TMI EYES

TMI Associates (Thailand) Co., Ltd.

TMI Eyes No. 14: Writing Off Bad Debts for Corporate Income Tax

It is now time for companies with an accounting period ending December 2023 to file their corporate income tax (CIT) return (PND50) and pay taxes. One of the issues that TMI is frequently asked is how companies should go about writing off bad debts. In the following, we will discuss the conditions for companies to write off bad debts for CIT purposes.

Writing Off Bad Debts

Companies can write off and treat bad debts as tax-deductible expenses as long as they follow the rules and conditions under Section 65 bis (9) of the Revenue Code and Ministerial Regulation No. 186 (MR186). The conditions for such write offs are as follows:

1. Debts that are qualified to be written off are:

- Debts from carrying on business (debts incurred from the normal course of business of a company, or accounts receivable);
- Debts in connection with the business or other receivables; or
- Debts that have been included as revenue when calculating net profits.

Please note that, although MR186 does not specifically stipulate that debts that are to be written off must have already been included as taxable revenue, in practice, the Revenue Department does always require so. Therefore, if debt from the normal course of a company's business has not been included as revenue, it is unlikely that the company will be permitted to write off such debt for CIT purposes.

2. The prescription period (statute of limitations) for the debts must not have expired, and the debts must be sufficiently evidenced for the purpose of suing the debtor.

Debts for which the prescription period has already expired cannot be written off for tax purposes, even if there is sufficient evidence proving such debt. In this regard, the company should be aware that prescription periods vary depending on the type of claim.

3. Companies must undertake actions as required by the laws based on the debt amount.

Companies are only allowed to write off bad debts if they undertake the following actions as required by MR186:

- *Tier 1 - a debt of more than THB 2,000,000.*

  Companies can write off debts in an accounting period if they have:

  (1) reasonably followed up the debt payment but the debts are not paid, or the debtor has passed away or dissolved with no assets left to repay the debts;

  (2) brought a civil case against the debtor or petitioned to share the assets in a civil case and the court has enforced its verdict, and the enforcement officer has issued a report confirming enforcement has been made and found that the debtor did not have sufficient assets to resolve the debts; or

  (3) brought a bankruptcy case against the debtor or petitioned to share the assets in the bankruptcy case, or the liquidator petitions the court to adjudge the debtor bankrupt and the court agrees with the debt settlement or orders bankruptcy, and the case has undergone the first round of asset distribution or the court has ordered the case to be closed.

- *Tier 2 - a debt of more than THB 200,000 but not exceeding THB 2,000,000.*

  Companies can write off debts in an accounting period if they have:

  (1) brought a civil case against the debtor or petitioned to share the assets in a civil case and the court has accepted the request or petition; or

  (2) brought a bankruptcy case against the debtor, or the liquidator petitions the court to adjudge the debtor bankrupt and the court has accepted the complaint, or the creditor has petitioned to share the assets and the official receiver has accepted the petition, accordingly.

- *Tier 3 - a debt of less than THB 200,000.*

  Companies can write off debts in an accounting period if they have taken reasonable debt collection actions but the debts remain unpaid and the expenses for pursuing legal action for recovery would cost more than the debts that may be collected.

<u>TMI Note:</u>

Readers should note that companies must follow the Revenue Code as regards the calculation of net profits or losses of their companies for CIT purposes. This includes how companies can write off bad debts. From TMI's experience, we have found that some companies do not have a correct understanding about how they can write off bad debts (and other conditions for the calculations of net profits/losses). Therefore, readers should be cautious about the rules in their coming PND50 filing.

Companies with accounting periods ending December 31, 2023 must file PND50 by no later than May 29, 2024 (normal filing), or June 6, 2024 (electronic filing). Please note that companies with revenue of more than THB 200 million and that are considered related to other companies within the definition of Section 71 bis of the Revenue Code, must also file a disclosure form together with the PND50.

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