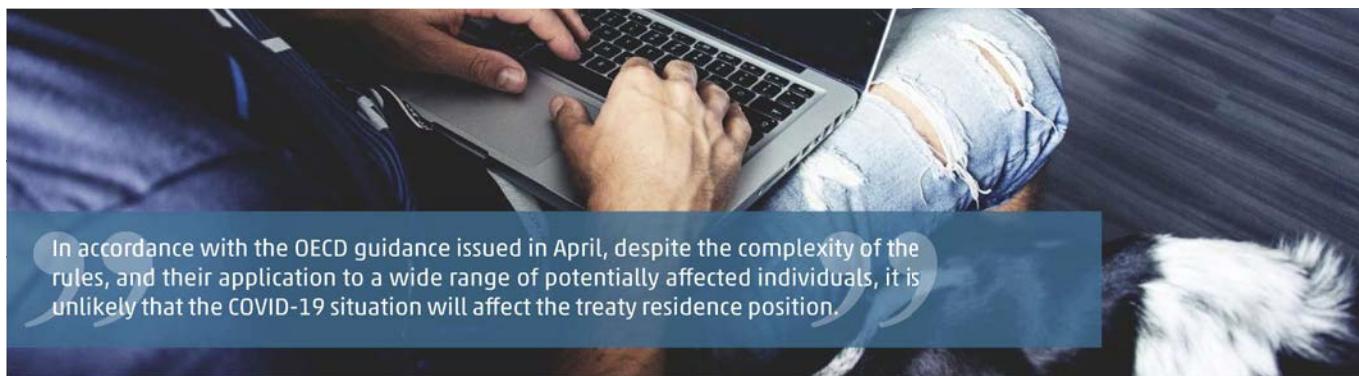
As a result of the restrictions introduced in the wake of the 2020 coronavirus pandemic, many Hungarians working abroad and **foreigners** posted to Hungary have returned home. **While the state of emergency triggered by the pandemic was in place, expat employees working from home or remotely** could not return to their Member State of work as a result of the quarantine measures implemented by the Member States.

Employees working in a different country to the one where the registered office of their employer is located raises several taxation issues. Both the **OECD** and the **European Commission have published guidance** for managing these unprecedented situations. In our article, we will take a look at the most important questions raised by expat employees working from home.

Personal income tax: general rules

It often happens that an employee of a company is sent abroad for varying lengths of time to work there. If a given **posting** is long-term, employees often terminate their permanent address in the posting country and take their family to the host country too. This way they transfer their **tax residence** to the host country.

According to the OECD convention for the avoidance of double taxation, **a person is considered resident if they have a permanent home in the given country**. If a person qualifies as resident in more than one country according to the domestic laws of the given countries, then the following **aspects** must be considered when defining residency:



- permanent home;
- if the person has a permanent home in both states, then the centre of vital interests;
- if it cannot be established where the centre of vital interests is, then the habitual abode.

If the person has a habitual abode in both states, or does not have one in either state, then citizenship is the defining aspect.

Personal income tax of expats during the pandemic

The **taxation of income** derived from non-independent activity **would change significantly as a result of the above rules** in the event of expat employees working from home. However, on 3 April 2020 the OECD published guidance on the impact of the COVID-19 crisis. **According to this guidance it is unlikely that residency can be defined based on permanent home in line with the criteria above** in the unprecedented situation created by the virus, assuming that the private individual has a permanent home in the host country. If they have a permanent address both in the host and the posting country, an employee's residency should be defined based on the centre of vital interests. If the **centre of vital interests** does not give a straightforward solution because the centre of vital interests is in one country based on the individual's personal and social relationships but in another country based on their economic (work) background, the residency of the employee must be defined based on **habitual abode**.

In accordance with the OECD guidance issued in April, "despite the complexity of the rules, and their application to a wide range of potentially affected individuals, **it is unlikely that the COVID-19 situation will affect the treaty residence position**". This means that when establishing residency for the transition period caused by the coronavirus, the authorities should consider the employee's normal living conditions. So as expat employees working from home their residency would not change during the given period, i.e. the time spent in a country other than their country of work.

Social security

Employees living in border towns and villages often **commute** and work in neighbouring countries.

If the working hours of a (Hungarian) employee working abroad did not reach 25% in Hungary before the pandemic, their social security obligation arose in the Member State of work, so they were insured in that country. As a result of the quarantine measures implemented due to the global pandemic, the increase in working hours spent involuntarily at their place of residence in Hungary often resulted in cases where the **25% limit** was exceeded.

The guidance issued by the European Commission on 30 March 2020 formulates a recommendation for such cases. According to this recommendation, in cases which could lead to changes in the employee's Member State of insurance, the Member States **should apply the exception defined in the coordination regulation** so the social security entitlement of the affected employee remains unchanged. To apply such an exception, **the employer has to submit a request** to the Member State whose social security system it wants to be subject to.

Do expat employees working from home create permanent establishments?

The third important question is whether the commuters or expat employees working from home **create permanent establishments, and consequently tax payment liabilities for the employer**, in another state.

Based on the OECD Model Convention for the avoidance of double taxation, a **permanent establishment** is a fixed place of business at which the company conducts its business in part or in full. If the employees of a company work for lengthy periods in another country, based on the above article it is possible that a permanent establishment and therefore a tax payment liability is created in the other country.

Based on the OECD guidance issued in April, a **permanent establishment must have a certain degree of permanence** and must be available for the company to be named a place of permanent business where the company's activities are conducted in part or in full.

For an employee's home to be regarded as a permanent establishment, business activities should be conducted there continuously, and the company should require business activities to be conducted from there.

During the coronavirus pandemic, commuters and expat employees working from home were forced to do so in order to comply with government guidelines and **due to force majeure, not to comply with the requirements of the employer**. Taking into account the unprecedented nature of the coronavirus pandemic – and assuming this does not become regular practice later on – expat employees working from home **do not create permanent establishments** for the employer since “home offices” are not permanent offices.

Expat taxation consulting

WTS Klient Hungary has substantial expertise with regard to **the taxation of expat workers**. If you have a question regarding this topic, you can count on a full analysis and professional answers from our colleagues. Please feel free to contact us.

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- » due diligence
- » tax authority inspections
- » preparation and reviews of transfer pricing documentation
- » international taxation of foreign workers

Latest publications

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Languages

Hungarian, German, English



Publication date for 2019 financial statements approaching!

Changes affecting equity

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Under the [economy protection action plan](#), the Hungarian government introduced a number of tax relief measures to alleviate the economic impact of the coronavirus pandemic. Under Government Decree 140/2020 (IV.21) and Act LVIII. of 2020 about transitional rules in connection with the pandemic businesses were allowed to defer [the fulfilment of their obligations](#) with regard to taxes and reporting.

Postponement of deadline for 2019 financial statements due to coronavirus pandemic

This year, business entities (excluding public-interest entities) received an **extension until 30 September 2020 for the preparation, disclosure, filing and publishing of 2019 financial statements** compiled in accordance with the Act on Accounting.

Taxpayers whose tax obligations (corporate tax, small business tax, income tax on energy providers, local business tax and innovation contribution) **were due by 31 May 2020 may decide, as an exception, to meet these obligations for this year by 30 September 2020**. If you miss the new deadline, however, you can count on receiving penalties.

The coronavirus pandemic impacted on a number of Hungarian businesses unfavourably. These **impacts must already be presented in the 2019 financial statements**. For companies where the 2019 financial statements have not yet been published, this must be considered when closing the year. Based on the experiences gained in previous months, Hungarian companies may already be able to quantify these impacts, possibly recording accruals/deferrals, provisions or impairment too.



The coronavirus pandemic impacted on a number of Hungarian businesses unfavourably. These impacts must already be presented in the 2019 financial statements.

Changes to development reserves and equity

Changes to the development reserve may already have an effect on the content of the 2019 financial statements and the corporate tax return. This is because a new [bill](#) allowing Hungarian businesses **to use up to 100% of their pre-tax profit to allocate a development reserve** was recently approved. This choice can already be applied to fiscal years beginning in 2019 with a self-revision of corporate tax returns already filed, or with an accounting revision of prepared 2019 financial statements. The ceiling for the development reserve (HUF 10 billion – roughly EUR 29 million) and the rules for using it remain unchanged. If such a reserve is recorded then an allocated reserve must be accounted for by way of a transfer from retained earnings, which then creates a dividend payment limit for the company.

If a company is running a loss it is worth keeping an eye on the [equity](#) throughout the year too. Owners are often only notified of an [equity loss](#) when approving the financial statements. However, complying with the provisions on equity is not only necessary from a legal point of view. Capital adequacy provides important information for business partners and creditors too. Note that the amount of critical equity is different for each type of company, such as for a Kft. (limited liability company) or for an Rt. (company limited by shares).

Changes to additional capital contribution

Additional payments received to cover losses must be shown under the allocated reserve at the company. It is recommended to draw owners' attention to the fact that under the provisions of the new Hungarian Civil Code, **additional contributions** – if permitted by the articles of association of the given company – may be made not only as cash contributions but also **from a member's loan as well**. This is because a receivable can be provided as a non-cash contribution too, provided the debtor

acknowledges it or it is based on a final court resolution. Additional contributions can therefore be made through a non-cash service compliant with the requirements of non-cash contributions.

In the case above, the asset transferred as contribution must be recorded at the owner (member) of the company pursuant to the rules on sales, parallel to the movement of the asset, with the provision that the receivable thus created shall reduce retained earnings by the same amount.

The owner (member) of the company **may decide to waive the receivable derived from the additional contribution**. An **amendment to the Hungarian Act on Accounting which took effect on 1 January 2020** settles the accounting thereof, declaring that in such a case the amount of the additional contribution must be recorded as an addition to retained earnings against the allocated reserve at the company. This change **must first be applied in the financial statements of the 2020 financial year, but it can already be applied for the 2019 financial statements too**. Naturally, if the owners would like to use this option, they first need to review the transfer from a tax perspective as well.

Change to other method of settling equity

The new rule amending the registration of capital increases was announced at the end of 2019 and it took effect the next day. Previously, capital increases had to be recorded in the accounting records on the same day they were registered at the court of registration. Now, however, **businesses may choose the date of the change**. Under the Hungarian Act on Accounting, in their accounting records companies can record any changes in registered capital derived from increasing the capital, share capital, founders' assets or other shares as of the date of the change, if the change date differs from the registration date.

These changes benefit Hungarian businesses because they provide the owners with greater scope to treat issues arising from equity. **What remains unchanged**, though, is that both additional contributions and capital increases are **subject to a resolution passed by the owners (members)**, while registration at the court of registration is mandatory for capital increases too. If the articles of association do not enable additional contributions to be made, the articles can be modified, which is also subject to registration at the court of registration.

Tax, legal and accounting consulting from one source

Before an owner decision is made it is always worth consulting a lawyer, tax consultant and accountant to ensure all transactions are compliant with the rules and are carried out in the company's best interest. The professionals at WTS Klient Hungary are here to help.

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Languages

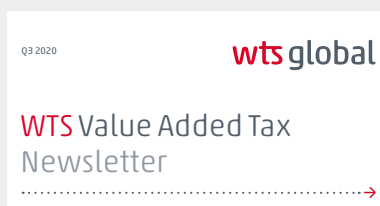
Hungarian, German

Latest publications

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- » [What does electronic communication mean from the perspective of local business tax returns?](#)



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



The WTS Global VAT Newsletter edition for Q3 2020 reports recent or expected changes in VAT and GST regulations and compliance duties in eight countries: Greece, Ireland, Azerbaijan, Chile, China, India, Malaysia and Nigeria.

You can download WTS Global VAT Newsletter for Q3 2020 in PDF format here:
[WTS Global VAT Newsletter Q3/2020](#)

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.

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- » Legal consulting
- » Accounting
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