

Decision regarding the offset limit of fiscal losses

An important decision regarding the offset limit of fiscal losses was recently enacted by the Taxpayer's Council (*Conselho de Contribuintes*), which can be seen as a confirmation of the Council's recent trend on the subject.

Based on the principle of strict legality, the Administrative Court considered that there is no legal grounds for a company under liquidation to offset tax losses carry forward for their full amount. The offset limitation is provided for under Law 9.065/1995 and dictates that tax losses carry forward can only offset taxable income up to 30% of the tax base in any year.

The decision can be reviewed by Superior Chamber of Fiscal Appeals (*Câmara Superior de Recursos Fiscais*) where there are favorable decisions recognizing the lawfulness of offsetting 100% of the fiscal losses upon liquidation (*Acórdãos CSRF/01-05.100 and CSRF/01-04258*).

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