Tax Pill
No. 22/2024

Certified recovery plan ex Art. 56 Legislative Decree no. 14/2019 - deduction of contingent assets confirmed

Italian Revenue Agency ruling No. 222/2024

- ✓ With the ruling under review, the Italian Revenue Agency (IRA) comments on the applicability of the favorable tax regime under Art. 88, paragraph 4 ter of the ITCA (Testo Unico Imposte sui Redditi - Income Tax Consolidation Act) to contingent assets arising from debt reductions in implementation of certified recovery plans pursuant to Art. 56 Legislative Decree 14/2019.
- ✓ Article 88, paragraph 4 ter of the ITCA, in order to recognize a tax benefit to those entities in a state of difficulty and facing procedures for the recovery of companies in crisis, including the certified recovery plan pursuant to Article 67, paragraph 3 (d), of Royal Decree 267/1942 published in the Companies Register, stipulates that the reduction of the company's debts does not constitute contingent assets for the part that exceeds: a) past and period tax losses (without considering the 80 percent limit), b) past and period Notional Interest Deduction - NID, c) interest expenses and similar financial charges that are non-deductible pursuant to Art. 96, paragraph 4 of the ITCA.
- ✓ The IRA preliminarily recalls that the new attested recovery plans governed in the Code of Business Crisis and Insolvency (Legislative Decree 14/2019) pursue the same rationale as those referred to in Article 67, paragraph 3, letter d), of R.D. 267/1942, in that they are still aimed at the entrepreneur in a state of crisis or insolvency who intends to reorganize his or her debt position in order to continue the business, except that they provide for more comprehensive regulations regarding the certified recovery plan with reference to both the requirements of the person implementing it and the content of the plan.
- ✓ Therefore, the IRA concludes, where the taxpayer publishes the certified recovery plan regulated by Article 56 of Legislative Decree 14/2019 (Business Crisis and Insolvency Code) in the Companies Register, the contingent asset resulting from the implementation of the plan can benefit from the tax relief under the aforementioned Article 88, paragraph 4 ter of the ITCA.

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