

wts klient newsletter

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Dear Readers,

The deadline for publishing the 2016 financial statements and the deadline for filing the related corporate tax and local business tax returns is now looming. It is a very busy time for professionals: accountants, tax consultants, auditors and lawyers are all working on financial statements.

As our readers surely know, the Accounting Act changed as of 1 January 2016 in the sense that dividends approved by owners are not presented in the previous year's financial statements, but instead are used to reduce retained earnings in the year the dividend decision is made. The legislative changes associated with this have further impacts on supplementary notes and on owner resolutions on the approval of financial statements, which deserve our attention.

In my article on the first page of our newsletter I would like to share with you my experience as an auditor on the current legislative changes. I hope you find it useful.

Szabolcs Szeles
financial advisory director

Guidelines for decisions on dividend payments this year

Amendments to the Accounting Act related to dividend payments require material changes in the wording of owner decisions accepting the financial statements. » [page 1](#)

Customer statement, letter of representation during NAV inspections

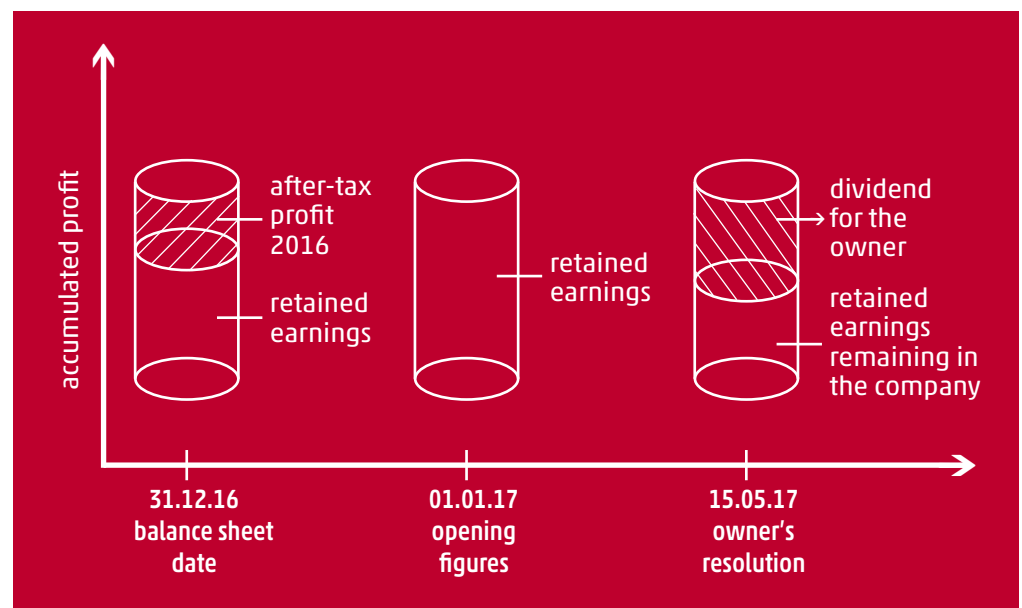
A customer statement is one of the most important means of proof, so it is advisable to be careful if you are summoned by the tax authority to make one. » [page 3](#)

Guidelines for decisions on dividend payments this year

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Although we are getting close to the end of the process for preparing, accepting and publishing financial statements, it is not a bad idea to bear some new aspects in mind in this context.



As we already know, the Accounting Act changed as of 1 January 2016 in the sense that **dividends approved by owners are not presented in the previous year's financial statements** (2016 in this case), **and instead are used to reduce the retained earnings in the year the dividend decision is made**. We looked in detail at the accounting aspects of these changes in an earlier article entitled "[What can a dividend in Hungary be paid from?](#)" However, the underlying legislative changes have additional impacts on disclosures in the supplementary notes and on owner decisions accepting the financial statements, and these need to be considered when opting for dividend payments.

What should you look out for when accepting financial statements?

Resolving to pay dividends is still only possible when accepting financial statements. Yet there is no longer any need to make a statement on using the profit after tax because, irrespective of the dividend decision, this is first transferred into the retained earnings when the accounts are opened for the following year, and **only on the day the dividend payment decision is made** does the company **reduce** its accumulated profit, **the retained earnings**. In this respect it is no longer appropriate to speak about using year-end after-tax profit or distributing year-end profit.

Dividend payments – what can be paid and when?

The previous year's unallocated retained earnings supplemented with the profit after tax can be paid out as a dividend. **The previous regulation stated the exact opposite**. Dividends could be paid from the reporting year's profit after tax, and the reporting year's profit after tax supplemented with the unallocated retained earnings. This may seem like a subtle change, but it has to be reflected in the decision accepting the financial statements.

Recommended changes in decisions accepting financial statements

Owing to the legislative amendments we recommend making the following changes to the wording of decisions accepting financial statements:

- We should no longer use the phrase profit or loss for the year, instead, profit after tax should be adopted as the indicator of how successful our activity is.
- It is not accurate to say that the owner decides on placing the profit after tax into the retained earnings, because this is prescribed by the Accounting Act, it is no longer subject to a decision.
- A company does not pay a dividend primarily from profit after tax. It suffices to say that the owner has decided to pay a dividend of THUF XXX. In actual fact, the dividend is paid from the retained earnings because under accounting rules any profit after tax from the previous year has to be recognised as an addition to the retained earnings on the first day of the financial year (1 January 2017), and when making a dividend decision for example on 15 May 2017 only the retained earnings has to be reduced with the dividend payment liability to the founders.
- If no decision is made by the owners as regards dividend payments, then we recommend the following wording: When accepting the financial statements the company's owners made no decision on paying dividends.

What should be included in the notes in this respect?

Based on the Accounting Act, the supplementary notes still have to present the proposal on use of the profit after tax. This provision is somewhat contradictory to the information above and to the legal stipulation that the retained earnings can be paid as a dividend, supplemented as applicable with the previous year's profit after tax; it is not the profit after tax that is distributed like before. We assume the legislator intended for the management's proposal on using the profit to be presented in the financial statements, since it is the management that submits the proposal for the owner's decision on paying a dividend.

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wts TAX LEGAL CONSULTING

"Although this is a European competition, it's really only global companies that can meet the requirements."

Tamás Dely, WTS Klient Hungary
Business Development Director CEE

Source: inforadio.hu



Have you heard?



On 18 May in London, the International Tax Review is presenting its awards to Europe's best tax consultancy firms. Tamás Dely, regional business development director at WTS Klient Hungary, speaks to InfoRadio about the European Tax Awards on the evening of the event. "The digitalisation of taxation is a megatrend in 2017. The innovations and IT tools that support a given consulting service play a significant role in a company's competitiveness, and in winning awards too" – as the interview reveals.

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

Please note that the conversation is available only in Hungarian.

When disclosing such information in the notes we recommend following the above approach, which means it is enough to inform the readers of the financial statements that the management **proposes a dividend payment** of THUF XXX. It is definitely worth adding that the management's proposal has not yet been approved by the owner. Given that this is not a proposal on the final dividend payment, and the decision on the actual dividend is only adopted after the financial statements are prepared, **the owner's decision can deviate from the proposal**. Furthermore, since the dividend is not included in the financial statements, only in the owner's decision accepting the financial statements, having the management proposal in the financial statements could even be misleading. This is why we recommend being prudent and careful when wording any disclosures in the notes about the dividend proposal.

Customer statement, letter of representation during NAV inspections

When making a customer statement we must pay attention to the following:

- **obligation to make an appearance and cooperate**, so if summoned by the tax authority we need to appear to make a customer statement
- **customers are entitled to make a statement, but are also entitled to refuse the statement**
- **we can use the help of a professional representative for this**

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During a tax inspection there is a good chance that the tax authority will request the company or taxpayer under review to make a customer statement. A customer statement is one of the most important means of proof for both the tax authority and customers or taxpayers. One possible format is the letter of representation that appeared in the Act on Rules of Taxation from 2017, and it is advisable to take care with this.

Customer statement: option or obligation?

During a NAV inspection, taxpayers are obliged to be present and cooperate. Among other things, this means that if summoned by the tax authority the taxpayer has to appear and make a customer statement, along with handing over the requested documents on tax liabilities to the inspectors. The tax authority may not request records, calculations or summaries that are not prescribed by law.

After appearing, however, customers can decide at their discretion whether or not to make the statement. This is because the customer statement is a just an option, a right, it is by no means an obligation. This is explicitly underlined in the law, as it states customers not only have the right to make statements, but also the right to refuse such statements. Of course it does not really make sense to shy away completely from answering the questions posed by the inspectors, for the simple reason that an inspection can be closed even without a customer statement, based just on the information available (possibly with very negative consequences for the customer).

Letter of representation

In relation to investigations on wealth gains, the tax authority often experiences difficulties because the individuals under investigation come up with theory after theory and new evidence to prove the sources of their enrichment in face of the inspectors' findings. Since the general rule states that the tax authority has to clarify the facts of the matter, and justify its decisions, in principle the tax authority has to look into every such theory. Such conduct from taxpayers can naturally result in procedures being unjustifiably delayed, which is why the so-called letter of representation has been applied in the past to avoid this. **The letter of representation essentially means that the inspectors ask the given taxpayer to make a statement on a certain point of the procedure, to the effect that they have disclosed all of the material circumstances surrounding the matter to the tax authority.** However, it is easy to see that such a statement can come back to haunt the taxpayer because someone subject to a NAV inspection often only realises much later on what exactly they have to prove to the tax inspectors. The legislators in Hungary were conscious of this contradictory situation too, and included guarantee rules governing letters of representation when amending the Act on Rules of Taxation. Accordingly, within 15 days of launching a tax inspection, the NAV asks the taxpayer to send a letter of representation regarding the financial, income and other circumstances that are material in terms of assessing its tax base, within 15 days. This deadline may be extended once on request, by no more than 15 days (this period is not counted as part of the inspection). However, what is also true about the letter of representation is that taxpayers can refuse to make the statement, either in whole or in part. If the taxpayer refuses to make a statement or only makes a partial statement, the NAV continues the proceedings based on the data available.

Significance of representation for a customer statement

What is important is that you can enlist the help of a company well-versed in communicating with the tax authority – such as WTS Klient Hungary. The advantages of [professional company representation](#) are briefly summarised below:

- Professional representatives are well aware of which questions can be asked in connection with an inspection on a given tax type, which documents the inspectors can ask for and the ones they cannot.
- They have in-depth knowledge of customers' rights and the means to enforce them (they know and monitor related deadlines).
- These experts have the necessary know-how to facilitate professional dialogue with the tax authority. This can be particularly helpful during [cooperative procedures](#) for example.
- As professionals they make sure that the statements made during the proceedings are accurate and coherent. (Customers sometimes interpret tax concepts incorrectly, which can lead tax inspectors to draw the wrong conclusions – engaging a professional can prevent this too.)

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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