UNUSED TAX CREDITS & UNUSED TAX LOSSES

[IFRIC 23 — Uncertainty over Income Tax Treatments]

TEAM TRD

A deferred tax asset (DTA) shall be recognised for the carry forward of unused tax losses and unused tax credits to the extent that it is probable that future taxable profit will be available against which the unused tax losses and unused tax credits can be utilised.

There is no difference in criteria for recognising DTA under both the circumstances, DTA from deductible taxable difference & Unused tax losses or credits. However, the existence of unused tax losses is strong evidence that future taxable profit may not be available. Hence, it should recognise DTA on these items, only when there is convincing other evidence that sufficient taxable profit will be available against which the unused tax losses or unused tax credits can be utilised by the entity. In such circumstances, the amount of the deferred tax asset and the nature of the evidence supporting its recognition should be disclosed.

An entity considers the following criteria in assessing the probability that taxable profit will be available against which the unused tax losses or unused tax credits can be utilised:

(a) whether the entity has sufficient taxable temporary differences relating to the same taxation authority and the same taxable entity, which will result in taxable amounts against which the unused tax losses or unused tax credits can be utilised before they expire;

Illustration 1:

Particulars	Year - 1	Year - 2	Year - 3
Taxable Difference	5000	4000	3000
Deductable Difference	4000	1000	Nil

Ans: DTA = (4000 + 1000) 30% = Rs. 1500/-

Illustration 2:

Particulars	Year - 1	Year - 2	Year - 3
Taxable Difference	5000	4000	3000
Deductable Difference	4000	6000	8000

Ans: DTA = (4000 + 4000 + 3000) 30% = Rs. 3300/-

(b) whether it is probable that the entity will have taxable profits before the unused tax losses or unused tax credits expire;

(c) whether the unused tax losses result from identifiable causes which are unlikely to recur; and

(d) whether tax planning opportunities are available to the entity that will create taxable profit in the period in which the unused tax losses or unused tax credits can be utilised

Illustration 3:

Deductible Difference – Rs. 60,000

Tax Planning Cost – Rs. 12,000

Profit 50,000/-

Tax Rate: 30%

Ans:

If there is no Taxable Difference but there is a chance of Tax Planning, then

DTA = (Deductible Difference – Tax Planning Cost) * Tax rate

DTA = (60000 – 12000) * 30% = Rs. 14,400

To the extent that it is not probable that taxable profit will be available against which the unused tax losses or unused tax credits can be utilised, the deferred tax asset is not recognised.

Illustration 4:

RX Ltd (listed in Stock Exchange), was incurring heavy losses since the last few years and the industry in which it was functioning was not expected to perform better in the next few years. While finalizing the accounts for the year ended 31st March. 2018, the CFO of the co., decided to create a Deferred Tax Asset for the tax benefits that would arise in future years from the earlier years losses that had remained unabsorbed in Income tax.

Lets evaluate the view of CFO.

Discussion:

As per Ind AS 12, DTA should be recognised for all timing differences subject to consideration of prudence. Recognition of DTA with respect to unabsorbed depreciation and carry forward losses requires convincing evidence that sufficient future taxable income will be available against which such DTA can be realised.

In the given case, the industry in which RX Ltd. is functioning is not expected to perform better in the next few years. Thus, the required convincing evidence is missing. As per the Ind AS 12, DTA cannot be recognised in this case.

Conclusion:

In view of the above, we will suggest that DTA should not be created by the company as there is no convincing evidence for getting the said benefit in income tax.

Illustration 5:

BX Ltd. sold a long term machine and made a capital loss as per the Income tax Act, 1961. As per the provisions of the Act, the capital loss can be carried forwarded and offset in the future years, only against the income under the head 'Capital gains'.

Lets evaluate can the company recognise deferred tax asset for the capital losses.

Discussion:

As per Ind AS 12, DTA should be Recognised and carried forwarded subject to consideration of prudence and in case of DTA with respect to loss can be recognised only when there is a convincing evidence, that sufficient future taxable income will be available under the head 'capital gains' so that the loss can be set off.

Conclusion:

In the given case, the company can recognised DTA only when there is convincing evidence that they are going to sell some capital asset which given capital gain and can get the benefit of set off. If the entity sold any capital asset after the balance sheet date and before the approval of financial statements (events occurring after the balance sheet date) and got a capital gain which will be sufficient to set off the capital losses, the entity can create DTA to that extent. If the entity is not able to provide evidence before approval of financial statements by its board of directors, it cannot recognise DTA in the current year. The entity should disclose the nature of the supporting evidence in the notes on accounts.

The IFRIC Interpretation, IFRIC 23 Uncertainty over Income Tax Treatments, is issued by the International Accounting Standards Board (the Board). It was developed by the IFRS Interpretations Committee (the Committee). This Interpretation clarifies how to apply the recognition and measurement requirements in Ind As-12 (IAS 12) when there is uncertainty over income tax treatments. In such a circumstance, an entity shall recognise and measure its current or deferred tax asset or liability applying the requirements in Ind As-12 (IAS 12) based on taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates determined applying this Interpretation.

Issues:

Whether an entity considers uncertain tax treatments separately

Consensus:

An entity shall determine whether to consider each uncertain tax treatment separately or together with one or more other uncertain tax treatments based on which approach better predicts the resolution of the uncertainty. In determining the approach that better predicts the resolution of the uncertainty, an entity might consider, for example,

a) how it prepares its income tax filings and supports tax treatments; or
b) how the entity expects the taxation authority to make its examination and resolve issues that might arise from that examination.

If, applying above, an entity considers more than one uncertain tax treatment together, the entity shall read references to an 'uncertain tax treatment' in this Interpretation as referring to the group of uncertain tax treatments considered together.

Issues:

Examination by taxation authorities (The assumptions an entity makes about the examination of tax treatments by taxation authorities)

Consensus:

In assessing whether and how an uncertain tax treatment affects the determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates, an entity shall assume that a taxation authority will examine amounts it has a right to examine and have full knowledge of all related information when making those examinations.

Issues:

Determination of taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates (How an entity determines taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates)

Consensus:

An entity shall consider whether it is probable that a taxation authority will accept an uncertain tax treatment.

If an entity concludes it is probable that the taxation authority will accept an uncertain tax treatment, the entity shall determine the taxable profit (tax loss), tax bases, unused tax losses, unused tax credits or tax rates consistently with the tax treatment used or planned to be used in its income tax filings.

If an entity concludes it is not probable that the taxation authority will accept an uncertain tax treatment, the entity shall reflect the effect of uncertainty in determining the related taxable profit (tax loss), tax bases, unused tax losses, unused tax credits or tax rates. An entity shall reflect the effect of uncertainty for each uncertain tax treatment by using either of the following methods, depending on which method the entity expects to better predict the resolution
of the uncertainty:

a) the most likely amount—the single most likely amount in a range of possible outcomes. The most likely amount may better predict the resolution of the uncertainty if the possible outcomes are binary or are concentrated on one value.

b) the expected value—the sum of the probability-weighted amounts in a range of possible outcomes. The expected value may better predict the resolution of the uncertainty if there is a range of possible outcomes that are neither binary nor concentrated on one value.

If an uncertain tax treatment affects current tax and deferred tax (for example, if it affects both taxable profit used to determine current tax and tax bases used to determine deferred tax), an entity shall make consistent judgements and estimates for both current tax and deferred tax.

Issues:

Changes in facts and circumstances (how an entity considers changes in facts and circumstances)

Consensus:

An entity shall reassess a judgement or estimate required by this Interpretation if the facts and circumstances on which the judgement or estimate was based change or as a result of new information that affects the judgement or estimate.

For example, a change in facts and circumstances might change an entity's conclusions about the acceptability of a tax treatment or the entity's estimate of the effect of uncertainty, or both.

An entity shall reflect the effect of a change in facts and circumstances or of new information as a change in accounting estimate applying Ind AS 8 (IAS 8) Accounting Policies, Changes in Accounting Estimates and Errors. An entity shall apply Ind AS 10 (IAS 10) Events after the Reporting Period to determine whether a change that occurs after the reporting period is an adjusting or non-adjusting event.