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Reggio Emilia, Feb. 20, 2024

MEMORANDUM N. 15/2024

Insight

Subject: Losses on receivables

For the purposes of determining the business income of entities other than banks, other financial companies and insurance companies, the tax treatment of charges arising from the uncollectibility of receivables that have become "final" (so-called credit losses) is governed by Article 101, paragraph 5, Tuir, according to which credit losses are deductible from business income (without limits and with an analytical mechanism), if they result from certain and precise elements and in any case if the debtor is subject to insolvency proceedings.

However, the existence of the aforementioned certain and precise elements, which must generally be proven by the taxpayer, is presumed in cases strictly provided for by law, such as:

- subjecting the debtor to insolvency proceedings (losses from existing receivables, but to be assessed as uncollectible due to the debtor's legal status);
- the claim is small (euro 5,000.00 for companies of more significant size, i.e., with a turnover or revenue of not less than euro 100 million, **euro 2,500.00** for other companies) and at least six months have elapsed since the deadline for payment of the same;
- the statute of limitations or deletion of the receivable from the balance sheet in application of accounting standards (losses "of a realizable nature," as they are related to events that cause the existence of the receivable to cease to exist, such as: assignment of the receivable - deed of waiver of the receivable - settlement with the debtor).

Pursuant to Article 101, paragraph 5, Tuir, losses on receivables from debtors subject to bankruptcy proceedings are deductible "in any case," that is, without limit and with an analytical mechanism, from the date:

- of the judgment declaring bankruptcy;
- of the order ordering compulsory liquidation;
- of the decree of admission to the arrangement procedure;

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- of the decree ordering the extraordinary administration procedure for large enterprises in crisis;
- of the decree approving the debt restructuring agreement, pursuant to Article 182-bis, R.D. 267/1942;
- of registration in the Register of Enterprises of the certified reorganization plans, pursuant to Article 67, paragraph 3, letter d), R.D. 267/1942;
- of admission to foreign proceedings, if the debtor is subject to foreign procedures equivalent to domestic ones, provided for in states or territories with which there is an adequate exchange of information.

The aforementioned regulatory provision was subject to authentic interpretation by Article 13, paragraph 3, Legislative Decree 147/2015, which defined the **timeframe** within which taxpayers may deduct for tax purposes losses on receivables from entities subject to bankruptcy proceedings, ***specifying that they may be deducted for tax purposes from the year of admission to such proceedings and until the year in which the write-off of such receivables is to take place***, in application of the accounting standards adopted by the company.

The firm remains available for any clarifications.

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