WTS Klient Newsletter

People you can rely on.

Dear Readers,

You've probably heard us say that "growth is the only way" if a company wants to be successful in the long term. For some time now we have seen that the consolidation of the Hungarian tax advisory and accounting market is well underway, and we have never hidden our intent of wanting to be at the forefront of this process from the outset, rather than watching others from afar. We believe this is not only in our own best interests, but also gives our clients the best possible service.

As part of this strategy, we were able to announce the acquisition of Finacont last year, and we are now continuing with the acquisition of VGD Hungary. The expansion will transform WTS Klient into a 350-strong company with sales revenue of more than HUF 6 billion, undoubtedly making it the largest player on the Hungarian tax advisory and accounting market after the BIG4. For you, this means a more secure an even more reliable partner, more experts and more expertise.

We hope that in the coming period we will have the opportunity to personally introduce our new colleagues from VGD Hungary to you as well, to discuss any questions you may have about the transaction, and most importantly, to assure you that by broadening our competencies and perspectives and ensuring long-term stability we will be able to support you better in achieving your business goals.

Of course, in the midst of all the good news, we continue to conscientiously monitor economic trends, events as well as tax and accounting changes, and as part of our work we will keep you informed of everything you need to, or should, know. Keep reading our newsletters and Newsflashes, and don't miss out on anything!

Zoltán Lambert
Managing Partner

Contents

New acquisition at WTS Klient

Zoltán Lambert, managing partner of WTS Klient and Gyöngyi Ferencz, founding partner of VGD Hungary signed the contract on the acquisition on 19 July 2024. Click here and read our article about the details of the acquisition!

Tangible assets in accounting

Everything you need to know about managing and recording assets in Hungary

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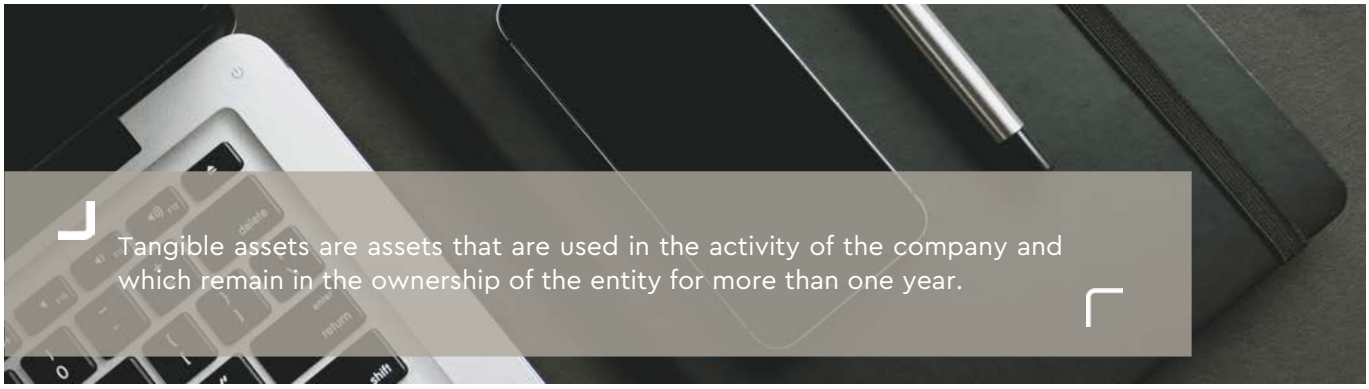

Countless different purchases and sales of services, products and assets take place in the life of a company. These **purchases must all be treated differently in the company's books**, so that they are always in line with the law and follow the latest changes. This article summarises what to look out for in Hungary when it comes to tangible assets.

What is a tangible asset?

Tangible assets are assets that **are used directly or indirectly in the activity of the company and which remain in the ownership of the entity for more than one year**. Unlike other purchases, they are not entered directly into the accounts as costs, but as capital expenditure. A special case of acquiring tangible assets is when the company uses an allocated development reserve to make the purchase; a previous article dealt with this in detail. The asset is capitalised when it is actually put into use, and the asset depreciation starts from that date, at which point the cost is entered in the books.

Asset depreciation

The Hungarian Act on Accounting requires that the **cost** of a tangible asset **less the residual value expected at the end of its useful life is allocated over the years the asset is expected to be used**. The given asset is therefore entered into the books as a cost spread over these years. The exception to this rule are low-value tangible assets with an individual value of less than HUF 200,000. These can be accounted for as a lump sum when they are put to use. In addition, there may be cases where extraordinary depreciation needs to be recorded on an asset because its carrying amount is significantly higher on a prolonged basis than its market value, or because it becomes surplus, damaged or destroyed.

It is important to emphasise the **distinction between depreciation under accounting law and depreciation under tax law**. When calculating corporate tax in Hungary, the depreciation rates provided for in the relevant law must be applied to calculate the depreciation that can be used to reduce the tax base, but at the same time, the tax base is raised by the depreciation charged under the Hungarian Act on Accounting. If the company has chosen to recognise deferred tax, the depreciation difference resulting from the difference between accounting and corporate tax law will also affect the amount of the deferred tax (see example 1 in our article on this topic).

Substantiating tangible assets

The Act on Accounting states that an **inventory has to be compiled** and kept for the year-end accounting close, the preparation of the annual financial statements and to substantiate balance-sheet items. This inventory includes the assets, equity and liabilities of the company as of the reporting date, in terms of both quantity and value, item by item, in a verifiable manner. If the company keeps continuous records of its tangible assets, it must verify the accuracy of the data by taking an inventory and substantiate it with a stocktake at specified intervals, but at least every three years. If you do not keep quantitative records, you must do this as part of the year-end inventory.

Derecognition of tangible assets

Even if they have been fully depreciated and their value is zero, tangible assets **do not disappear from company books in Hungary until they are derecognised**. This may happen if the assets are not fit for their intended purpose, or are unusable, destroyed, missing, scrapped or sold. This must always be properly documented: in the case of scrapping for example, the scrapping report is such a document.

If an asset is sold, the difference between the proceeds from the sale and the carrying amount must be examined for accounting purposes. If the income exceeds the carrying amount, the difference between the income from the sale and the carrying amount is recorded as other income. Conversely, the difference is included under other expenses if the carrying amount is higher. In effect, this means the **sale should be accounted for on a net basis**.

Accounting services

Since tangible assets often support a company's operations for many years, it is worth taking care from the very beginning to ensure they are treated correctly and recorded in the accounts. The staff at the accounting division of WTS Klient Hungary with over 25 years of experience are ready to help clients with any questions they may have on this topic.

Our expert

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Areas of Expertise
› accounting
› accounting advisory

ITR Tax Awards 2024: finalists in four categories for WTS Klient

The International Tax Review, the world's leading tax magazine, has announced – for the 20th time – the competition of the best tax advisory firms, teams and professionals, the ITR Tax Awards. WTS Klient has reached the final, i.e. is among the five best, in more categories this year than ever before: Hungary Tax Firm of the Year, Hungary Indirect Tax Firm of the Year, Hungary Transfer Pricing Firm of the Year and Hungary Tax Disputes Advisory Firm of the Year. WTS Global member companies occupy a total of 60 places on the shortlist. Click here for the details!

Tax obligations of accommodation providers in Hungary

Options, payment and registration obligations for letters of holiday homes

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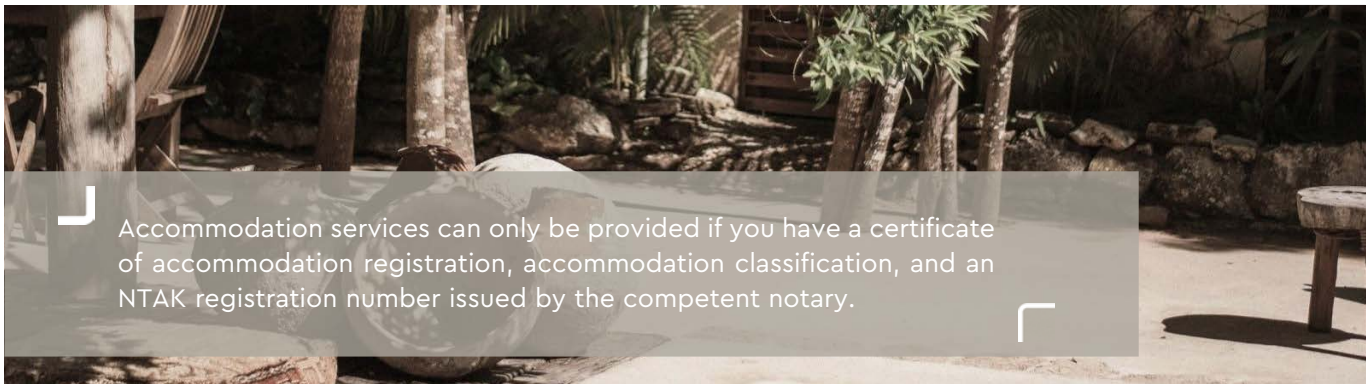

The summer season will soon be over, but it's still not too late to have a think about the tax issues that arise with accommodation services in Hungary. This is because given the prolonged good weather and the desire to avoid the crowds, more and more people nowadays put their holidays off until September, and of course, you can't start preparing for next year early enough. **Private individuals** who occasionally let out their holiday homes – even on an **ad hoc basis** – are considered to be **private accommodation providers**, so they should also consider what tax options and registration obligations arise and what tax rules they will have to comply with when letting their property.

What constitutes private accommodation?

Whether you let your holiday home or apartment as a private individual or as a self-employed person, as long as it has **no more than 8 rooms and 16 beds** it is considered private accommodation.

Paying tax **as a private individual with a tax number** is generally recommended for short-term lets of accommodation providers on an ad hoc basis to supplement income, while for regular and commercial letting, taxation as a self-employed person may be preferable.

If self-employed, accommodation providers can choose between two taxation methods: flat-rate tax up to a certain threshold, or taxation according to entrepreneurial personal income tax.

What does not qualify as private accommodation?

If the activities of the operating company include the provision of accommodation services, which it does not carry out as a private individual or as a self-employed person, and the accommodation **has no more than 25 rooms and 100 beds**, it is considered to be **other accommodation**.

Other accommodation operators may be **companies** specifically set up for this activity, or companies operating such accommodation as part of their business, and they may be subject to the normal corporate tax options – but the tax treatment of private accommodation operators is less well understood.

Taxation options of accommodation providers as private individuals

As private individuals, accommodation providers can choose between two taxation methods. The first is **flat-rate taxation**, while the second is **taxation under the rules for independent activity**. The latter can be done either with itemised cost accounting or by applying a 10% cost ratio. Here, the general rate of 15% under the Hungarian Personal Income Tax Act is applied, and in certain cases a social contribution tax liability of 13% too.

Accommodation providers taxed as private individuals **can opt for flat-rate taxation if they conduct such activities in no more than three dwellings or holiday homes per tax year**, and do not rent out the dwelling or holiday home to the same person for more than 90 days in the fiscal year. The flat-rate tax is HUF 38,400 per room, payable in equal instalments by the 12th day of the month following the quarter. In the case of the flat-rate tax, the full amount must be paid even if the flat-rate taxpayer starts their activity during the year, or only receives guests intermittently, e.g. during the summer season.

One might rightly ask what constitutes a room in this case. **A room is a unit which can be sold separately, has individual access**, consists of one or more premises and is suitable for accommodating one or more guests at the same time. So an apartment that has two bedrooms, but is not suitable for letting the two bedrooms separately, is considered a single room in a single accommodation unit.

Other payment obligations

In addition to the above "annual taxes", accommodation providers are obliged to pay the NAV a **4% tourism development contribution** on the value of their services, which since April last year is no longer subject to the coronavirus-related moratorium. The contribution must be declared and paid by those who provide commercial accommodation services and catering services for food and non-alcoholic beverages prepared on the premises.

Of course, you also have to pay **value added tax** to the NAV. Long-term property letting is essentially a tax-exempt supply for VAT purposes, but payment of VAT is mandatory for commercial accommodation services. Provided they do not exceed the current threshold of HUF 12 million, accommodation providers may opt for VAT-tax exemption (this threshold is expected to increase in the future).

In addition to the above, the local government for where the accommodation is located may also levy **tourist tax, building tax, municipal tax** or even **parking fees**. In all cases, it is worth checking the website of the given local government, where these issues are regulated in published local decrees.

Other registration obligations

To start a private accommodation service, the activity of self-employed persons or private individuals with a tax number must be **declared** using the ÖVTJ code 552014 **on form 24T101**. Don't forget to indicate on the form the option for exemption from VAT, if applicable, or the option for the flat-rate tax, if applicable.

It is important to note that accommodation services can only be provided if you have a certificate of accommodation registration, accommodation classification, and an NTAK registration number issued by the competent notary.

From 2019 onwards, accommodation providers have to register all domestic accommodation with the National Tourist Data Centre (NTAK). NTAK reporting is one of the legal requirements for providing accommodation services. **NTAK registration** can be performed once you have your tax number, you've chosen your accommodation management software and you have NAV government portal access. The Hungarian Tourism Agency provides a free accommodation management platform, Vendégem (meaning My Guest), for operators of private accommodation.

As of 2021, accommodation services can only be provided in classified accommodation establishments. This **mandatory classification must be sought before officially notifying the accommodation service activity to the notary**. The classification is carried out by the Hungarian Tourism Quality Certifica-

tion Board based on a public set of requirements, as part of an on-site inspection. The first classification is free of charge, but thereafter a review is mandatory every three years. After successful classification, accommodation providers can register their accommodation service with the competent notary, who **issues a certificate of registration**.

More detailed information on this can be found in the information booklets on the websites of the Hungarian Tourism Agency and the National Tax and Customs Administration.

Tax consulting

The tax advisers at WTS Klient Hungary have decades of experience in the field of taxation related to rental properties, and keep up to date with the latest changes in the relevant legislation. In this article we endeavoured to provide useful information mainly for private individuals, but we are also happy to provide long-term tax advice on real estate matters for corporate clients too.

Our expert

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Areas of Expertise

- tax advisory in all tax types
- preparation of tax returns in all taxes
- tax authority inspections
- EPR and environmental product fee consulting

Property management administration at WTS Klient

The accounting division of WTS Klient has launched a separate service in 2024, property management administration. Our experts have been supporting our clients with this type of task as part of our accounting services for decades now and have extensive experience in the challenges involved. Such a background ensures we are well aware of the needs of international clients in the Hungarian real estate sector, and we know that by providing accounting services and property management administration services from a single source we can exploit significant synergies. Click here for more information about our new service!

Fixed establishment for VAT purposes

Another European Court of Justice ruling provides guidance

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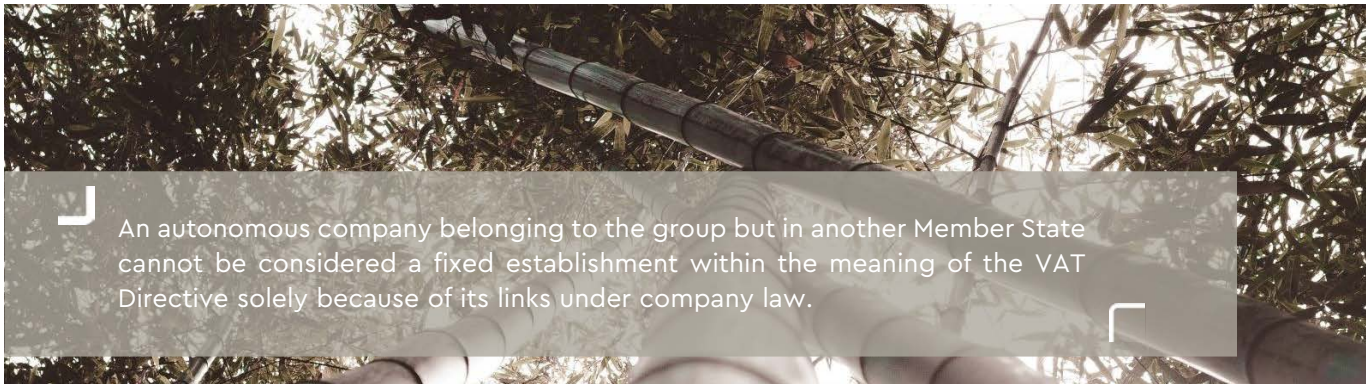

An autonomous company belonging to the group but in another Member State cannot be considered a fixed establishment within the meaning of the VAT Directive solely because of its links under company law.

The question of a fixed establishment, especially in value-added tax, remains a complex issue. This is true despite the fact that, in addition to the VAT Directive (2006/112/EC), Council Implementing Regulation (EU) No 282/2011 and the Hungarian VAT law (Act CXXVII of 2007), an increasing number of ECJ cases are helping the work of taxpayers and tax experts. Why is this important and what does the latest European Court of Justice judgment add to this?

Legislative environment and conditions

The term fixed establishment is most often used in international terminology, but Hungarian law uses this as another possible form of economic establishment alongside registered office. The question of what exactly this concept means tends to arise when a **foreign entity carries out some assembly work or provides some service in Hungary**, and fulfils the order to a certain extent by using its own employees and assets.

Based on the legal definitions and professional guidelines, we can say that a fixed establishment is a physically demarcated place for the pursuit of an economic activity over a lengthy period, where the conditions for the independent pursuit of that activity are available. In practical terms, this means the availability of **human resources** (labour) and **technical resources** (equipment and technical conditions). The term **for a lengthy period** is perhaps even more problematic than the other two factors. Professional guidelines issued by the tax authority suggest that work of six months or more has a good chance of creating a fixed establishment for the foreign entity, provided the other two conditions already mentioned are met.

Why is the concept of fixed establishment important?

This subject is important because legislation "attaches legal impacts" to the existence of a fixed establishment. The place of supply of a transaction, generally a service, and its tax liability are affected by the existence of a fixed establishment. **If a foreign service provider has a fixed establishment, they cannot avoid charging VAT on an invoice issued to a Hungarian customer**. Otherwise, however, the foreign company can use the tax number of its country of establishment, and does not need to apply for a Hungarian tax number and charge Hungarian VAT. In this case, the Hungarian taxperson using the service will pay the tax under the reverse charge rules.

As the entity ordering the service, we need to check whether we have a fixed establishment near our head office that is affected by use of the service. If so, the place of supply for our ordered service will typically be in that country, and it is here that we may be liable to declare and pay tax, rather than in the country of establishment.

Background to court case in question

This is the fifth case in the last five or six years that has questioned the criteria for a fixed establishment. And it is not the first in which the question concerns **whether a company can be considered a fixed establishment of its parent company or of another group company**. Since the Dong Yang judgment (C-547/18) in 2020, which held that a similar consequence cannot be ruled out, several tax authorities began looking for fixed establishments in group structures. In the Adient case (C-533/22), which is the focus of our article, the Romanian tax authority asked whether a Romanian company could be a fixed establishment of a corporate group in Germany that it had a contractual relationship with. Here, the place of supply of the service in question, and therefore the place of taxation, would not be Germany, but Romania.

Facts

Adient Ltd & Co. KG (Adient DE) is part of a group of companies supplying the automotive industry. In June 2016, Adient DE concluded a contract with a Romanian company in the group for a complex service producing and assembling upholstery components. The Romanian company has two sites in Romania, where the corresponding products are manufactured for Adient DE. Adient DE purchases the raw material for the transaction, which it sends to the Romanian group company for processing. In connection with this work in Romania, the German company uses the Romanian VAT number it previously requested, both for Romanian domestic and intra-Community purchases of goods and for the supply of goods manufactured by the Romanian company. The **Romanian company** argued that the place of supply for its services to Adient DE was the registered office of the recipient (Germany), and therefore it **did not charge and pay Romanian tax**.

Views of the parties

During a tax audit by the **Romanian tax authority**, it was **established that Adient DE had two Romanian establishments in Romania through the Romanian group company**, and thus had human and technical resources, so it fulfilled the criteria for a fixed establishment in Romania. Consequently, the services provided by the Romanian company to Adient DE are taxable in Romania.

The **German company**, on the other hand, **believes that the requirements for a fixed establishment in Romania are not met**. Adient DE does not have human resources in Romania, since the Romanian company employs the staff and the Romanian company decides on the equipment needed for the processing activity too.

Conclusion of the European Court of Justice

In its judgment, the ECJ underlined that an autonomous company belonging to the group but in another Member State cannot be considered a fixed establishment within the meaning of the VAT Directive solely because of its links under company law. Even a contractual relationship for the supply of a complex service cannot, as a general rule, result in the service provider supplying a taxable service to the recipient's fixed establishment that is created as a result. The place of supply of the services is independent of the physical location of the manufacturing or assembly transaction, and of whether the recipient of the service supplies goods or services as its own "output" transaction.

The court ruled that a **fixed establishment only exists if it replaces a head office in another Member State**. On this basis, a contract with a service provider can only create a fixed establishment if it

doesn't relate exclusively to the supply of services for the purposes of the recipient's activities. In other words, it must be typically aimed at providing the necessary human or technical resources to enable the recipient to provide services or make sales at the site (i.e. at the fixed establishment) that are similar to those from the head office.

Tax planning and consulting based on international and Hungarian standards

If you need support regarding the tax treatment of complex cross-border service arrangements, assessing the risk of fixed establishments or, where appropriate, the entire administration related to that, you can rely on our colleagues. The tax advisory team at WTS Klient Hungary has significant expertise in the taxation of various international transactions. Feel free to contact us.

Our expert

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Areas of Expertise

- tax advisory in all tax types
- value added tax planning
- tax authority inspections
- preparation and reviews of transfer pricing documentation
- due diligence

Changes to fitness for work test from September 2024

Is this compulsory medical examination really to be abolished?

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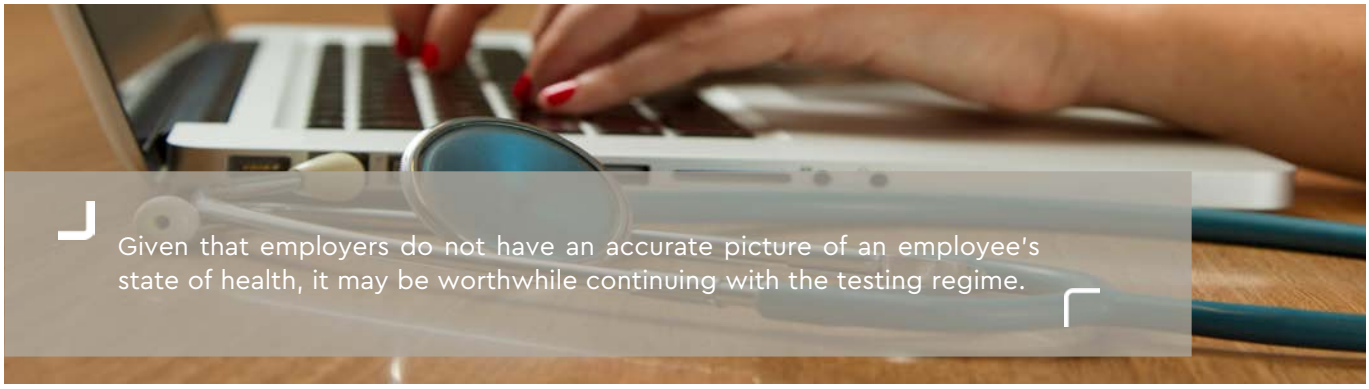

In December 2023, the Parliament adopted a law amendment that changes the obligation for employers in Hungary to ensure a fitness for work test from 1 September 2024. But will everyone really no longer have to undergo this fitness for work test?

Current legislation

Under the current Hungarian legislation in force, namely Section 49 (1) of Act XCIII of 1993 on Occupational Health and Safety, employers are obliged to reach decisions on **all** their **employees'** fitness for work based on a medical examination. Such a fitness for work test must be completed **before starting work and at regular intervals** thereafter.

What is the change?

As detailed in Act CIX of 2023 that was promulgated on 23 December 2023, the change means that **from September 2024, not all employees** will require an occupational physician's opinion, i.e. a fitness for work test will not be mandatory for everyone. The government was empowered to define in a separate decree the jobs and occupations for which this obligation will remain. The law also permits employers to decide at their own discretion whether to continue requiring this medical examination.

So contrary to the initial interpretations, the fact that "the compulsory medical examination regarding the fitness for work test is to be generally abolished" does not mean that the fitness for work test will be abolished in general, i.e. for all jobs and all employees, it only means that **the range of occupations to which it applies is being narrowed**.

The aim of the legislation is to reduce the administrative burden by removing the need for a fitness for work test in jobs where there is neither any physical nor psychological strain on the worker.

What do employers need to do now?

On 21 August 2024, the draft regulation on the occupations for which aptitude tests remain compulsory was published. The **draft does not contain specific occupations, but risk factors** (e.g. accident hazards, noise exposure, night work, etc.) that justify a medical examination. The draft was submitted for public consultation until 29 August, after which the final version is expected to be adopted. As this is expected to happen within a few days or even hours after the publication of our newsletter, we recommend you to visit our website, we will try to update the online version of this article as soon as possible.

At the same time, when deciding whether or not to abolish the tests for non-mandatory jobs, it is worth bearing in mind that **other elements of the occupational health & safety law have not been amended**, so the employer is still responsible for ensuring that employees are employed in a way that does not adversely affect their health, physical and mental well-being, or that of others, and employees are not engaged in work for which they are not medically fit.

Given that employers do not have an accurate picture of an employee's state of health, and typically do not have the knowledge to assess fitness for work, it may be worthwhile continuing with the testing regime.

Not only does this help employers by involving a professional in making the right decisions, but regular medical examinations can also help employees identify potential health risks early.

What do we recommend if abolishing the fitness for work test?

Even if an employer in Hungary decides that such a medical examination is not required, it should still consider **using the resources freed up in this way to promote the good health of employees**. This will both reduce absences for sickness and increase employee satisfaction and loyalty.

Our experience shows that there is a growing demand from employees for employers to contribute to their healthy living, to support healthy lifestyles and possibly to support health expenditure. This support can take on many forms, tailored to the needs and means of the given company. The most common solutions include contributions to health funds, health insurance, training to promote healthy lifestyles and support for sports activities, but there are many other options available today.

HR services

Although many people reading the news that appeared when the amendment was adopted were happy to see the abolition of the compulsory fitness for work test, which often just seemed like extra unnecessary administration, we advise our clients to make their decision after having read the detailed rules and taking the above into consideration. Our HR services division will be happy to assess your company's situation and give you tailored advice.

Our expert

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Areas of Expertise

- labour processes
- HR consultancy
- HR digitalisation
- employee benefits systems

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 adviser or use any of the contact details below.

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