

CORPORATE LAW NEWS

Dear Reader,

We are pleased to send you an update on amendments to the Commercial Law related to interim dividends.

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With kind regards -



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Amendments to the Commercial Law

Interim dividends

As of 1 July 2014 amendments to the Commercial Law enter into force providing for the possibility to the companies to determine and pay out interim dividends. Interim dividends are the dividends determined and paid out from the profit gained during certain period after the end of the previous accounting year. It is quite interesting that as of 1 January 2014 regulations on taxation related to the interim dividends were already enacted notwithstanding that the payment of interim dividends is only possible as of 1 July 2014.

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Determination and payment of interim dividends

As a first step, the payment of interim dividends has to be provided for under company's Articles of Association in which also the terms and conditions for summoning the General Meeting of shareholders to resolve on interim dividends have to be stipulated.

Company may distribute in interim dividends not more than 85% from the company's profits that have been gained during the period for which the interim dividends have been determined. Management Board is required to prepare and submit to the General Meeting of shareholders company's financial report for the respective period and the proposal regarding the part of the profit to be paid as interim dividends. General Meeting of shareholders cannot resolve to pay higher interim dividends than it is set forth in the proposal of the Management Board.

Decision of the General Meeting on the payment of interim dividends shall be adopted not earlier than three months after the previous General Meeting decision on determination of dividends has been adopted and not later than three months after the end of the period for which the company's financial report has been composed.

In order to pay interim dividends company's Management Board shall attest in the General Meeting of shareholders that company's financial situation until the General Meeting has not significantly deteriorated and that the payment of interim dividends does not create a risk for the performance of company's liabilities during the remaining months of the accounting year.

It has to be also taken into account that interim dividends can only be determined and paid out if on the day of adoption of the decision by General Meeting company has no tax debts and company has no postponed tax payments or tax payments divided in the payment terms and company's advance tax payments have not been decreased.

Small capital companies (i.e. limited liability companies that correspond to the conditions of Article 1851 (1) of the Commercial Law) are not entitled to determine and pay out interim dividends.

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Tax aspects

With regard to taxation of natural persons interim dividends are treated in the same manner as dividends, i.e. they are subject to personal income tax at the rate of 10%. Similarly as in case of dividend payment also when paying out interim dividends tax is withheld by the payer of interim dividends and the day of payment of interim dividends is the day when the interim dividends have been determined (declared).

After approval of annual accounts the personal income tax will be applied to the difference between the calculated dividends and the calculated interim dividends from which the tax has already been withheld and paid. Namely, the personal income tax will be applied only to the part of dividends from which the tax has not yet been paid.

In relation to the taxation of legal persons it has to be taken into account that according to the Law On Corporate Income Tax interim dividends are considered to be an expense not related to the company's commercial activities (i.e. company's taxable income is to be increased for the said amount). It is important to note here that the paid out interim dividends become an expense not related to the company's commercial activities only in case it is discovered at the end of accounting year that company has suffered losses, i.e. company has not gained any profit and thus the payment of interim dividends was in essence unfounded. In the said case ratio 1.5 will be applied to the whole paid out amount of interim dividends.

It has to be also mentioned that withholding tax at the rate of 30% will be applied to the interim dividends paid out to recipients located in low tax or no tax jurisdictions.

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