

wts klient newsletter

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Dear Readers,

The international conference in Dusseldorf organised by WTS and the International Tax Review on 30 March discussed the impacts of Brexit on customs and indirect tax as well as focusing on EU action against VAT fraud.

WTS professionals also spoke about the pros and cons of the generalised reverse charge mechanism, to be introduced shortly in Member States. The advantages of the system were discussed too along with the related administration, which will most certainly rise. In Hungary we are also eager to find out about the format and the framework for providing online information for value added tax from 1 July. In my article on page 4 you can read about the key arguments for the generalised reverse charge mechanism, and I also look at the administrative burdens that companies will have to face. At the same time of publishing our newsletter we also release our last short video on switching to IFRS (only in Hungarian). In the video we deal with the more interesting transition amendments in 2017 which affect taxation:

<http://wtsklient.hu/2017/04/07/ifrs-atallas-ado/>

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Tax residency

Various aspects have to be taken into account when defining tax residency, and the treaty between the countries in question helps with this.

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20 April 2017 is not only important because of the deadline for Q1 environmental product fee returns.

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Taxation of foreigners' income in Hungary - definition of tax residency**Aspects of tax residency:**

- permanent address
- centre of vital interests
- habitual abode
- citizenship

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In our [previous article](#) we reviewed the most important aspects of the taxation of foreigners' income in Hungary. Let us take a look at the details now: which factors enable us to define tax residency in the case of a private individual.

What aspects must be considered?

According to the majority of double taxation treaties, when a private individual qualifies as a resident in several countries at the same time based on their address, the issue of tax residency can be decided based on the following aspects:

- permanent address
- centre of vital interests
- habitual abode
- citizenship

If, after considering the above factors, it still cannot be decided where the employee qualifies as a tax resident, the countries in question have to agree on the issue.

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**INTERNATIONAL
TAX REVIEW**

European Tax Awards 2017

WTS Klient Hungary on the shortlist of European Tax Awards 2017

WTS Klient Hungary has been shortlisted this year in three categories – Hungary Tax Firm of the Year, Hungary TP Firm of the Year and European Tax Compliance and Reporting Firm of the Year – as one of the best tax professionals in the European Tax Awards, the most important tax contest in Europe.

The above list of criteria is a list of priorities too, i.e. if the tax residency can clearly be determined for the private individual based on their permanent address, no further criteria have to be examined.

Permanent address

Based on both Hungarian legal requirements and OECD guidelines, the residence where the private individual settles down for the long term qualifies as a permanent address. This can be an own or rented house or apartment, or even a permanently used room.

The criterion for a permanent address is that it should be available for the private individual continuously, for use at any time.

Let's take an example. A Spanish person comes to work in Hungary. He has a house in Spain that he keeps and does not rent out, and he rents an apartment in Budapest. In this case, the person will have a permanent address in both countries since there is an apartment in both countries that is **available at any time** for use **in the long run**.

However, if he rents out the house in Spain and de-registers there, his permanent address in Spain will cease and he will only have residence in Hungary.

Centre of vital interests

If the private individual has a permanent address in several countries at the same time, specifying the centre of vital interests is the next step in determining residency. The centre of vital interests is in the state in which the private individual has the **closest personal, family and economic relationships**.

Determining the centre of vital interests entails a complex review. If the Spanish employee above brings his wife and three children to Hungary, it is likely that his closest family relations will tie him to Hungary. However, if his family remains at home and the employee visits them every weekend, then his family relations will continue to tie him to Spain.

When identifying economic relations, the place where income is received and spent also has to be taken into account. If the Spanish individual is employed only in Hungary, and receives income from Spain too but only in the form of dividends, this will tip the scale towards Hungary. Based on OECD guidelines, the circumstance to be reviewed in this case is where the private individual manages his assets from.

During an actual audit, the tax authority even took into account the foreign individual's bankcard use when determining his residency. In the period under review, the private individual used his bankcard mainly in Hungary, and only rarely abroad. In addition, the private individual had full-time employment in Hungary, while he only had investments abroad, which according to the tax authority did not require any personal presence, as opposed to his employment. The income from the investments was transferred to the private individual's Hungarian bank account. The NAV considered these facts and established Hungarian tax residency for him. A Curia judgment was also issued in that case.

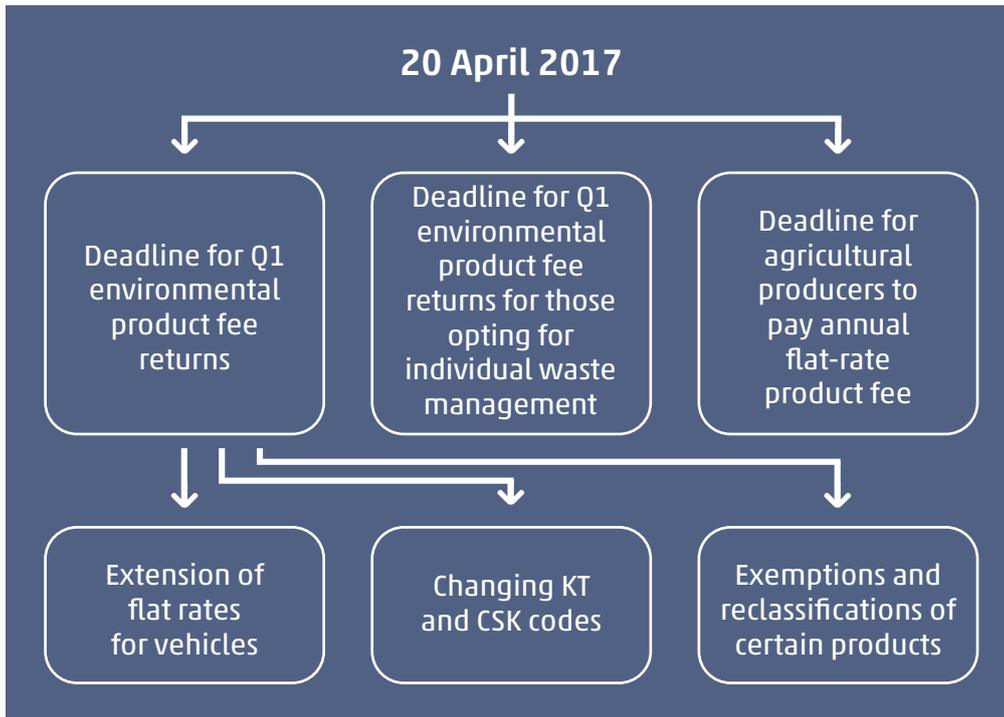
In addition to the above, the private individual's political, cultural and other activities have to be taken into account as well.

Habitual abode

Sometimes the above aspects are not enough to determine whether an employee is a Hungarian or a foreign resident; then, habitual abode has to be examined. On this basis the person will be tax resident in the country where they have spent more days.

After defining residency it can be decided where the individual incomes of the private individual are taxable.

Deadline for Q1 environmental product fee returns draws near



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20 April is an important date in the area of environmental product fee rules since this is when the Q1 environmental product fee returns have to be submitted in Hungary.

What to watch out for when preparing Q1 environmental product fee returns

In 2017 environmental product fee rules have not changed, in the sense that the returns have to be submitted to the tax authority quarterly and electronically, and the amount of the environmental product fee payable also has to be paid by

that deadline. Form **17KTBEV** is used to declare the environmental product fee liabilities for 2017, which [can be downloaded](#) from the tax authority's website in Hungarian.

Apart from a few changes, the structure of form 17KTBEV is essentially the same as that of the environmental product fee return used for the previous year.

However, when completing the form, it is important to pay attention to the [changes to environmental product fee rules](#) as of 1 January 2017.

For example, **from 2017 the flat-rate product fee can be chosen for buses and vehicles transporting goods as well.** Consequently, when defining the payment liability for the environmental product fee in the case of these vehicles you don't have to specify the volume of components subject to the product fee (e.g. batteries, lubricants, tyres), you can spare yourself all this lengthy administrative work by choosing a flat-rate product fee. In such cases, **only the number of vehicles has to be indicated in the product fee return along with the appropriate KT (environmental protection) code, and the program will automatically define the rate of the flat-rate product fee.**

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wts TAX LEGAL CONSULTING

"The most difficult part about switching to IFRS is classifying our assets and liabilities in accordance with IFRS."

Anita Toki, WTS Klient Hungary manager

Source: inoradio.hu



Have you heard? 

Anita Toki, manager at WTS Klient Hungary, has talked about financial accounting aspects of IFRS transition on InfoRadio. "IFRS essentially formulates guidelines and measurement procedures; there are no mandatory frameworks for the income statement or balance sheet for example, as we have in the Hungarian Accounting Act" – she said.

[Listen to the conversation at this link!](#)

Please note that the conversation is available only in Hungarian.

Based on the above it is important to be accurate in specifying the KT codes (product fee codes for products subject to product fees, except for packaging materials) when completing the form. Naturally, the same applies to the CSK codes (product fee codes used for packaging materials). Since **the structure of CSK and KT codes changed in Hungary from 2017**, we recommend studying Schedule 1 to the Implementation Decree (Government Decree 343/2011), in order to ensure that the new and updated codes are used in environmental product fee returns to be submitted for the first quarter by 20 April.

It is also important to note when preparing environmental product fee returns that **plastic freezer bags will no longer qualify as plastic advertisement shopping bags from 2017**, but as plastic packaging. This reclassification means the **product fee rate so far of HUF 1,900/kg (EUR 6) drops to HUF 57/kg (0.18 EUR)**.

Furthermore, no product fee has to be paid in Hungary from 2017 for plastic bags used to collect separated waste, and for packaging made entirely from raw material derived from renewable sources and biodegradable plastic, **but there is still declaration obligation for these products**.

Why is 20 April still important?

For those opting for individual waste management, the deadline for submitting environmental product fee returns for 2016 is also 20 April 2017.

Additionally, although there is no declaration or recording obligation, an agricultural producer entitled to pay a flat-rate product fee has to settle this 2016 payment obligation by 20 April of the year after the reporting year.

Generalised reverse charge mechanism – growing administration?

Generalised reverse charge mechanism – the plans

- Temporary system until 30 June 2022
- Above threshold of EUR 10,000 per invoice
- B2B transactions
- VAT payment in transaction with final buyer

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The VAT gap according to an EU report exceeds EUR 160 billion, of which cross-border fraud accounts for approximately EUR 50 billion in lost revenue every year. This latter figure totals EUR 1.5-2 billion in Hungary. What is the EU doing, what measures can be expected in Hungary, and how will this all affect the day-to-day administration of law-abiding taxpayers? These are the questions we seek answers to in our article.

Generalised reverse charge mechanism – EU action

If we look into the future, we see that under the agreement between the European Parliament and the Council the definitive VAT system will be based on the principle of taxation in the country of

destination (the so-called "destination principle"), whereas the current system is based on exemption of supplies of goods in the Member State of departure. However, since preparing, adopting and implementing such a major change is likely to take some time, the Commission recognised the need to work in parallel on other initiatives to tackle tax evasion. This is what led to the proposal on 21 December 2016 to amend Directive 2006/112/EC.

The essence of the legislation is that at the request of individual Member States, and provided set conditions are met, it would be possible for Member States requesting the special rule to implement a temporary generalised reverse charge mechanism (GRCM) until 30 June 2022 for supplies of goods and services above a threshold of EUR 10,000 per invoice (regardless of the industry or type of service).

Any Member State wishing to introduce the generalised reverse charge mechanism must comply with the following conditions:

- it has a VAT gap, expressed as a percentage of the VAT Total Tax Liability, of at least 5 percentage points above the Community median VAT gap;

- it has a carousel fraud level within its total VAT gap of more than 25%;
- it establishes that other control measures are not sufficient to combat carousel fraud on its territory.

When implementing the mechanism it must also be examined what impact this will have on neighbouring countries, since it could easily happen in this case that those engaged in tax fraud simply shift their activities to nearby states.

Combating tax fraud in Hungary

Hungary's 27% VAT rate is extremely enticing for tax fraudsters, and implementing the reverse charge mechanism seems obvious in "toxic" sectors. In 2014, according to an EU study, several Member States broadened the scope of goods and services that fall under reverse charging. Thanks to this move, Hungary managed to achieve a 4% reduction in its VAT gap. Besides the reverse charging, Hungarian legislators also took measures that clearly increase the administration burden but which make it more difficult to commit VAT fraud, for example:

- the itemised domestic summary report, in which invoices must be listed individually taking defined thresholds into account, or
- the requirement to register invoicing software with the tax authority, or
- the requirement for invoicing software to have a data export function, and
- the introduction of the EKAER system, one of the most significant changes, which is a real-time control system running simultaneously with road transportation.

Growing administration

The introduction of the generalised reverse charge mechanism will increase administration for the companies affected, as all transactions above EUR 10,000 have to be reported to the tax authority. If we look at the data supply requirements for Hungary, Poland or even the Czech Republic, these countries probably face now a similar amount of administration. Nevertheless, with regard to the online data supply and invoicing to be introduced in Hungary from 1 July 2017 there are still many unknowns, as we do not yet have the government decree to hand. What does seem certain is the risk of a default penalty, which could be as much as HUF 500,000 (approx. EUR 1,600) per invoice if the data supplied is incorrect.

Services of the WTS Klient Hungary:

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

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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