# wts klient newsletter

WTS Klient. The Bridge.

## Dear Readers,

"Change is the only constant in life." The well-known Heraclitus quote has become particularly relevant lately, whether we are talking about the global environment, our immediate surroundings or ouselves, WTS Klient. You know our global and domestic economic environment well enough, and perhaps feel the winds of change directly too; in our newsletters and articles we also try to keep you informed about the issues relevant for our clients and about amendments to laws. However, little is said about us, WTS Klient, in everyday life, we prefer to provide solid support from the background. So please allow us, as usual, to dedicate a few lines to ourselves on the first page of this bi-monthly newsletter.

For us, change now means steadily making progress on the road we set out on in March. We are not stopping, in any sense whatsoever. In recent months our colleagues have run the WizzAir Marathon Relay and the Spar Budapest Marathon, our office space was expanded, modern digital solutions were installed to make our office and home office days and our office life more efficient and comfortable, we appointed a new expert and tax director, we were the key sponsors of the Macro Conference of the Joint Venture Association this year, and by the year-end we will merge into one company. This latter aspect is the most far-reaching yet the least disruptive of the changes; it is, in effect, a formal and symbolic step only. This is because our group members have already been cooperating under the WTS Klient brand name, so merging them into one entity will further strengthen the harmonious cooperation between our tax, finance, IT consulting, accounting and payroll divisions, and enable our clients to see us even more as complex business advisors.

As a testament to this complexity, in this newsletter you will find articles on accounting and tax issues as well as a more extensive economic analysis. In the first article, our new expert Andrea Kővári reviews the rules of issuing invoices, while on page 5 WTS Klient's managing partner seeks to answer the question of whether restructuring the Hungarian tax system can help to mitigate the impact of the energy crisis. We report on the extension of the 5% VAT on housing (where the outstanding questions are clarified by the 2023 tax amendments, more on this in this week's WTS Klient Newsflash) and on the termination of the Hungarian-American tax treaty.

Stay tuned!

**Csaba Baldauf**
**Partner**

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### Tamás Gyányi among the leading tax advisors in the world

The International Tax Review (ITR), Europe's market-leading tax magazine, has prepared a list of the top-ranking tax consultants in the world for the $11^{th}$ time this year. The creators of the list compiled the ITR World Tax Leaders 2022 ranking – broken down by region and country – based on client opinions, professional feedback and proven professional achievements.

"Highly regarded" tax experts on the ITR World Tax Leaders 2022 list include professionals recognised by tax consultants and the broader market, and who can demonstrate significant professional achievements. This is the sixth time that Tamás Gyányi, senior partner of WTS Klient, has won this recognition.

# Rules on issuing invoices

## What should the performance date be, and what exchange rate to use?

Author: **Andrea Kővári**
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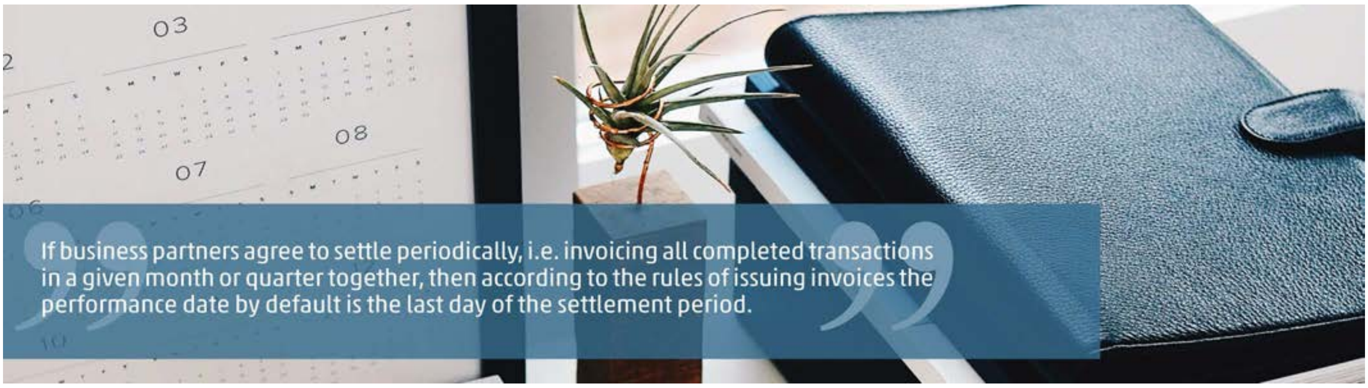


Our clients often contact us with questions related to issuing invoices, such as how should invoices be issued correctly to clients, what content do invoices absolutely have to include, or what provisions need to be followed to comply with legislation. In a previous article we summarised the Hungarian rules on the content of invoices, now we are going to take a look at the rules regarding the performance date and exchange rates.

### Determining the performance date

One of the most frequent questions that crops up when issuing invoices in Hungary concerns the performance date on the invoice. **If the performance date differs from the invoice date, this must be indicated separately on the document**. Defining the date correctly is important because (unless otherwise provided for by law) this determines when the tax payment liability is incurred. Under general rules, the performance date is the date when the transaction (supply of product or service) takes place. The procedure is different with **advance invoices** because then the supply of the product or service has not yet happened. In such cases, the performance date is the same as the date when the payment is received or credited.

### Issuing invoices for transactions settled periodically

If business partners in Hungary agree to **settle periodically**, i.e. invoicing all completed transactions in a given month or quarter together, then according to the rules of issuing invoices the performance date by default is the last day of the settlement period. However, the Act on Value Added Tax contains **different provisions** that have to be taken into consideration. In these cases, the rules on issuing invoices are as follows:

- If the payment deadline precedes the last day of the settlement period, the performance date is the same as the invoice date.
- If the payment deadline is after the last day of the settlement period, but still within 60 days, then the performance date is the same as the payment deadline.
- If the payment deadline is more than 60 days after the last day of the settlement period, then the performance date is on the 60th day following the last day of the settlement period.

Let's take a look at some specific examples to see what this all means, and how we can determine the performance date in different cases:

| Period | Invoice date | Payment deadline | Performance date | |
|---|---|---|---|---|
| 01.08.2022-31.08.2022 | 18.08.2022 | 31.08.2022 | 31.08.2022 | = last day of the period |
| 01.09.2022-30.09.2022 | 18.08.2022 | 25.08.2022 | 18.08.2022 | = invoice date |
| 01.07.2022-31.07.2022 | 08.08.2022 | 25.08.2022 | 25.08.2022 | = payment deadline |
| 01.07.2022-31.07.2022 | 08.08.2022 | 17.10.2022 | 29.09.2022 | = 60th day following the last day of the period |

continued on page 3

### Exchange rate for foreign-currency invoices

Another common question when issuing invoices concerns foreign-currency invoices. **For foreign-currency invoices the amount of VAT must be indicated in Hungarian forints, but it is important which exchange rate is used**. Similarly to determining the performance date, here too we must distinguish between transactions settled for a given period and one-off transactions. If the supply of the product or service falls under a periodical settlement procedure, the exchange rate is set based on the invoice date; in all other cases it is set based on the performance date.

Once the date has been established, the applicable exchange rate is the **FX selling rate of the chosen Hungarian bank**, or if the company has decided to use the exchange rate published by the National Bank of Hungary – and has notified this to the tax authority – then this rate is applied. It can happen that there is no official exchange rate for the given day (for example on public holidays or weekends, or the daily rate has not yet been released), and in these cases, under the rules for issuing invoices, the last applicable exchange rate must be used.

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**Languages**

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## VAT on new residential properties – 5% VAT rate extended for another two years

Updated!

Author: **Tamás László**
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The applicability of the 5% VAT on the sale of new residential properties in Hungary was extended by two years, until 31 December 2024, by Government Decree 267/2022 published in the Hungarian Gazette on 29 July 2022. The deadline relates to the finalisation of the building permit or the simplified registration of the building.

### Changing deadlines

Earlier, we reported that in Hungary the VAT rate applicable for new residential properties, first introduced in 2016 and originally effective until the end of 2019, had again been lowered to 5% from January 2021. In line with the amendment last year to the

Act on Value Added Tax, **the preferential tax rate for new residential properties would apply until the end of 2022**, more precisely until the end of 2026, if the building permit is finalised by 31 December 2022, or the construction activity subject to simplified registration is reported no later than 31 December 2022. This 2026 deadline is contained in a transitional rule related to the rate discontinuation as of 31 December 2022; according to previous plans, the transitional rule would take effect on 1 January 2023.

This short government decree announced in July and also taking effect on 1 January 2023 has added two more years to the applicability of the 5% VAT rate for new residential properties. Accordingly, the amendment to the VAT Act regarding the preferential VAT rate will stay in force **from 1 January 2023 until 31 December 2024** in line with the previous conditions. UPDATE! The deadline of the **applicability** will be extended from 2026 **until the end of 2028** according to a transitional rule included in Bill T/1614 submitted to the National Assembly in October.

### Unchanged conditions

**The conditions** for the preferential VAT rate on new residential properties in Hungary **will not change**. As we explained in our article last April, the 5% is applicable for properties established for dwelling purposes and registered in the real estate register as a house or apartment, or designated for registration as such. 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 or farm building. A property shall be regarded as new **if it has not yet been used as intended**, or if it has, then two years have not yet passed between the official completion certificate becoming final and its sale. The preferential VAT rate of 5% for new residential properties is only 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**.

### The future of VAT on new residential properties

Extending the deadline on the 5% VAT rate for new residential properties slightly resembles that of the rule on reverse charging for agricultural products in Hungary. This latter rule took effect on 1 July 2012, temporarily for two years, i.e. until 31 June 2013 according to the original intention, then with multiple extensions the rule is still in force today.

Although the above government decree will certainly have a beneficial effect on the construction industry, stakeholders in the profession and the affected markets may rightfully sense **uncertainty**. At this moment it is very difficult to say whether this rule will stay with us for a while, like the reverse charging for agricultural products, whether we can bid farewell to it forever at the end of 2024, or will it perhaps be transformed, bearing environmental and energy conservation considerations in mind. Understandably, the legislator's intention may change in the medium and long-term under the current and anticipated future world economic situation.

## Value added tax consulting

If you need advice on the 5% VAT applied in connection to new residential properties, 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!

## → Our expert


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- preparation and reviews of transfer pricing documentation
- due diligence

### Languages

Hungarian, German, English

### Latest publications

- VAT on electric cars: what to look out for
- New residential property: tax refund support now available
- Invoice data reporting still to be expanded from 1 July – no deferment!

# The energy crisis and the Hungarian tax regime

## Can a tax reform help in preventing recession?

Author: **Zoltán Lambert**
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Can companies operate productively in the current Hungarian tax environment? Should the Hungarian tax regime be changed in the wake of the energy crisis and if yes, which part of it? What can the government and the central bank do, and what can companies do, to avoid the threat of recession? These are just some of the questions I want to answer in my current analysis.

Whether companies are able to operate successfully in the current Hungarian tax environment is not primarily an issue of corporate decisions made in response to changes in the tax environment. It is much more about the tax regime being able to ensure the necessary revenues for the state budget alongside a fair share of public burdens in this **changed macroeconomic environment** (energy crisis, soaring inflation, rising loan interest, high HUF exchange rate).

The **tax regime** has not actually changed substantially in the past 10-12 years after it was transformed from a system aimed at taxing income into a **system focusing on taxing consumption**. And although the implementation of new sector-specific taxes and the significant restriction of the preferential taxation of low tax bracket entities will mean an extra burden for many, it is not these changes that represent the main challenges for the majority of companies.

### What solutions can a Hungarian tax reform offer for the challenges of the energy crisis?

For a real discussion of the issue and to take the necessary measures it is worth examining the changes expected in **central budget revenues** in the wake of the changes in macroeconomic conditions, and the responses to be given to this through the tax regime.

The multiple increases in **energy prices represent the greatest challenge** for companies now, not least because other factors of the macro-environment (inflation, interest rate levels, HUF exchange rate) are also changing, primarily due to the energy crisis.

The energy crisis – the rise in gas and electricity prices – has almost brought certain companies to their knees, but the majority of businesses are building these increases into the prices of their products and services, which will lead to **overheated inflation pressure** affecting not only Hungary but also the whole of Europe. The **Hungarian tax regime will be the first to profit** from this change since high inflation will chiefly generate extra revenues in a system that focuses primarily on VAT and consumption tax revenues. However, a system taxing income with low tax rates cannot really deliver additional benefits for companies or private individuals that could even partially compensate for the extra costs caused by inflation. Falling income will result in decreased investment by companies and postponed or reduced consumption by private individuals which, **in the end, will have a negative impact on the VAT revenues that are the main source of Hungarian state revenues**.

In the longer term this all may stall economic growth, and according to certain market analysts, **tip the economy into recession**. What can the government and the central bank do, and what can companies do, to prevent this negative process?

To keep taxes on consumption – its main revenue source – at the same level, the **government can do most by taking measures facilitating the retention of workplaces**. Taxing the extra profit has served the short-term interests of the state budget and enabled a partial upkeep of utility cost cuts. In the medium and long term, the job-keeping subsidies tried and tested during the Covid period may become necessary.

### What is the reason for the increase in the Hungarian base rate?

The central bank, as the main authority over monetary policy, is not in an easy position. The energy crisis blighting Europe the most has had a significantly negative effect on the EUR/USD exchange rate, but **the exchange rates of the Central Eastern European currencies, including the forint, have suffered** even greater **losses and fluctuated more than usual because of market uncertainty**. The highest EUR/HUF exchange rate of the past 12 months exceeded the lowest rate recorded on 16 September 2021 by almost 20%, and in terms of the volatility of the exchange rate, it speaks volumes that the daily maximum (426.33) of the EUR/HUF exchange rate was more than 8% higher than its daily minimum (393.04) in the past six weeks alone.*

No wonder then that **the central bank is seeking to harness the exchange rate and thus inflation by continuously increasing the base rate and the benchmark deposit rate**. Although this has not been fully achieved even by raising the base rate to 13%, it is definitely the right approach that the inflation-mitigating measures of the central bank and the government are in harmony. The drastic increase in the interest rate will obviously not facilitate economic growth, but **it plays an important role in maintaining an equilibrium**. However, once the recession pressures fade (which depends greatly on developments in the global economy of course), it is pivotal that the opposing, growth-inducing measures of the central bank and the government are taken at the right time, in a concerted manner.

### How can companies react to the challenges?

The **leeway of companies is** rather **limited** due to the reasons listed above. The first measures taken in response to the initial signs of the energy crisis were often double-digit **price hikes**. Measures cutting costs and postponing projects were also taken simultaneously. In the medium and long term we need to prepare for a change in the labour market. To limit potential **redundancies** induced by declining profitability, the government may need to put together a package of subsidies to help retain jobs. Companies may contribute to this with **responsible long-term workforce planning**.

In short, **coordinated action by market players** can give the right answers to the challenges that lie ahead of us. The government can do the most to keep economic processes on track by leaving the basic pillars of the Hungarian tax regime unchanged, or potentially fine-tuning them, while bearing the importance of predictability in mind.

## Tax consulting

Our tax advisers have been drafting proposals to streamline the Hungarian tax regime since our company was formed to facilitate and optimise the taxation of our clients. We have successfully pushed our proposals through the Hungarian tax administration systems and decision-makers several times. Although the current macroeconomic situation and the energy crisis raise more serious questions than ever before, we will do our best to offer up-to-date and tailored economic and tax solutions for our clients. Feel free to contact us.

* Data valid at the time of publication of the article

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- due diligence

### Languages

Hungarian German, English

### Latest publications

- Minimum wage increase and decreasing taxes and contributions for employers
- Timing difficulties of corporate tax allocations in Hungary
- A few thoughts on choosing the small business tax

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## WTS Klient again receives excellent ratings in World Tax 2023 and World TP 2023

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

You can view the global rankings of tax consulting firms here!
The list of the best transfer pricing consulting firms is available here.

# Hungarian-American tax treaty to be terminated

## Why, what are the consequences, and what to expect in the future?

Author: **András Szadai**
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Hungary currently has valid treaties with more than 80 countries on avoiding double taxation. In recent years, the number of concluded treaties has steadily grown, but in the middle of July 2022 an American press release was issued: **on 8 July the U.S. Department of the Treasury terminated** the treaty on avoiding double taxation which was concluded with Hungary in 1979.

### What led to the termination of the Hungarian-American tax treaty?

The official communication says that the Americans **found the treaty unfavourable**, especially given that **the Hungarian government** – according to its current position – **does not intend to introduce the global minimum tax** in Hungary. The global minimum tax defines a uniform, 15% (effective) tax rate for the multinational companies of the participating Member States. The spokesperson of the US Treasury emphasised that the tax burden of companies in Hungary is less than half of that in America: 9% in Hungary, but 21% in America.

### How long is the treaty applicable for?

The Hungarian-American tax treaty sets forth separate provisions governing termination options, and based on these, the treaty will cease to apply for fiscal years starting from **1 January 2024.**

### What do tax treaties cover in any case?

Treaties on avoiding double taxation, as their name suggests, resolve situations where a private individual or a company may be subject to double taxation. In such cases, the treaties set out **which Member State** (in certain cases Member States, and to what extent) **may exercise the right to levy taxes**, and how they need to ensure that double taxation is ruled out (exemption, credit method).

### What is life like without such a treaty?

Tax treaties regulate the scope of taxpayers, tax types and transactions relatively comprehensively, thereby creating a clear situation with regard to double taxation. This can be important when deciding on an investment, for instance, because this makes planning **more predictable and transparent**, and can make a country more attractive compared to another where such a treaty is not in force.

However, it is worth knowing that double taxation does not always arise even without a treaty, since regulations ruling out double taxation not only exist at the level of treaties: for instance, in the Hungarian legal system, **quasi double taxation situations are partly settled by national rules**.

### What changes with the end of the Hungarian-American tax treaty?

Upon the termination of the Hungarian-American tax treaty all international transactions must be re-evaluated, and the tax consequences of transactions examined separately with a review of national law.

Based on the data of the Hungarian Investment Promotion Agency (HIPA), a record amount of operating capital per project flowed into Hungary in 2021, not only from the west, but also from the east, but besides Germany, the **USA was still one of the largest investors in Hungary**. The statistics clearly show that US companies are still in third place, as regards the creation of new jobs for example, so from an economic perspective, Hungarian-American relations can be considered significant. All in all, the termination of the Hungarian-American tax treaty will surely affect a number of US companies. Many American-based business entities post American employees or employees with American citizenship to Hungary, so for private individuals for instance, the change may mean that **income** so far generated in Hungary from tax-exempt American sources under the treaty **may become taxable** after the termination of the treaty. On the American side, the **withholding tax rate** will probably bring significant change, since currently, the treaty sets strict limitations. Nevertheless, once it is repealed, American rules may prescribe a rate as high as 30%.

### Will there be a new treaty with America?

It is very hard to answer this question, since we are in a rapidly changing economic and political environment right now. What is certain is that it would serve the two countries as well as businesses and employees from the two countries the best if they could arrive in a stable economic environment, and a stabile taxation system is part of that. Yet while looking ahead, we cannot completely disregard the events of the past either. **In the 2000s, the governments of Hungary and the USA drew up a completely new treaty**, which was voted on by the Hungarian National Assembly in 2010 and was promulgated thereafter. However, since the Americans have not yet ratified it, this new Hungarian-American tax treaty **has never taken effect**. That said, much can still happen until the beginning of 2024.

## Expat taxation consulting and compliance work, tax returns

If your company has any US interests, you should definitely review and re-evaluate your international transactions and their tax implications. Our experts have significant experience both in double taxation issues affecting companies and in the taxation of foreign employees, American employees posted to Hungary, and they are here to help our clients map out how the termination of the Hungarian-American tax treaty may affect them.

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### Specialisations

» transfer pricing
» preparation of tax returns in all taxes
» VAT-registration of foreign companies and related tax consulting
» international taxation of foreign workers
» representation of companies during tax inspections
» due diligence

### Latest publications

» EU legal case: VAT on advertising services
» BIREG system besides EKAER from 1 January?
» Favourable EKAER amendments from 2021

### Languages

Hungarian, German, English

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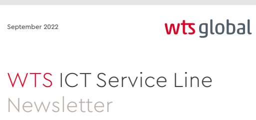
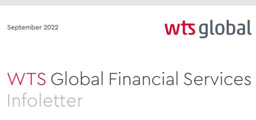
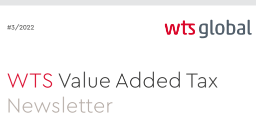
## The latest WTS Global Newsletters have been released




The second WTS Global International Corporate Tax Newsletter this year focuses on changes in international tax law and country-specific tax law developments with respect to cross-border transactions in 12 countries. You can download the newsletter in PDF format here: WTS Global ICT Newsletter #2/2022




The #3/2022 issue of the WTS Global FS Newsletter presents taxation related news from 10 countries with a focus on the international Financial Services industry. Download the publication in PDF format now here: WTS Global Financial Services Newsletter #3/2022




The latest WTS Global VAT Newsletter shares with you insights on the latest developments in terms of VAT and GST in Austria, France, Germany, KSA and Nigeria. The newsletter is available in PDF format here: WTS Global VAT Newsletter #3/2022

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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