

# Question Marks

## Current issues in the spring

2016. 1<sup>st</sup> Issue



The current issue of our newsletter dealing with Hungarian accounting practices covers the amendments to the Act on Accounting, prevailing problems as to how to interpret accounting errors, the recently approved amendments to the Civil Code concerning the increase in registered capital of limited liability companies, the amendments approved in relation to the compensation for the cost of collection as well as the current status of IFRS implementation in relation to the closure of the 2015 financial year.

### Transitional provisions of the Act on Accounting

The provisions of Act CI of 2015 promulgated on 3 July 2015 and amending the Act on Accounting shall be applied to financial years beginning on or after 1 January 2016 (the 2016 financial year); earlier application is not permitted. Due to EU legal harmonisation obligations the aforementioned amendments took effect the day after promulgation, but with the adoption of the transitional provision the new regulations shall not be applied to financial statements prepared on financial years beginning before 1 January 2016 (2015 financial statements). Determining enacting and transitional provisions this way could be misleading when using legal databases, because querying requirements pertaining to 2015 financial statements based on effectiveness will include requirements for 2016, and only if one reads them together with the transitional provisions will they find that some of the requirements are only applicable from 2016.

This regulation could be particularly misleading in terms of dividends due and payable, because although 2015 financial statements are approved in 2016, the rules prior to the amendment shall still be applied to them in every respect. Accordingly, if a dividend payment is determined based on the 2015 financial statements, then the dividends payable shall be included in the 2015 financial statements, and the dividends receivable known before balance sheet preparation must also be recognised in the 2015 financial statements.

Incidentally, this means that companies receiving dividends on a regular basis every year will not recognise dividends receivable in the 2016 financial statements (since dividends received in 2015 are generally included in the 2015 financial statements, whereas those received based on 2016 profits will only be recognised in 2017 based upon their approval), and companies paying dividends will also face a similar situation as they may recognise dividends payable based on 2016 profits only in 2017.

### Definition of accounting error

The concept of error (inspection finding) was modified in the Act on Accounting as of 1 January 2015. Accordingly, the concept has been broadened with the following sentence:

*"The subsequent modification of business transaction features entered into accounting records relating to a closed financial year or years – as documented by modifying the contract or accounting documentation – shall be considered as an error or impact thereof."*

This wording causes problems in practice, because subsequent contract amendments also qualify as errors, and if they are significant based on their amount then three-column financial statements should be prepared, despite the fact that such contract amendments cannot be foreseen in most cases, i.e. their impact on the financial statement cannot be determined beforehand to the best of one's knowledge and intent.

Contrary to expectations in the profession though, no progress has been made so far in relation to amending this rule. Practitioners predict that the current regulation may be amended in the near future so that such items will not be considered as errors, but treated in an identical way. This amendment would help to clarify the situation so that nobody makes a mistake in cases like this, but the consequences are still the same: three-column financial statements must be prepared.

## Amendment to the Civil Code

With regard to the transitional rules of the Civil Code, the following amendments were promulgated on 9 March 2016:

- The deadline for ensuring compliance with the rules of the Civil Code in deeds of foundation for foundations and associations subject to registration has been extended until 15 March 2017. For associations, if only the name and address (registered office) of founding members are missing from the deed of foundation, no amendments are necessary.
- For limited liability companies with issued capital below HUF 3 million, the deadline for increasing issued capital and ensuring that the deed of foundation complies with the rules of the Civil Code has been extended until 15 March 2017. Such companies will operate in accordance with the provisions of the Act on Business Associations until the issued capital increase.

This amended deadline does not affect limited liability companies with issued capital of at least HUF 3 million. In their case, the original deadline for amending the deed of foundation as per the new rules of the Civil Code (15 March 2016) was not changed.

- Registering changes required by compliance with the provisions of the Civil Code may be submitted without paying duties and publication fees, but in the case of other amendments, the duties and fees otherwise payable must be paid.

## Compensation for cost of collection

Act IX of 2016 on compensation for cost of collection entered into effect on 24 March 2016, repealing the provisions of the Civil Code pertaining to compensation for cost of collection.

The amendment focuses on the entitlement to compensation for cost of collection (in harmony with the EU Directive), which means that entitled parties may freely decide whether they request such payment or not. The provision of the Civil Code currently applicable places emphasis on the payment obligation, and several tax authorities argue that entitled parties should make a statement waiving their right so that obliged parties can legally refrain from having to do this.

Based on the approved law the new requirement is that entitled parties may only request the compensation amount within one year of the default (peremptory term). As a transitional provision it further prescribes that the new rules shall also be applied to cases preceding the effective date, adding that the 1-year deadline for enforcing claims shall be calculated from the effective date of the act on compensation for cost of collection.

The new legislation also amends the Act on Accounting in that the liability from the compensation for cost of collection recognised in accounting records on the effective date must be derecognised against other income if the entitled party has not requested it by that date.

## Introduction of IFRS

Act CLXXVIII of 2015 was promulgated on 26 November 2015, making it possible and obligatory for certain entities to prepare their separate financial statements in compliance with the International Financial Reporting Standards as adopted by the European Union. This entails amendments to tax legislation too.

We summarised the requirements in our newsletter published in the [IFRS Knowledge Network](#) available at the following link: [We did it! – Summary of law approving introduction of IFRS in Hungary](#). It is worth following IFRS Knowledge Network updates, as further clarifying amendments can be expected in the first half of 2016.

## Some final words

In this newsletter we have reviewed some of the promulgated or future legislative amendments relating to accounting. Due to space constraints we did not present amendments and rules in full; getting a full understanding of the amendments and rules may require knowledge of the legal regulations. Should you have any questions relating to the content of the newsletter, please contact your tax or accounting adviser, or get in touch with us.

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