

**CONVERGENCES AND DIVERGENCES
BETWEEN ACCOUNTANCY AND TAXATION
CONCERNING DEPRECIATION ADJUSTMENT OF RECEIVABLES**

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Abstract:

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Our research addresses consequences of the financial crisis consisting of non-collection of receivables, their partial collection or full collection with considerable delay and the impact of taxation regulations concerning the adjustment of receivables at the time of depreciation.

It is worth to notice that the words “depreciation adjustment”, to be found in the accountancy language, appear in the Tax Code under the name “provision”. Such terminological inconsistencies create a lack of communication between the accountancy regulations and taxation regulations.

Moreover, the taxation regulations impose multiple conditions regarding the deductibility of provisions, leading to high implications for the performance of the economic entities.

The conclusions of our research emphasize the tax treatment of provisions for receivables and are materialized in a global analysis of their incidence on the equity.

According to art.22 para (1) letter (c) of the Tax Code the tax payer is entitled, starting with the 1st of January 2006, to deduct provisions of receivables within the limit of 30% of their value. In order to deduct the expenses made by constituting provisions, the following conditions should be fulfilled:

- a) the receivables should be registered after the 1st of January 2004;
- b) the receivables should not be collected within a period exceeding 270 days since the due date;
- c) the receivables should not be guaranteed by others;
- d) the receivables should not be due by persons affiliated to the tax payer;
- e) the receivables should have been included in the taxable income of the tax payer.

The Methodological Rules of the Tax Code¹ (point 53) give the following definition: the receivables are amounts due by internal and external clients for sold products, semi-products, materials, merchandise, etc., executed works and delivered services on basis of invoices registered after the 1st of January 2004 and not collected within a period exceeding 270 days since the due date.

Nevertheless, according to art.22 para (1) letter (j) of the Tax Code, the legislator allows the deductibility of provisions created and registered by the tax payer within a limit of 100% of the receivables' value, others than regulated at letter d), f), g) and i) if fulfilling the following cumulative conditions²:

- a) are registered after the 1st of January 2007;
- b) are due by companies officially declared in bankruptcy, on basis of a final decision of the Court proving this situation;
- c) are not guaranteed by others;
- d) are not due by persons affiliated to the tax payer;
- e) are included in the taxable income of the tax payer.

However, the legislator regulated the partial or full deductibility of provisions for receivables born after the 1st of January 2004, under the conditions previously specified.

¹ Government Decision no.44/2004 regarding Methodological Rules for the application of Law no.571/2003 regarding the Tax Code

² Law no.571/2003 regarding the Tax Code

Taking into account the different provisions mentioned above, the next explanations are considered necessary:

1. the tax deductibility of provisions is permitted if depreciation is registered in the books of the tax payer, on account of operating expenses, and therefore included in the balance sheet on account of annual inventory.
2. it is necessary to carefully identify the registration date of receivables in the books of the tax payer, as well as the compulsory conditions expressly mentioned by the legislator, because they regulate the applicable tax treatment.

The deductible tax rate of provisions, i.e. applicable on the expenses for the adjustment of the receivables, is the one regulated for the year in which the receivable has been born (20% starting with the 1st of January 2004, 25% starting with the 1st of January 2005 and 30% starting with the 1st of January 2006) and not the year in which the expense has been registered in the books.

The deductible tax rate of provisions is not subject of re-calculation. In case at the end of the tax year expenses for depreciation adjustment of receivables were registered without to fulfill the tax conditions imposed for deductibility, the law allows their deductibility during the next quarter in which such conditions are fulfilled.

The reduction or cancellation of provisions is registered in the books by bringing it into the result (on account on income) and it takes place only if the adjustment losses its object, totally or partially.

From an accountancy point of view there are differences concerning the recognition of expenses/income deriving from depreciation adjustment, as follows:

- the operating expense (account 6814 "Operating expenses concerning adjustment for depreciation of current assets") is recognized only at the end of the tax year, when constituting or supplementing them;
- the operating income (account 7814 "Income concerning adjustment for depreciation of current assets") is recognized at any moment, including the date of the balance sheet, therefore from the moment the causes leading to depreciation adjustments of receivables ceased to exist.

For example, if in June of the current tax year a receivable, subject to depreciation adjustment is collected, or if the client enters the bankruptcy procedure, the income resulting from the

cancellation of adjustment, up to the level of the expense recorded in the past (respectively the balance of the account 491 for that receivable should be registered in the same month June. In case at the end of the tax year the tax payer finds that the risk of non-payment decreased, it has the possibility of reducing the adjustment up to its estimated level.

The income provided by the reduction / cancellation of depreciation adjustment can be:

- free of tax, for the amount considered non-deductible corresponding to the expense made with the depreciation adjustment
- taxable, for the amount considered deductible corresponding to the expense made with the depreciation adjustment.

The losses on receivables should be registered in the books in the account 654 “Losses on receivables and various debtors”. In case at the date of finding the loss there is also a depreciation adjustment of receivables, the latter should be brought back into the result.

As far as the tax treatment of losses is concerned, the losses registered when removing the receivable from the records are deductible in the next situations:

- the bankruptcy procedure of the clients/debtors has ended on basis of final decision of the Court;
- the debtor deceased and the receivable cannot be collected from the inheritors;
- the debtor is dissolved, in case of limited liability companies with sole shareholder, or liquidated without successor
- the debtor is confronted with major financial difficulties impacting its entire patrimony (natural calamities, fire, other socio-economic phenomena).

According to art.21 para (4) letter (o) of the Tax Code³ the losses registered when removing the non-collected receivables from records are not deductible for the part not covered by the provision. The tax payer is obliged to inform the client in writing the removal of the receivable from the records, for cancellation of debt and recalculation of the profit.

Such regulation can lead to various situations:

- the expense registered in the account 654 can be fully deductible
- the expense is not deductible for the part not covered by the provision

³ Law no.571/2003 regarding the Tax Code

- the expense is fully non-deductible if there is no provision or if the bankruptcy procedure has not ended yet and there is no final decision of the Court.

As far as the value added tax is concerned, the taxable amount would be adjusted if the receivable would be subject to tax because of the bankruptcy of the beneficiary. The adjustment is allowed starting with the date of the final decision for ending the procedure regulated by the Law no.85/2006 concerning insolvency.