Tax Flash *Ministerial Circular 1056/2015*

March 2015

Ministerial Circular 1056/2015 provides important clarifications regarding the bad debt provisions and respective practical issues. In particular:

A. PROVISION FOR BAD DEBTS

Conditions

- Prior to the booking of a provision for bad debts, the companies should have undertaken all the appropriate, in each case, actions for securing the right to collect the receivables. Moreover such receivables should have been fallen due.

- The appropriateness of the actions is considered on an ad hoc basis, based, inter alia, on the amount of the receivables due and the solvency of the debtor, while indicative examples, such as the exercise of a judicial remedy or the marking of a check due to insufficient funds, the submission of all necessary documents for the issuance of an order for payment etc.

- Indicatively, the assignment of the collection of the receivables to collection companies or the termination of services provided by telecommunication companies, are not considered as the appropriate actions to secure the right to collect.

Although the appropriateness of the actions undertaken by the company should be assessed on an ad hoc basis, the indicative examples of appropriate actions, as provided by the Ministerial Circular, demonstrate that the conditions for the formation and the deductibility of the provision for bad debts are quite demanding and imply a disproportionally significant cost for the companies, especially in cases where the value of the receivables is quite low. In any case, prior to the booking of the provision, it is prudent that the specificities of each company are carefully observed.

Types of receivables

- Every receivable not collected or offset. Receivables from retail sales or provision of services to individuals as well as receivables against customers both domestic and foreign.
- Receivables against public entities or public companies or organizations, social security organizations, etc.

The provision for bad debts under the new Law 4172/2013, applies to any receivable not collected or offset, except for the provided exemptions, while the previous regime applied mainly to receivables from wholesale sales.

Calculation method

- For the calculation of such provisions, the outstanding amount of the receivable (including any discounts or refunds) per transaction with each client should be taken into account. However, no provision is calculated on the part of the receivables corresponding to VAT.

- With regard to banks, factoring and leasing companies, a specific calculation method of provisions is provided.

Treatment of previous year's bad debt provisions

- The balance of the "Provisions for bad debts" account that was booked during the financial years 2010-2013 based on the previous regime, will be transferred to the taxable revenues of the financial year 2015, aggregated with other taxable revenues of this year, reduced by any writes-off of bad debts referring to financial years before 31.12.2013 and effected during the fiscal year 2014.

- The provisions for bad debts exceeding 1% or 0.5% that have been booked during the years 2010 to 2013 and that had not been deducted at the year of their formation will be not taxed again.

B. WRITE-OFF OF RECEIVABLES

Condition for writing-off: the insolvency of the debtor

- Indicatively, the insolvency of the debtor can be supported by the declaration of bankruptcy of the debtor and the absence of assets to satisfy the creditors, the final court decision forcing the debtor to pay, the reception of a certificate by the land registry for the non-existence of assets, the termination of the activities of the debtor's company etc.

- The burden of proof lies with the company.

Any letters or certificates issued by lawyers for failure to collect the receivables as well as the issuance of a bounced check and the corresponding to such issuance conviction are considered sufficient.

In order for the bad debts to be written-off by application of the new provisions, it seems that there is no obligation for informing the creditor/ client as well as the tax authority, as it was provided by the previous regime under L. 2238/1994.

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