

# wts klient newsletter

WTS Klient. **The Bridge.**

## Dear Readers,

We are already through our second Easter in quarantine. We are still – and who knows for how long – living with the virus over our heads. We haven't been sitting by idly and waiting with our arms folded for the pandemic to end, but we were nevertheless hoping that sooner or later we could return to our former lives and working routines, to our normal office life and to meeting up in person. Yet the accelerated changes brought on by the pandemic, the steep rise in the importance of digitalisation, online client meetings, internal meetings, home office and managing projects online are now undoubtedly an integral part of our everyday lives and routine. Today, everything is running so smoothly it is as if we always lived like this. We can already see that once the pandemic is over things will not return to what they used to be. But perhaps that is not a bad thing.



At WTS Klient we have already held our first Happy Hours on Zoom, i.e. an informal management report for staff, and we have launched our webinars for clients. Furthermore, we have some even more ambitious plans in the pipeline: on 18 May and together with WTS transfer pricing experts from the Czech Republic, Poland and Germany we are organising a joint [regional webinar](#) in English, addressing the transfer pricing challenges arising during the pandemic. Our free global newsletters are growing in number too: the latest [WTS Global VAT Newsletter](#) and [WTS Global Mobility Newsletter](#) have been joined by the first [WTS Global Customs Newsletter](#), which includes the latest developments in trade and customs from all corners of the globe.

Thanks to the unrelenting flow of amendments to Hungarian legislation, this newsletter has mainly been compiled by our tax experts: we discuss the changing rules of international e-commerce, the new administrative obligations for hauliers, the BIREG system, and the latest news on the 5% rate of VAT for residential property. Over and above this, our article on page 6 broaches a new subject: The director of our WTS Klient Business Automation division explores the benefits and the legal regulation of the whistleblowing system that will soon be compulsory.

We hope you will again find some useful information in the newsletter. If anything is not covered that you would like to hear about, or should you have any questions on the articles, we are happy to help. Please do not hesitate to get in touch.

**Zoltán Lambert**  
managing partner



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wts global

## WTS Customs Newsletter



### The first WTS Global Customs Newsletter has been released

The first WTS Global Customs Newsletter shares with you news on trade and customs developments from all over the world. The following regions and countries are covered: Asia Pacific, Europe, China, Malaysia, Philippines and USA.

You can download the first WTS Global Customs Newsletter in PDF format here: [WTS Global Customs Newsletter #1/2021](#)

## One-stop shop systems in international e-commerce

Rules to change significantly from 1 July

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In recent years the European Commission has compiled a legislative package that reforms the regulation of online commerce, among other things by extending one-stop shop systems. The majority of the directives and regulations that form part of the package will enter into force on 1 July 2021, and the rules implemented in the VAT law will also take effect from that date. **Since the foundations of international e-commerce rules will change almost completely from 1 July**, those affected should prepare for these significant changes well in advance. We would like to draw attention to the most important tax law changes affecting international e-commerce and distance selling.

### Most important elements of the new regulation

The goal of the European Commission is to **standardise and simplify** the VAT rules that affect e-commerce. They basically want to make cross-border commerce easier, create a level playing field, and **reduce the administrative burdens of businesses**. The most important elements of the new regulation:

- expansion of the application of one-stop shop systems,
- transformation of the rules on product imports (import one-stop shop, termination of tax-exempt status for low-value imported packages, i.e. below EUR 22),
- inclusion of electronic platforms (intermediaries) in taxation in certain cases,
- change in definition of distance selling.

### Wider application of one-stop shop systems

The one-stop shop system currently available is the so-called MOSS system (Mini One Stop Shop), which is only applicable for services that can be provided at a distance (telecommunications, electronic, radio and audiovisual services). From 1 July, **the name of the MOSS system will change to OSS and its application will be extended** with all the services provided for non-taxpayers where the place of performance is in the Member State where the consumption took place, and with distance selling. Within the OSS we can distinguish between **EU and non-EU** one-stop shop systems depending on which transactions these can be applied for.

Additionally, a separate one-stop shop system will be created for the distance selling of products with an intrinsic value of no more than EUR 150, imported from a third country: the **IOSS** (Import One Stop Shop).

### Common features of one-stop shop systems

Perhaps the most important common characteristic of all three one-stop shop systems is that **selecting them is not mandatory**, just an option. Businesses that use the one-stop shop systems can decrease their administrative costs significantly. The essence of these systems is that **taxpayers fulfil their tax obligations affecting several Member States simultaneously by submitting one tax return in one specific Member State**, thus sparing the need to register in the other Member States.

An additional common characteristic of one-stop shop systems is that there are **no rights of deduction**. Deductible taxes can basically be reclaimed through tax refunds. In certain cases, the given taxpayer may be registered in the Member State where the registration took place. In this case, the right to deduction can be applied in the tax return submitted in the given Member State.

### Change in the rules of distance selling

**The definition of distance selling will change as of 1 April**, and from that time onwards there will be two types of distance selling: intra-Community distance selling and the distance selling of imported products.

**The thresholds defined by the individual Member States will be cancelled**, including the threshold of EUR 35,000 in the case of Hungary for example, while taxpayers using distance selling can register in the one-stop shop system and settle their tax liabilities in respect of several Member States simultaneously.

Let's take an example. A company based in Hungary conducts distance selling from Hungary to several states of the EU (Germany, Austria, Slovakia). Based on the rules prior to 1 July, the company must monitor whether the value of its sales to the individual

Member States exceeds the threshold in the given Member State (e.g. in the case of Germany it is EUR 100,000). If not, it can issue invoices with Hungarian VAT, but if the threshold is exceeded, it has to register in the given Member State. Based on the rules valid from 1 July, if the above Hungarian company selects the one-stop-shop system it must file its tax return and pay (via the return) the VAT on its sales to the other Member States (according to the VAT rates valid in the given Member State), thereby avoiding the need to register in the other Member States. It is important for **the Hungarian company to report its sales with a place of performance in Hungary in VAT tax return no. 65**, and not in the one-stop shop system.

### Filing of tax returns

Tax returns must be filed **electronically** in each of the one-stop shop systems: **quarterly** in the EU and non-EU one-stop shop system, and **monthly** in the import one-stop shop system. The deadline for the tax returns and the payment of taxes is the last day of the month following the given tax assessment period.

Taxpayers registered in Hungary's one-stop shop system should prepare their tax returns in **HUF**, while for conversions, the exchange rate published by the European Central Bank and valid on the last day of the tax assessment period should be applied.

### Adjustment of tax returns

If the tax returns already submitted must be revised, taxpayers can do so in a subsequent tax return within three years of the filing deadline of the original tax return. **Revisions are possible even after three years, but within the limitation period.** Yet this is not done in the one-stop shop system, you should contact the competent tax authority in this matter.

### Transitional rules

**Taxpayers have the opportunity to register in one of the one-stop shop systems from 1 April 2021.** Taxpayers already registered in the one-stop shop system as of 1 April 2021 because of services that can be provided from a distance do not have to register again. However, they should not forget to report some data

to the national tax and customs authority by 15 June. But taxpayers already registered in the one-stop shop system and who now want to use it as a distance seller must register in the EU's one-stop shop system.

### Problem of online data reporting for invoices

In line with previous announcements, from 4 January 2021 the [online invoice 3.0 system](#) was launched in Hungary as the third and final step of extending online data reporting for invoices in Hungary. Upon the introduction of online invoice 3.0, the data reporting obligation for invoices is extended, among others, to include invoices issued to non-taxpayers, such as natural persons. While the VAT law exempts taxpayers registered in the one-stop shop system in Hungary from online invoice data reporting, this exemption is only valid from 1 July. Consequently, **taxpayers who currently conduct distance selling and who wish to utilise the opportunities offered by the one-stop shop system from 1 July, would still have six months to fulfil their Hungarian online invoice data reporting obligation.** Nevertheless, to be able to bridge this half-year period and gain exemption from the data reporting obligation, these taxpayers can utilise the moratorium until 30 June (that was originally in force until 31 March for other taxpayers), provided that they register in the one-stop shop system in their home country until 1 July and they make only distance selling to Hungary).

### Tax consulting

Although one-stop shop systems represent significant administrative easing for enterprises, it is obvious that companies involved in e-commerce should prepare for important changes from 1 July. It is worth starting to prepare in time. If your company is affected, please do not hesitate to contact our [tax consulting team](#).

## → Our expert



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### Languages

Hungarian, German, English

### Latest publications

- » [Special payment options during the coronavirus pandemic too!](#)
- » [Tax issues regarding company cars](#)
- » [Have you prepared your documentation in compliance with the new transfer pricing documentation decree?](#)

## BIREG system besides EKAER from 1 January?

Yet another reporting obligation for hauliers and new administrative burdens on consignors and consignees

Author: **András Szadai**

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From 1 January 2021, consignors and consignees have to register in the BIREG system and check the validity of their international freight permits, as well as record the freight data on the freight log or permit. The plan is to supplement these tasks from 1 July 2021 with registering the freight data in the BIREG system and uploading the waybills.

The amendment to Government Decree 261/2011 (XII.7) entered into force on 1 January 2021, signalling the launch of the BIREG system in Hungary. The government decree concerns **road freight for a fee, own-account freight, as well as passenger transport by bus for a fee and own-account passenger transport**, as well as the amendments to associated laws, and it prescribes use of the BIREG system. Thus while the obligations related to the [EKAER system](#) are being scaled back, hauliers are facing further administrative burdens.

### What does BIREG mean exactly?

The Provisional Electronic Permit Registration or BIREG (bilateral registration) system is the **new electronic system** operated by the authorities from 1 January 2021. It was created by the Ministry of Innovation and Technology to check and track the lawful use of bilateral and multilateral as well as CEMT permits required for international road freight.

### Who is affected by the BIREG registration requirement?

Use of the BIREG system and registering in the system can affect all companies that conduct passenger and freight transportation activities by road. This does not include **EU companies** which handle freight exclusively with a [Community permit](#).

### Which freight services must be registered?

Registration in the BIREG system is required for **lorries with a mass over 3.5 tonnes** handling international road freight for a fee on Hungarian territory, lorries with a maximum authorised mass of over 3.5 tonnes handling international road freight on own account, and **lorries handling cabotage transportation** on the territory of Hungary.

### When do you have to register?

The registration is related to entering and leaving Hungary as well as to loading and unloading.

### How does the BIREG system work, how do you register?

Registering in the BIREG system is a **two-stage process**. Firstly, the given **company has to register in the system**. You have to enter the company name, registered office, contact details, Community permit or international road freight permit number, as well as define a unique company ID that is used to identify the company within the BIREG system. **Then the freights are registered**, indicating the places for loading and unloading, the vehicle number plate and its environmental classification. The system decides on this basis whether or not the freight requires a permit. Events must be assigned to these freight transactions. Such events are entering the territory of Hungary, unloading then loading in Hungary, and leaving Hungary. In the case of cabotage transportation, the recorded events are the freight to Hungary before the cabotage, and the international freight after leaving Hungary.

### What do consignors and consignees have to do?

From 1 January 2021, consignors and consignees have to register in the BIREG system and check the validity of their international freight permits, as well as record the freight data on the freight log or permit. The plan is to supplement these tasks from **1 July 2021** with registering the freight data in the BIREG system and **uploading the waybills**. If problems are detected they must be notified to the transportation authority, the customs authority or the police by the consignee or the consignor.

### What are the consequences for failing to fulfil the BIREG requirements?

From 1 February 2021, failure to use the BIREG system is the same as handling freight without a permit. **The haulier, the consignor and the consignee can all be penalised.** Hauliers can be fined HUF 800,000 (roughly EUR 2,200) for failing to use the BIREG system, i.e. failing to register, while the consignor and/or the consignee can expect a fine of HUF 300,000 (roughly EUR 817) for failing to meet their notification and permit administration obligations.

### Tax consulting

We recommend consulting with logistics specialists at your company about the need to register for the BIREG system, and if you use external logistics providers you should check your partner is aware of the changes and handles your consignments accordingly. If you have any questions about the system requirements, please get in touch with the [tax specialists of WTS Klient Hungary](#).

### → Our expert



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- » due diligence

#### Latest publications

- » [Favourable EKAER amendments from 2021](#)
- » [Reclaiming VAT on irrecoverable debts](#)
- » [Changes to call-off stock rules in Hungary](#)

#### Languages

Hungarian, German, English



### The latest WTS Global VAT and Mobility Newsletters have been released



The first edition of the WTS Global VAT Newsletter in 2021 wants to share with you insights on the latest developments in terms of VAT and GST across the globe. It reports recent or expected changes in VAT and GST regulations and compliance duties in 16 countries. You can download the newsletter in PDF format here: [WTS Global VAT Newsletter #1/2021](#)



The latest WTS Global Mobility Newsletter provides you with an overview of recent developments of the global mobility environment in 11 selected EU and third countries. You can download the newsletter in PDF format here: [WTS Global Mobility Newsletter #1/2021](#)



## Whistleblowing system soon to become compulsory

Companies should start preparing in time

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Member States have until 17 December 2021 to implement in their national legislation the **EU directive** that makes it compulsory for certain entities to establish and operate a whistleblowing system (internal reporting system). Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law was published on 23 October 2019.

### What is a whistleblowing system?

A whistleblowing system or ethics hotline is a **platform for reporting complaints about legal breaches** set up and operated by a given organisation. The most popular whistleblowing channels are telephone or email hotlines, and web-based online reporting systems.

### What are the benefits of a whistleblowing system?

Implementing a whistleblowing system is not only obligatory but it is in the fundamental interest of companies. With such a system, **fraud can be detected or even prevented** more easily, the impact and extent of breaches and damage can be significantly reduced, and the operation of the organisation made more efficient.

According to the [2020 international research](#) of the Association of Certified Fraud Examiners (ACFE) studying 2500 cases in 125 countries, business enterprises lose almost 5% of their annual revenue due to various kinds of fraudulent acts committed in the course of employment. Approximately 43% of the breaches were revealed through whistleblowing channels with almost half of the reports submitted by employees. At companies operating a whistleblowing system, the average value of damage caused by fraud was around half that of other companies. What is more, they were able to detect these within a much shorter time after the fraudulent act was committed, when compared to companies where no such whistleblowing system exists (within 12 months instead of 18). In accordance with the study, deploying a whistleblowing system can result in **up to several million forints of savings per month for a given entity** since the existence of a whistleblowing system alone causes perpetrators to be more cautious, while it also undoubtedly makes fraud prevention and detection much more efficient and successful.

### What does the EU Directive contain?

Directive (EU) 2019/1937 specifically defines the areas and legal entities where **internal and external whistleblowing channels** for breaches **must be implemented**. These are the areas in which breaches fall within the scope of the Union acts:

- public procurement
- financial services, products and markets, and prevention of money laundering and terrorist financing
- product safety and compliance
- transport safety
- environmental protection
- radiation protection, nuclear safety
- food and feed safety, animal health, protection and welfare
- public health
- consumer protection
- protection of privacy and personal data, and security of network and information systems
- breaches as referred to in Article 325 TFEU (fraud, breaches relating to the Union's financial interests)
- breaches relating to the internal market as referred to in Article 26(2) TFEU (e.g. breaches of Union competition and State aid rules) breaching corporate tax rules or obtaining a tax advantage that defeats the object or purpose of the applicable corporate tax law

The provisions set out in the directive must be **implemented** by the Member States into their national legal practices by **17 December 2021**.

In the first phase from 17 December 2021 it will be compulsory for entities with a headcount of 250 or more to deploy a whistleblowing system; then, by 17 December 2023 regulations will have to be passed compelling legal entities operating in the private sector with a headcount of between 50 and 249 people to establish whistleblowing channels. This means that sooner or later **every entity** or organisation operating in the public sector and **employing 50 or more people** will have to establish and operate an internal reporting channel.

The directive allows for unidentifiable, i.e. anonymous reporting as well, but leaves the elaboration of the detailed rules thereof to the Member States.

### What regulates whistleblowing systems in Hungary just now?

In Hungary, the reporting of complaints and disclosures of public interest as well as whistleblowing at legal entities in the state and public sector are regulated by **Act CLXV of 2013** on Complaints and Public Interest Disclosures.

We thank Dr. Zsolt Jasku for his help in compiling the content of this article.

## IT / Business Automation

Based on the above, it is obvious that it is in the best interest of every economic operator, even those with a headcount below 50, to implement a whistleblowing system. However, developing such a system requires time and expertise. So it is best to start preparations now. The [WTS Klient Business Automation division](#) is here to help you. Feel free to get in touch now.

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- » IT consultation
- » fraud examination

### Latest publication

- » [Online invoice 3.0 – is automation here?](#)

### Languages

Hungarian, English, German



## TP CEE Webinar – How to cope with Transfer Pricing challenges and audits in pandemic times

In the past year or more we have adapted to the fast changing economic environment and tried to follow the measures introduced by governments. State actions in transfer pricing may have postponed some deadlines, but several questions still remain after a year.

- Can we accept loss-making figures at companies?
- How do we interpret the guidance issued by tax authorities in cross-border transactions to avoid double taxation in the countries concerned?
- Is there anything that has to be taken into account during a tax audit in 2021?

We seek answers to those and many other questions on our regional webinar. We look forward to welcoming you!

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- » Date: Tuesday, 18 May 2021
- » Time: 14:00 - 15:00 CEST
- » Language: English

### Presenters:

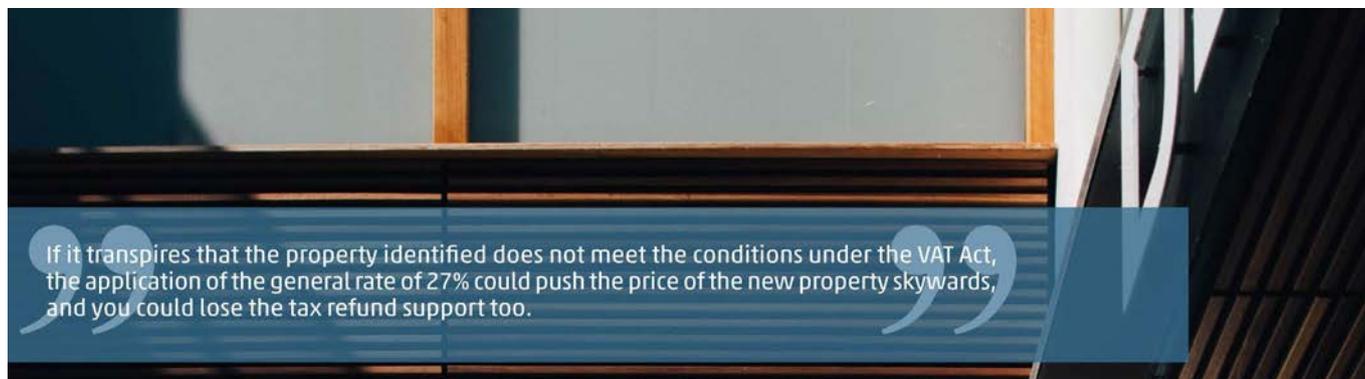
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- » Michal Kolář – Tax Specialist, WTS Alfery, Czech Republic
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## New residential property: tax refund support now available

### Useful information on 5% VAT for residential property

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In [our article](#) last November we wrote about the details of the housing support action plan to be introduced in Hungary from 1 January 2021. As a result of the legal amendments implemented to roll out the action plan, the **VAT rate for new residential property dropped to 5% again from January 2021**, while properties acquired using the family housing support (CSOK) are exempt from stamp duty. The support available has now been expanded once more: when buying new residential property **tax refund support can be claimed up to the amount of the 5% VAT** (up to a cap of HUF 5 million – roughly EUR 14,000 – tax refund is available for invoices issued with 27% VAT in certain cases).

#### New residential property and the CSOK

This support may certainly sound enticing for many, and could prompt families eligible for the CSOK and wanting to purchase a home to move towards buying a new residential property. However, it is worth bearing in mind that the **conditions relating to properties for claiming the CSOK are not the same as the conditions under the VAT Act for the 5% rate applicable in the case of a new residential property**. If it transpires that the property identified does not meet these conditions, the application of the general rate of 27% could push the price of the new property skywards, and you could lose the tax refund support too. It is also worthwhile knowing that when buying a new property **there is no guarantee that all parts of the property will be eligible for the lower tax rate**: you can receive invoices with VAT of 5%, and invoices with VAT of 27%. This is why we have summarised the most important points below.

Before getting started, we would like to note that the preferential tax rate in Hungary is not a new rule. [Between 2016 and 2019](#) the VAT rate was also 5% when buying a new residential property, and the new **rule valid from 2021 is almost the same as the previous one**. Accordingly, the previous guidelines on the NAV website regarding the applicability of the 5% tax rate are still relevant in our view – irrespective of the fact they have now been archived. Despite this, on 15 February 2021 the NAV published new information on this topic on its website.

#### What is residential property exactly?

According to the VAT Act, residential property means a property **established for dwelling purposes** which is registered, or is in the process of being registered, in the real estate register as a house or apartment. Areas not required for the intended use as a dwelling shall not be construed as residential property, even if built adjacent to the residential building, such as: a garage, workshop, shop, farm building. Areas not required for the intended use as a dwelling also do not qualify as residential property if this was not stated separately in the real estate register. This is why the price of **areas not used as a dwelling** must be determined separately when concluding the contract, since the preferential VAT rate is not applicable in this case and **the general rate of 27% applies**.

#### When is a residential property new?

The VAT Act in Hungary is quite clear about the definition of a new residential property. Accordingly, a residential property is new if:

- **its first occupancy** has yet to take place, or
- the first occupancy has taken place, but two years have not elapsed between the official completion certificate becoming final and the sale, or in the event of an occupancy acknowledgement procedure, between the implied acknowledgement of occupancy and the sale, or the development took place based on simple notification in accordance with the Act on the Formation and Protection of the Built Environment, and **two years have not yet elapsed** between the issue of the official certificate on the development and the sale.

In line with the previous guidelines, the NAV information reveals important details on certain special cases (for example, expansion, extension, changes in function or purpose) as to when and with what procedure occupancy can take place, or in the case of land belonging to the property, when the preferential VAT rate can be applied.

## Floor space

As mentioned in our [previous article](#), the preferential VAT rate of 5% for residential property is applicable if the total usable floor space **does not exceed 150 square metres for a multi-occupational residential property, or 300 square metres for detached family homes**. It is important to note here that based on previous information from the NAV, semi-detached houses must be considered detached houses, and not twin residential homes, i.e. the 300-square-metre threshold for detached houses must be taken into account.

But what does useful floor space mean? The NAV has published very detailed information on this. Accordingly, from the perspective of this threshold, the total usable floor space of the residential property in line with the VAT Act (hall, bedroom, living room, kitchen, bathroom, pantry, utility room, etc.) must be taken into consideration. The **total usable floor space** of the residential property **does not include the floor space of the garage, shop and other areas not required for the intended use** of the residential property. The definition of usable floor space as contained in Government Decree 253/1997 (XII.28) on the National Urban Planning and Building Requirements (OTÉK) must be applied when calculating usable floor space. In accordance with the decree, usable floor space is the area of the room or of the area calculated from the horizontal projection of a space fully or partially surrounded by a building structure where the ceiling height is at least 1.9 metres. When calculating the total usable floor space, the usable floor space of all the storeys must be taken into

account. Storeys are all levels of the building that contain rooms. An attic is not a storey, neither is a roof area containing nothing but lifting machinery or the upper part of a stairway.

### When is the preferential VAT rate applicable from, and for how long?

According to the rule currently in force, the preferential 5% rate for residential property is applicable in Hungary if the property sale (or payment of advance) falls **between 1 January 2021 and 31 December 2022**. Under a **transitional rule**, which will take effect as of **1 January 2023**, the preferential VAT rate will remain applicable if the sale falls between 1 January 2023 and 31 December 2026 – provided that, in the case of construction work subject to a building permit, the building permit for the residential property becomes final by 31 December 2022, or the building activity subject to simple notification is reported by no later than 31 December 2022.

### Value added tax consulting and compliance work

If you need advice on the 5% VAT applied in connection to a new residential property, or on the tax refund support up to said amount, or on other tax issues related to real estate, then [our VAT professionals](#) are here to help!

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### Languages

Hungarian, German, English

### Latest publications

- » [Invoice data reporting still to be expanded from 1 July – no deferment!](#)
- » [Changes to VAT in Hungarian summer tax law amendments](#)
- » [Changes to tax-exempt status of export freight](#)

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:

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