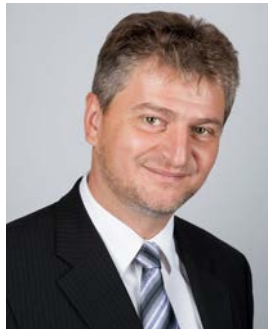


wts klient newsletter

WTS Klient. **The Bridge.**

Dear Readers,

The spring of 2022 has been (and still is) all about momentous changes for us. After springs spent in quarantine and the slow-down and isolation during the coronavirus pandemic, now we are embarking on something new, and something forward-looking, with renewed vigour. Our rebirth.



It has long been clear that the future, including the future of taxation and all areas of business, will be dominated by digital technologies. All business divisions at WTS Klient have always strived to ensure the development and up-to-date application of state-of-the-art IT solutions, to serve their clients in the most efficient ways. Two years ago, in an effort to further reduce the business and tax administration burden for our clients, we established a [new business line](#) under the name of Business Automation. But we are not stopping there. Accelerating technological innovation and making it even more efficient is our main strategic goal.

Thanks also to digitalisation, and expedited by the isolation caused by the pandemic, we cannot ignore the spread of remote working and flexible working in certain sectors, including ours. Our office, along with the work of our colleagues, is being rejuvenated and modernised in this spirit.

Most importantly, we have decided to take a giant leap forward; while maintaining our dynamic organic development, we are also embarking on a journey of growth through acquisitions. Yet I would not be so confident to report this if it were not for the solid support of ARX Equity Partners. From [1 March](#), this financial investment firm is the majority owner of Klient Holding. With its financial strength and experience in the region, they are helping us expand through market acquisitions, while continuing our development and focusing on the needs of our clients, i.e. you.

Also new senior partners and new business division partners were appointed from 1 March to secure the dynamic growth, and Robert Stöllinger, former Big4 National Senior Partner with more than 20 years' experience in advisory services and corporate management in Hungary, was asked to be the new Chairman of the Supervisory Board, which will make a significant contribution to our growth.

In our newsletters we will continue to explore current and important taxation and accounting matters with our usual in-depth approach. We hope you keep reading, stay tuned, and please feel free to contact us if you have any questions.

Zoltán Lambert
Managing Partner



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Plastic Taxation in Europe has been released



On 2 March 2022, 175 Member States of the United Nations endorsed a resolution at the fifth session of the UN Environment Assembly in Nairobi to create an intergovernmental negotiating committee to commence work on crafting a legally binding international agreement by the end of 2024 to tackle plastics waste and pollution. On this occasion, we are delighted to present to you the very first comprehensive WTS Global survey of the state of plastic taxation across 22 European countries, including Hungary.

You can download the publication in PDF format here:
[Plastic Taxation in Europe](#)

EU legal case – VAT on advertising services

Fine levied by Hungarian Tax and Customs Administration for VAT deduction was unlawful

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A recent European Court of Justice ruling affecting Hungary has answered an important question regarding VAT on advertising services. The judgment in case C-334/20 was published on 28 November 2021. Essentially, the issue was whether the tax authority can refuse a [deduction of VAT](#) on advertising services if they deem that the services are overpriced or that no increase in sales revenues can be shown as a result of using the services.

What kind of advertising services were affected by the case?

Amper Metal Kft. concluded a contract with Sziget Reklám Kft. for the provision of advertising services in 2014. In line with the contract, Amper Metal advertised itself on **stickers placed on racing cars**. The consideration for the service was HUF 48 million (roughly EUR 120,000) for one year according to the contract concluded between otherwise independent parties. In its VAT returns filed for 2014, Amper Metal deducted total VAT of HUF 13 million (roughly EUR 33,000) which was indicated on the invoices issued to it. **During the tax inspection, the Hungarian Tax and Customs Administration did not agree with the deductibility of the VAT in question, and therefore levied a penalty and late payment interest.**

On what basis did the tax authority challenge the VAT deductibility?

According to the judgment of the NAV, expenses arising in connection with advertising services **did not qualify as costs related to the taxable revenue-generating activity of Amper Metal**, so according to Section 120 of the VAT Act, Amper Metal was not allowed to deduct the VAT it paid.

Additionally, the experts of the tax authority deemed that the advertising services are **too expensive** and the plaintiff **did not benefit in any way** from the advertisements because the profile of its clientele differs from car racing.

How did the case come before the Court of Justice of the European Union?

The case of Amper Metal and the Hungarian Tax and Customs Administration affecting the VAT of advertising services came before the Veszprém County Court, which sought the assistance of the Court of Justice of the European Union in interpreting Article 168(a) of the **VAT Directive** (the EU's Common VAT Directive). According to the aforementioned section, **the right to deduct VAT cannot be refused on the grounds that the services provided by the supplier were not used in the taxable activities of the customer.**

The Hungarian court quotes the NAV which explained the non-use by stating the cost of the service provided was disproportionately higher than the sales revenue or sales revenue increase generated by the service, which, according to the tax authority, was zero in this case. The NAV supported its arguments with the fact that the clients of Amper Metal typically comprise industrial players who presumably do not make commercial decisions based on stickers placed on racing cars.

According to the experts of the tax authority, the fee for advertising services paid by Amper Metal was also expensive and overpriced compared to the market price.

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Value added tax consulting

If you have any questions about the VAT system or the VAT deductibility of advertising services arising at your company, please get in touch with the [VAT specialists of WTS Klient Hungary](#) who will be happy to help you.

What did the Court of Justice of the European Union decide?

According to the judgment of the Court of Justice of the European Union in case C-334/20, **the lack of an increase in the taxpayer's sales revenues cannot affect the exercising of the right to deduct.** According to their ruling, the common system of VAT ensures neutrality of the tax burden of all economic activities, whatever their purpose or results, provided that those activities are themselves subject, in principle, to VAT. Therefore, **the right to deduct remains** after its inception, **even if the planned economic activity is not carried out**, i.e. it has not led to taxable transactions. The

right to deduct also remains even **if the taxpayer has not used the products or services enabling the deduction** in taxable transactions because of circumstances beyond its control (Sonaecom judgment of 12 November 2020, C-42/19, EU:C:2020:913, Sections 38 and 40, and the case-law cited therein).

That the **price paid is higher than the market price** or any potential reference value defined by the tax authority as the price for similar advertising services **cannot justify the refusal** to allow the taxpayer to exercise their **right to deduct**.

→ Our expert



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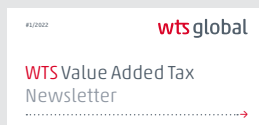
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- » [Favourable EKAER amendments from 2021](#)
- » [Reclaiming VAT on irrecoverable debts](#)

Languages

Hungarian, German, English



The latest WTS Global Newsletters have been released



The first edition of the WTS Global VAT Newsletter in 2022 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 12 countries, including Hungary. You can download the newsletter in PDF format here: [WTS Global VAT Newsletter #1/2022](#)



In the first edition of the WTS Global Transfer Pricing Newsletter this year WTS experts from 15 countries provided an update on recently introduced legislations and cases and also the new version of the OECD Guidelines is presented. The newsletter is available in PDF format here: [WTS Global TP Newsletter #1/2022](#)



The latest WTS Financial Services Newsletter presents taxation related news from 10 countries with focus on the international financial services industry. You can download the newsletter in PDF format here: [WTS Global Financial Services Newsletter #1/2022](#)



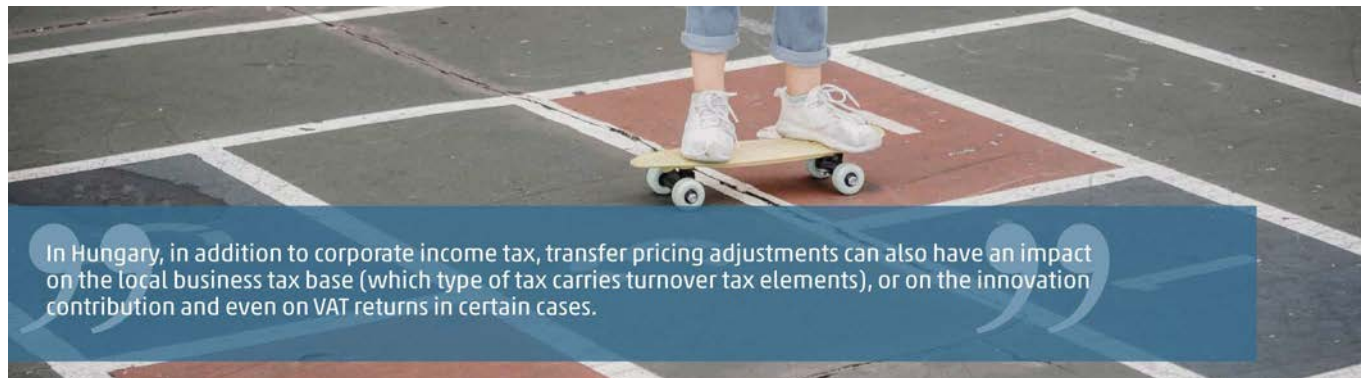
The WTS Global Customs Newsletter #1/2022 shares with you news on trade and customs developments from all over the world and reflects the typical issues that we see discussed internationally. You can download the newsletter in PDF format here: [WTS Global Customs Newsletter #1/2022](#)

Year-end transfer pricing adjustments in Hungary

What to look out for within a group?

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The time has come again to prepare financial statements, annual corporate tax returns and local business tax returns. For many companies belonging to a multinational group, this means that the pricing of transactions between related companies, year-end transfer pricing adjustments and the inclusion thereof in tax returns along with the [obligation to prepare transfer pricing documentation](#) are highlighted on the corporate agenda. In this article we cover the most important aspects of the individual tax types and draw attention to the challenges of local business tax.

Which tax types are affected by transfer pricing adjustments in Hungary?

Compliance with [transfer pricing rules](#) requires related companies to set the pricing of their intra-group transactions according to the arm's length principle. Since this is not always possible for individual orders during the year, **prices applied over the year are often adjusted by the parties to arm's length prices at the end of the year**. An intra-group review of transfer pricing adjustments is essentially necessary for the purposes of income taxes. However, in Hungary, in addition to corporate income tax, transfer pricing adjustments can also have an impact on the local business tax base (which type of tax carries turnover tax elements), or on the [innovation contribution](#) and even on VAT returns in certain cases.

How do you handle such adjustments?

Adjustments can be performed in several ways. The first question that usually arises is whether the adjustment should only appear as a corporate income tax base adjustment item, or as an accounting adjustment.

According to the rules of the Hungarian Act on Accounting and in line with underlying contractual provisions, related companies have a chance to include in their accounting records a subsequent adjustment of the consideration for assets and services sold and acquired in the ordinary course of business during a specified period as an adjustment of the original transaction amount, i.e.

to adjust the consideration of their transactions to market price, **thereby avoiding the tax base adjustment under the Corporate and Dividend Tax Act**.

The Hungarian Act on Accounting stipulates that these adjustments must be reported (based on the accounting document issued for the subsequent adjustment) as part of the asset's acquisition value; as a change to a cost or expense in the case of services purchased; and as net sales revenue in the case of sales.

Double taxation problems and the special status of local business tax

Of course, the accounting does not just affect [corporate income tax](#), it is highly important for the purposes of [local business tax](#) as well. Local business tax is a tax type based on net sales revenue, so transfer pricing adjustments accounted for as other income would not essentially have an effect on the local business tax base, while the **adjustment reported as part of the net sales revenue is subject to local business tax as well as corporate income tax**.

Prior to the change in legislation valid from the 2021, the Act on Local Taxes did not include any specific rules for transfer pricing adjustments. However, it follows from the general rules of the Act on Rules of Taxation that **upon calculating individual local business tax base components, related companies must consider if a tax base component is derived from a transaction in which the contractual price differs from arm's length conditions**.

For local business tax, adjustments due to the arm's length price apply to related companies who are subject to this obligation under the Corporate and Dividend Tax Act. An entity obliged to apply arm's length prices based on the Corporate and Dividend Tax Act may determine net sales revenues or the cost and expense decreasing net sales revenues on the basis of the arm's length price defined under the Corporate and Dividend Tax Act. **An adjustment aimed at reducing the tax base is only possible if the entity has a statement from its business partner that the latter performs an opposite tax base adjustment in the same amount**.

If the business partner is not subject to local business tax (a foreign entity, or a domestic entity that only has a registered office or permanent establishment in a municipality where local business tax is not applicable), the statement must specify that the entity will apply the adjustment in the tax type corresponding to local business tax or, in the absence of such a tax, in corporate income tax or in the foreign tax similar to corporate tax.

For **multinational groups**, taking local business tax into account has always been difficult, and it can make up a significant portion of total Hungarian tax liability. In the system of direct taxes, it would be ideal if transfer pricing adjustments worked for all companies affected, i.e. for example, a tax base increase due to transfer pricing adjustments in Germany would be matched with a tax base adjustment (deduction) at the Hungarian subsidiary. We can perform this under the framework of double tax treaties and their principles since such treaties include separate rules for the prices applied between related parties. However, **not all tax treaties specify local business tax as a tax type that can be considered** and this can lead to double taxation in the case of local business tax adjustments.

What happens to VAT?

To judge when transfer pricing adjustments modify the invoiced amount of previous product sales or service provision (this requires the correction of the invoices and VAT returns) and when we are only talking about other financial and profitability adjustments (where no correction invoice is issued and no direct link exists with a previous individual transaction), **the underlying contractual agreement between the parties should be used as a basis.**

Transfer pricing consulting

In summary, year-end transfer pricing adjustments require a very thorough review to enable appropriate adjustments to be made for all tax types. Our [transfer pricing experts](#) will be happy to help you manage your transfer pricing adjustments and prepare the supporting documentation using the Amadeus TP Catalyst program.

→ Our expert



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- » tax authority inspections, tax litigation

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Languages

Hungarian, German, English

Benford's Law

Can a mathematics law uncover fraud?

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Beside optimising taxation and accounting processes, an important condition of efficient operation and profitability at every company is evading and exposing infringements, occupational fraud and unintentional errors. As already elaborated in a [previous article](#), business enterprises lose almost 5% of their annual revenue due to various kinds of fraudulent act committed in the course of employment. This is not insignificant, and it can also be easily reduced via fraud investigations and its various tools. In this article I will explain a **rule of mathematics** applied in fraud investigations concerning the frequency of the use of numbers, and it is extremely efficient in mapping accounting and other business tricks. This is Benford's Law.

Discovering Benford's Law

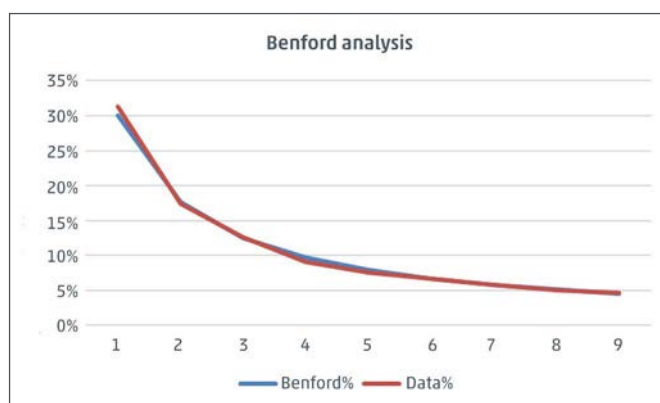
The first discoverer of Benford's Law was the Canadian-American astrophysicist **Simon Newcomb**. In 1881, while thumbing through logarithm tables in the library, he found that there are more signs of wear and tear on the initial pages than near the end, which means numbers starting with a lower-value digit were definitely looked up more often than numbers starting with a higher-value digit. After some research he created a formula according to which a **logarithmic distribution was evident in the occurrence of the first digits of numbers**. Accordingly, numbers starting with 1 occur six times more frequently than those starting with 9. The discovery fell into obscurity until 1938, when American **Frank Benford** picked it up again and published the topic, but presenting it on a set of nearly 20,000 figures taken from real life. The physicist/engineer confirmed the connection with samples taken from numerous real-life fields, datasets related to population, economics, geography, chemistry etc., which then became known as Benford's Law.

Applications of Benford's Law

Benford's Law works excellently on business datasets, but cannot be used, for instance, on random numbers (lottery numbers, etc.) or data with limited values (body height). **One key area of application in business is fraud investigations**. The US tax authority has been using this method to identify suspect cases since the

1980s. The figures of business entities based on real activities are likely to display Benford's distribution, but randomly made-up, artificially generated data does not. If a business dataset does not comply with Benford's distribution, it does not automatically mean that there is a fraud or error, but it is a great indicator of what is worth investigating in more detail.

At first, Benford's Law may seem contrary to our feelings, so I suggest you try it on your own datasets, if possible. For example, if you have at least a thousand invoices with total amounts, the analysis can be carried out in an Excel spreadsheet within seconds. To help you, you can download a sample spreadsheet [from here](#), which contains the real dataset of a company account including 33,000 items (the table can be used freely, only the first column needs to be populated with your own dataset). By visualising the results in a graph, you can see that the examined data almost completely corresponds to the values forecast by Benford's Law.



If you are curious how much your dataset "approximates" Benford's distribution, you have to move beyond graphic visualisation to **statistical methodologies**. There are several tests which examine correspondence with Benford's Law, the most frequently used of which are the z-test, the Chi-squared test, the mean absolute deviation (MAD) test and the summary test. These tests enable you to decide precisely how much a dataset matches expectations, yet a detailed description of them is beyond the scope of this article.

Benford's Law can be applied in diverse ways and in various places. You can read, for instance, about the analysis of election results or the testing of the data related to the coronavirus pandemic. It is a method that can be used in numerous areas where datasets with great numbers of data are available, to examine if the data has been manipulated or was indeed generated by real-life events.

IT / Business Automation

Discovering and preventing business fraud is a key interest of all business entities. The [WTS Klient Business Automation division](#) is here to help should your accounting or any other areas of your business operation need review.

→ Our expert



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- » IT consultation
- » fraud examination

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Languages

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The 2022 editions of WTS Tax and Investment Facts for CEE are now available

We are happy to introduce you the 2022 editions of the Tax and Investment Facts booklets for 13 countries of the Central and Eastern European Region: Austria, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Serbia, Slovakia, Slovenia and Turkey. The booklets give a glimpse at taxation and investment in each country and contain all relevant information on their tax and legal system.

You can download Tax and Investment Facts for each CEE country in PDF format here: [Tax and Investment Facts – A glimpse at taxation and investment in Central and Eastern Europe 2022](#)

Global minimum tax

Detailed rules have been published

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In December 2021 the European Commission published its proposed directive setting out the detailed rules of the global minimum tax in support of the implementation of the OECD Model Rules in the European Union. The aim of the directive is to ensure that **large corporations operating in the EU are subject to a global minimum effective tax rate of 15%**. The proposal contains methodology for calculating the actual tax rate in specific jurisdictions, and clear, legally binding rules to ensure that large corporations pay a 15% minimum tax in every country and area they operate in. As already reported in an [earlier article of ours](#), the global minimum tax is Pillar 2 of the OECD programme for the international reform of corporate taxation in the G20 countries.

Although the proposal of the Commission follows the OECD agreement, it makes some adjustments to ensure compliance with EU law and to avoid overregulation. This way, **groups based in one jurisdiction only will also be subject to the directive**, while [Pillar 2 of the OECD](#) is effective for multinational groups only. This derogation is required for the protection of fundamental freedoms within the EU, particularly the freedom of establishment.

To whom do the new rules apply?

The proposed rules apply to any large groups whose total **annual revenues exceed EUR 750 million**, and who have a parent company or subsidiary situated in an EU Member State.

Calculation of the effective tax rate

The effective tax rate will essentially be calculated by the parent company of the group for each country or tax jurisdiction. This company, however, may designate another entity to carry out the calculations.

The effective tax rate will be determined by **dividing the amount of tax paid by the entities in the given jurisdiction by their income**. If the effective corporate tax rate in a given jurisdiction is below the 15% minimum, the group must pay a top-up tax to bring its rate up to the 15% effective tax rate (income inclusion rule). This **top-up tax** is applicable to every subsidiary irrespective of whether the registered seat of the subsidiary is in a country which signed up to the OECD/G20 agreement or not.

Registered seat in a non-EU country

What happens if the registered seat of a group entity is located in a non-EU country where the global minimum tax rate is not enforced?

If the company's registered seat is in such a country, the EU Member States will apply what is known as the **undertaxed payments rule**. According to this rule, the given EU Member State will effectively collect part of the top-up tax due at group level, if the countries where certain member firms of the group have their registered seats tax below the minimum level and do not impose any top-up tax on them. The **amount of the top-up tax** collected by the EU Member State from the entities of the group in its territory **will be calculated based on the number of employees and the value of assets**.

Exceptions

As usual, the rules contain exclusions up to a given threshold. In accordance with the "de minimis exclusion" no top-up tax need be paid on **the revenue and profit of the group if these do not exceed the defined minimum level in the given country**, even if the effective tax rate does not reach 15%.

Furthermore, companies have the right to **exclude** from the top-up tax an amount of income that is at least **5% of the value of tangible assets and 5% of payroll** (substance carve-out).

The substance carve-out is justified by the corporate tax strategy followed worldwide, which encourages multinational companies to increase investment to improve economic substance (e.g. in real estate, labour force) in a given country. This way, the minimum tax exclusion facilitates the taxation of excess income, which is more susceptible to tax planning (such as income related to intangible assets).

The proposal contains a **transitional rule** for substance carve-out **for the first ten years**. Initially, 8% of the carrying amount of tangible assets and 10% of payroll costs can be excluded. For tangible assets, the rate declines annually by 0.2% for the first five years and by 0.4% for the remaining period. In the case of payroll,

the rate declines annually by 0.2% for the first five years and 0.8% for the remaining period.

What happens if third countries do not apply the OECD rules?

In line with the OECD agreement, **members are not required to adopt the minimum tax rules**, but if they choose to do so, they must be implemented and administered in accordance with the agreement under Pillar 2. Members also **have to accept that other members apply the rules**. In practice, multinational groups with subsidiaries in countries that operate a rate below the agreed minimum rate will ultimately also have to face the consequences of Pillar 2. This is because the effective tax rate per jurisdiction is checked and a top-up tax is applied to companies operating in a jurisdiction with a lower tax rate.

Thus, an **EU Member State will collect a top-up tax at group level** if some jurisdictions where entities of the group are based apply a tax below the minimum tax according to the agreement, and

do not impose a top-up tax. In other words, failing to apply the Pillar 2 rules will not protect Member States from being subject to the global minimum tax.

Tax consulting

From a Hungarian point of view, the number of companies affected by the global minimum tax is very low; companies stepping into the international arena but falling short of the global scale thankfully do not have to apply these rules. However, the changes to the Multilateral Convention will require constant monitoring of legislative changes, and the complexity of global tax calculations will also pose a challenge. The financial managers of multinational companies should definitely **consult a tax expert** about the new minimum tax, so please do not hesitate to contact us if you have questions.

→ Our expert



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- » international taxation of foreign workers

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Languages

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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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