

INTERNATIONAL COMPARISON

November 2020



What's in this issue: Recovering of VAT in case of defaulting customers

Auren International Comparison is a quarterly publication that provides you an overview of trends and international tax developments by comparing tax issues in different legislations around the world, that may affect those doing business in multiple locations.

Constant legislative, regulatory, and judicial changes, along with globalization, economic shifts, and operational adjustments, are challenging issues. Now more than ever, in an increasingly globalized world, companies must have a total perspective and awareness of tax issues, and this publication aims to cover key tax topics which should be of interest to businesses operating internationally.

This edition includes numerous country focus pieces, in which it is analysed the recovery of VAT in case of delinquency of debtors.

We hope that you find this publication helpful.

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
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Argentina

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	The internal regulations do not foresee the possibility of recovering the declared VAT (already paid) in case of delinquency of debtors. Although there are an isolated jurisprudential antecedent that have validated the possibility of recovering the declared VAT in the case of aproved meeting of creditors (case"Meluk import" National Chamber in Federal Administrative Litigation, room V, of 10/20/2009), later the Supreme Court of Justice of the Nation, in the case "Celulosa Campana SA (TF 29.047-I) v / DGI", clarified that it is not possible to recover the declared (and already paid) VAT, even when it is part of the meeting of creditors.

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Austria

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	The internal regulations foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors.
Legal provision	Article 16 Para 3 of the VAT Law
Requirements	<ol style="list-style-type: none"> 1. The fact that the collectibility of the remuneration has become doubtful or appears to be excluded does not in itself constitute a change in the basis of assessment. Therefore, a value adjustment in the balance sheet does not automatically entitle to a correction of the VAT, because according to accounting principles dubiousness already forces a devaluation (principle of prudence; § 201 UGB). Rather, it is necessary that the irrecoverability of the receivable is established. A receivable is irrecoverable if its receipt cannot be expected in the foreseeable future based on reasonable commercial judgement (based on the experience of economic life), if it is objectively worthless. 2. The reason for uncollectability is irrelevant. Not only the insolvency of the debtor, but also the unknown whereabouts of the debtor, statute of limitations reduction of the fee due to court decisions, disproportionate costs of legal enforcement are considered. 3. In the event of insolvency of a partnership, the insolvency of the company does not yet lead to a reduction of the tax base in view of the liability of the partner; this only occurs if the creditor suffers a loss despite realisation of the private assets of the partner. 4. Section 16 does not provide for a time limit on the correction. Whether the original tax liability has already become statute-barred is irrelevant. However, claims based on § 16 are themselves subject to the statute of limitations.
Proceeding	The corrections are to be made for the assessment period in which the change in remuneration occurred. The changes do not lead to an adjustment of the original tax assessment, but are to be considered only in the period of the change (monthly/quarterly VAT return).

Austria

Required documentation	The proof of uncollectability can be done in any way and depends on the reason for uncollectability. In the case of uncollectability due to insolvency, evidence of unsuccessful attempts to collect the debt is sufficient, but not absolutely necessary. In all other respects, proof in the strict sense is not required. It must be sufficient if it is shown that payment cannot be expected within the foreseeable future.
Remark	The insolvent debtor is obliged to make the input tax adjustment at the time of uncollectability. This usually occurs with the opening of insolvency proceedings. The exact extent of the uncollectability must be determined in the course of the insolvency proceedings.

Belgium

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	The internal regulations foresee the possibility to recover the declared output VAT in case of defaulting customers
Legal provision	Restitution : Article 77 §1 7° of the VAT Law Refund of the restitution : Article 79 §1 of the VAT Law Conditions : Article 4 of the Royal Decree n°4 of the 29 of december 1969
Requirements	The Belgian VAT Law allows the restitution of the VAT in case of defaulting customers only if substantive and formal requirements are respected. Substantive requirements: <ul style="list-style-type: none"> • The supplier or provider of services, by all possible ways (e.g. e-mail traffic, repeated reminder), can prove that the claim must be considered as certainly lost in whole or in part. The fact that the dubious claim is recorded in the P&L is a first proof, but not enough by it's own. There is no condition that the supplier or provider has or not paid the VAT to the Administration. • The supplier or provider of services can prove that the services are provided through an agreement that hasn't been canceled or resolved; • The supplier or provider of services can claim a refund of the VAT regardless the reason which justified the non-payment of the invoice if all the requirements are met. In case of bankruptcy or judicial reorganization no more proofs are required to ask the restitution of the VAT. The collected VAT can immediatly be refund on the basis of the legal publication The procedure to claim the restitution of the VAT can not be brought more than 3 calendar years following that in which the cause of the refund occurred.

Belgium

Proceeding	<p>Formal requirements:</p> <p>The supplier or provider of services must issue a credit note to the customer with: mention of the VAT amount which is being reclaimed, in which VAT returns the VAT was paid to the Belgian Treasure, the reason why the refund is asked.</p> <p>This procedure is not necessary in case of bankruptcy or judicial reorganization.</p> <p>In the future, if the customer finally paid the supplier or provider of services, the refund VAT must be refund to the Belgian Treasure.</p>
Required documentation	<p>The supplier or provider of services must keep a refund register with a copy of all the documents and justifications of the refund (issued documents, proof of bankruptcy or judicial reorganization...).</p>



Bulgaria

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	<p>The internal regulations does not foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors. The unpaid receivables are subject of write-off in accordance to CITA requirements</p>
Legal provision	<p>Article 37 CITA Bulgaria</p>



Chile

Explanation - VAT RECOVERY IN CASE OF DEFINED CUSTOMERS	
Definition	Taxpayers subject to VAT, who have been recharged on pending payment invoices issued to debtors of a Reorganization Agreement, may allocate the amount of said taxes to any kind of fiscal taxes or choose to have them reimbursed by the General Treasury of the Republic.
Norma legal	Article 27 ter, VAT Law, introduced by Article 29 of Law No. 18,591, of 1987.
Requirements	<ol style="list-style-type: none"> 1. The Reorganization Agreement must have been approved by a firm and enforceable resolution. 2. It will be necessary to have the quality of creditors in a Bankruptcy Reorganization Procedure governed by the Law of Reorganization and Liquidation of Assets of Companies and Persons. 3. In the event that payments have been made to said debts, the imputation or refund, if applicable, may only be asserted on the part not covered by the payments, if any.
Process	<ol style="list-style-type: none"> a. Taxpayers must request the Treasury Service to issue a Payment Certificate for an amount up to the amount of accumulated credits. b. Taxpayers who choose this procedure must submit a request to the Internal Revenue Service in order for it to verify and certify, prior to the refund by the General Treasury of the Republic, that the respective taxes have been declared and duly informed in fiscal coffers, and that they are up to date in the payment of their tax obligations. c. The Internal Revenue Service must pronounce within a period of 60 days from the date it receives the corresponding information. If it does not do so at the end of said period, the taxpayer's request will be deemed approved and the Treasury Service must proceed to return the remaining tax credit that corresponds.
Required documents	<p>The refund must be requested through Form 2117 provided by the Internal Revenue Service, the creditor must also present the following information:</p> <ul style="list-style-type: none"> • Rectified invoices. • Credit note issued (or debit notes). • Documents proving that the Reorganization Agreement was approved by means of a firm and enforceable resolution by a competent court. • Other documents requested by the Internal Revenue Service.

Cyprus

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	In Cyprus, bad-debt relief is available to taxable persons, provided that they can substantiate to the tax Authorities that the amount not yet paid by the customer became a bad debt within the, prescribed by the law, relevant period.
Legal provision	The Tax Department has issued interpretive circular EE 114 (09.05.2007)
Requirements	<ol style="list-style-type: none"> the taxable person has supplied goods or services and has accounted for and paid the relevant output VAT on that transaction the amount has been written-off in the accounting books of the taxable person, as a bad debt; a period of 12 months (beginning by reference to the chargeable event of the supply) must have elapsed
Proceeding	<ol style="list-style-type: none"> Earlier issuance of a VAT invoice in relation to the provision of services or supply of goods and accounting for the corresponding VAT in the relevant VAT period. The supplier has taken all necessary actions and measures to recover the amount due from the debtor. At least 12 months period should have elapsed from the time at which that the tax point occurred. The tax point is consider to be the time point output VAT becomes due based on the time of supply rules for services and or goods. The claim for the bad debt relief must be made within 4 years from the time at which the tax point occurred. To write off the relevant amount from the accounting records through the income statement (Profit & Loss Account). It is important to note that the write off of bad debts in a provisional account will not be accepted by the Tax Department. Specifically, the deletion should be made in the income statement under the name "Bad Debts" with a corresponding entry in the debtor's own account or in a separate account called "Debtors written off in Income Statement"
Required documentation	Preparation letter to VAT Authorities with the following documents: 1) Invoice 2) Issued Credit note 3) supporting documents for the debtors has been declared in bankruptcy.



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Germany

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	The regulation foresees the possibility to recover the declared (and already paid) output VAT in case of default of debtors or uncollectibility of the receivables.
Legal provision	Paragraph 17 of the German VAT Law (§ 17 UStG)
Requirements	<p>1. Uncollectibility of the receivables against the debtor applied in the following cases:</p> <p>1.1. Debtor is illiquid or the payment claim is not fulfilled by the debtor and with objective consideration is to be expected, that the service provider will not be able to fully or partially recover the claim in law or in fact for the foreseeable future.</p> <p>1.2. Insolvency of the debtor according to the German Insolvency Law: the start of the insolvency proceedings by the German insolvency court against the debtor leads to an Uncollectibility of the receivable.</p> <p>1.3. Dispute case: The debtor disputes substantiatedly (i.e. with a justification) the existence or the amount of the outstanding receivable.</p> <p>2. Other reasons for a recovery of VAT:</p> <ul style="list-style-type: none"> • the service provider grants cash refunds, bonuses or rebates to the debtor. • the contract is changed by the parties subsequently or in case of a notification of defect of the product by the debtor
Proceeding	<p>A. The amendment must be made within that assessment period for VAT purposes (the particular month) where the uncollectibility of the receivable occurred.</p> <p>In this assessment period the service provider communicates the amendment of the output VAT paid and the debtor communicates the amendment of the input VAT received to the Tax Authorities.</p> <p>B. In general no exchange of documents takes place (i.e. issuance of a new invoice by the service provider or a credit note by the debtor). However, an exchange of documents is obligatory in the following cases:</p> <ul style="list-style-type: none"> • the revenues/transactions are taxed differently for the service provider and the debtor • the fee after the amendment is higher than the fee agreed (not applicable for the default cases).
Required documentation	<p>In general communication is done to the Tax Authorities by submitting the periodic VAT return (monthly). Additionally in case of a default the following information has to be submitted:</p> <ul style="list-style-type: none"> • Supporting documents that prove that the debt is uncollectible or that the debtor has declared in bankruptcy. <p>In case of an exchange of documents the following information has to be submitted:</p> <ul style="list-style-type: none"> • Corrected invoices. • Issued credit note (or credit notes).

Greece

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	The internal regulations foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors. There is the decision of the Council (TEN) of Athens 2505/2019 plus the previous decisions 805 and 806 /2019. In the future, it seems that such vat claims will be accepted regularly.
Legal provision	Greece vat /tax legislation had to be harmonize with the EU community law, consequently, in order to fix this issue quickly, issued the above mentioned decisions and is preparing to change the relevant paragraph nr 5a of the article 19 of the Law 2859/2000 about vat issues.
Requirements	<ol style="list-style-type: none"> 1. Since, as we mentioned above the law 2859/2000 is not changed, every claim must be investigated separately. 2. Declaration of bankruptcy by the recipient of the transactions. The taxable base may be reduced when the recipient of the transactions subject to the tax has not made the payment of the tax due and provided that the declaration of bankruptcy is issued after the accrual of the operation. 3. Declaration of uncollectible credit. The taxable base may also be reduced proportionally when the credits are totally or partially unrecoverable. <p>There is no time limit in order to claim the uncollected vat , since the final decision of the Council is in hands .The taxable person has requested collection by means of a legal claim against the debtor or by means of a notarial order to the same, even in the case of claims secured by public entities.</p>
Proceeding	The vat claim must be applied within 5 years from the date that the uncollected invoices have been issued and stated in the relevant monthly vat statement. A credit invoice concerning the uncollected vat must be issued. A corrective vat statement must be issued as well concerning the period of the issued invoice. Communication with the tax authorities for reasons of coordination. The tax authority, since it will proceed to a special tax audit (for vat purposes) will ask for several supporting documents concerning the issue.
Required documentation	<p>For the communication done to the Tax Authorities (the corrective vat statement < with reservation of the rights > submitted electronically will inform the authorities ,the creditor must also submit the following information:</p> <ul style="list-style-type: none"> • Rectified invoices. • Issued credit note (or credit notes). • Supporting documents that prove that the debt is uncollectible or that the debtor has been declared in bankruptcy.



India

RECOVERY OF GOODS AND SERVICE TAX (GST) IN CASE OF DEFAULTING TAXPAYERS	
Definition	Under GST Regime, there are well defined procedures for demand and recovery of unpaid or short paid tax, which can be done through the issue of Show Cause Notice (SCN) and Order.
Legal provision	Recovery provisions are covered under section 78, 79, 80, 81, 82, 83, 84 of the CGST Act, 2017
Initiation of recovery proceedings under GST	Section 78 of the CGST Act, provides that any amount payable by a taxable person in pursuance of an order passed shall be paid within 3 months from the date of service of such order failing which recovery proceedings shall be initiated by the department.
Modes of recovery of under GST	<p>Section 79 of the CGST Act, provides the various modes of recovery of tax by the proper officer in the following manner:</p> <ol style="list-style-type: none"> a. The proper officer may recover by deduct the amount from the other amount payable to such person which may be under the control of such officer. b. The proper officer may recover by detaining or selling any goods belonging to such person which are under his control. c. The proper officer may by notice in writing, recover from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government. d. The proper officer may detain any movable or immovable property belonging to or under control of such person and detain the same until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered. e. The proper officer may prepare a certificate specifying amount due from such person and send it to collector of the relevant district and collector shall proceed to recover from such person the amount as if it were an arrear of land revenue. f. The proper officer by way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him g. where any bond or other instrument was executed under this Act or Rules or regulations made thereunder provides that any amount due under such instrument may be recovered. h. The proper officer of State tax or Union tax, during the course of recovery of said tax arrears from any person may recover unpaid amount of tax, interest, penalty payable to Central Government by such person. Such amount will be recovered as if it were arrear of SGST/UTGST and credit the amount so recovered to the account of Central Government. i. In case the amount recovered is less than the amount due, then such amount will be apportioned among Central Government, State Government & Union Territory in proportion of the amount due to each authority.
Payment of GST and other amount in instalments	Section 80 of the CGST Act, provides for payment of tax and other amount in instalments. On an application filed by a taxable person, the Commissioner / Chief Commissioner may for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest.

India

Special provisions for recovery of tax under GST (Sec. 81, 82, 83 & 84)	<p>Transfer of property to be void in certain cases under GST:</p> <p>As per the GST provisions, the department can seize properties belonging to the defaulter to recover the due tax amount. Section 81 of the CGST Act, provides that when a person, after any amount has become due from him, creates a charge on or parts with property belonging to him or in his possession by way of sale , mortgage , exchange , or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person.</p> <p>However, the transfer will not be held as void, provided:</p> <ol style="list-style-type: none">1) Transfer has been made for an adequate consideration2) Transfer has been made in good faith, i.e. without any intention to cause fraud3) The taxpayer has not received any notice regarding pending tax dues or proceedings at the time of transfer4) Prior permission of the proper officer has been obtained. <p>GST Tax to be the first charge on property</p> <p>Section 82 of the CGST Act, specified that any amount payable to Government as tax, interest , penalty by a taxable person or any other person shall be first charge on the property of such taxable person or any other person, notwithstanding anything contrary contained in any other law for the time being in force, except insolvency and Bankruptcy code 2016.</p> <p>Provisionally attachment of property to protect revenue</p> <p>If at any point in time, the commissioner is of the opinion, that the government revenue is at stake, then he has the authority to provisionally attach any property including bank account. Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order.</p>
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India

<p>Continuation and validation of certain recovery proceedings</p>	<p>Section 84 of the CGST Act, specified that where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then</p> <ol style="list-style-type: none"> a. where such Government dues are enhanced in such appeal, revision or other proceedings, then Commissioner shall serve notice of demand in respect of enhance amount. The recovery proceeding shall be continued from the stage at which such proceedings stood immediately before such disposal; b. where such Government dues are reduced in such appeal, revision or in other proceedings <ol style="list-style-type: none"> (i). it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand; (ii). the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending; (iii).any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.
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Israel

<p style="text-align: center;">Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS</p>	
<p>Definition</p>	<p>The internal regulations foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors.</p>
<p>Legal provision</p>	<p>Regulation 24 of the VAT Law</p>
<p>Requirements</p>	<p>Detailed report indicating the nature of the transaction, details of the debt and debtor, the circumstances under which the debt became a bad debt, actions taken to collect the debt while specifying the amount of the bad debt and the periodic report in which the transaction was reported.</p> <p>The provisions of section 23A of the Bookkeeping Regulations are intended to ensure that a credit notice issued due to a change in the terms of the transaction will be registered with the buyer and accordingly the input tax deducted by him will be reduced by the tax included in the credit note. The credit notice will refund the excess input tax deducted by him. In accordance with the provisions of section 23A, if the original invoice has not yet been issued by the assessee, and the dealer in the periodic report has not yet reported it, the invoice will be canceled by indicating the word "canceled" on the original and copies.</p>

Israel

	Alternatively, if the original invoice has already left the assessee and a correction is required since an error was discovered in the invoice, he will correct the amount of the invoice that will be issued to the same customer, by recording after the invoice the following details: billing or credit amount; The invoice number to which the amendment relates; The reason for the change in the amount; And the revised amount.
Required documentation	<p>Regulation 24A of the VAT Regulations stipulates that a seller may not act in accordance with section 23A (3) of the provisions and reduce the amount of transactions and the amount of value added tax included in the periodic report relating to the period in which the credit notice is issued, except after notifying the manager.</p> <p>The announcement will include the following details:</p> <ol style="list-style-type: none"> A. Seller details. B. Debtor details. C. The details of the transaction and the circumstances in which the debt became a bad debt. D. Specify the periodic report in which the transaction was reported.

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Japan

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS (In Japan the tax is called Japanese Consumption Tax (JCT) nature of which is similar to VAT)
Definition	JCT Law prescribes conditions for JCT credit on bad debts.
Legal provision	Article 39 of JCT Law
Requirements	<ol style="list-style-type: none"> 1. Where credit has been cut off due to: a) the approval of a reorganization scheme, b) the approval of a reformation scheme under the Civil Reformation Act, c) admission of arrangements with respect to special liquidation under the Companies Act, d) the approval of a reorganization scheme under the special laws of financial institutions and e) deliberation and agreement between parties concerned, which is not a reorganization procedure prescribed by law. 2. Where it is clear that full repayment of the debt cannot be made having regard to the financial status and solvency of the debtor with respect to the credit.

Japan

	<p>3. Where the following facts have arisen with the debtor, and the enterprise has calculated the bad debt loss by deducting the memorandum value from the amount of the credit:</p> <p>a. One year or more has passed since the enterprise had suspended business with the debtor, who had been its continuous business acquaintance, because the financial condition and solvency of the debtor had worsened.</p> <p>b. where the total amount of credits against debtors in a particular region is less than the traveling or other necessary for collecting such a sum, and no repayment has been made in spite of the enterprise pressing the debtor to do so.</p>
Proceeding	With respect to above Requirement 3) bad debts shall be recorded as expense of bad debts written off and charged to P&L Journal entry is to be: DR) Bad debts written off DR) JCT CR) Account receivable. For others please see below documents requirement.
Required documentation	With regard to above 1) legal document to verify cut off. With regard to 2) Data to show financial difficulty of the debtor.



Sugiyama & Co

<http://cpa-sugiyama.jp/en>



Kenya

	Explanation - CLAIMING REFUND OF VAT ON BAD DEBTS
Definition	Kenya Revenue Authority via the VAT Act provides an avenue for VAT refunds for bad debts.
Legal provision	Section 31 of the VAT Act (2013)
Requirements	<p>1. Where a registered person has made a supply and has accounted for and paid tax on that supply but has not received any payment from the person liable to pay the tax, he may, after a period of three years from the date of that supply or where that person has become legally insolvent, apply to the Commissioner for a refund of the tax involved and subject to the regulations, the Commissioner may refund the tax: Provided that no application for a refund shall be made under this section after the expiry of four years from the date of the supply.</p> <p>2. Where the tax refunded under subsection (1) is subsequently recovered from the recipient of the supply, the registered person shall refund the tax to the Commissioner within thirty days of the date of the recovery.</p>

Kenya

	<p>3. If payment is not made within the time specified under subsection (2), an interest of two per cent per month or part thereof of the tax refunded shall forthwith be due and payable: Provided that the interest payable shall not exceed one hundred per cent of the refunded amount.</p>
Conditions to qualify	<p>Below are some of the conditions for the VAT in bad debts to qualify for refund;</p> <ol style="list-style-type: none"> 1. Supply should be made and evidence for invoices, delivery notes etc. be available. 2. Account for VAT- VAT should be accounted for by issuing tax invoices, keeping records, deducting input VAT and filling of VAT returns. 3. Paying VAT on supply- Correct amount of VAT should have been paid and on time. 4. There should be no payments received from the person liable to pay the VAT. 5. There should be proof for effort of recovering the debts.
Proceeding	<p>When a person has not received payment for three years since date of supply and before the end of 5 years, the taxpayer should apply for a refund of the VAT amount in bad debts. The application is lodged on I-tax. The refund claim is then processed by the tax authority. the taxpayer is then requested to submit relevant supporting evidence by the authority. once the review is complete, the authority pays depending on the availability of funds.</p>
Required documentation	<p>Some of the documents required by the Authority include;</p> <ul style="list-style-type: none"> • invoices. • Issued credit note (or credit notes). • Delivery notes • Supporting documents such as -legal documents, police reports, demand notices etc. that prove that the debt is uncollectible or that the debtor has been declared in bankruptcy.



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Lebanon

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	<p>The taxable person has the right to recover, partly or wholly, the tax paid in case the taxable transaction has been canceled or annulled, or in case the price has been, partly or wholly, unpaid or reduced at a later date of the transaction.</p> <p>The rules and procedures related to recovery of the tax that exceeds the amount of the tax due, are regulated by a decree issued upon the proposal of the Minister of Finance.</p>
Legal provision	Article 49.Recovery of VAT
Requirements	<ol style="list-style-type: none"> 1. The value of the tax paid exceeds the value of the legally due tax, as a result of errors either in the invoices or in the declaration request submitted by the taxable person, or as a result of an error in calculating the tax, in calculating its base, or as a result of duplication of tax payment. 2. Granting a reduction on the sale price after the tax due date, in accordance with the standards, conditions and principles specified in Decree No. 7308 of January 28, 2002 relating to the tax due date and the tax basis. 3. Tax refunds on containers and utensils that are recoverable and re-used and are intended for the purpose of transferring the delivered money if the supplier had included this tax in the calculation of the tax basis, in the event that these containers and utensils were recovered and based on what the supplier had entered in his entries. 4. Termination of the agreement aimed at delivering money or providing services, before handing over money or providing services and after tax is due. 5. Void or cancel the agreement aimed at delivering money or providing services, whether the annulment or the cancellation was by consent or pursuant to a final judicial decision for any reason whatsoever. 6. The supplier recovers the money delivered from him and delivers the full price within three months from the date of delivery, provided that none of the contracting parties has achieved any material or other benefit as a result of this recovery. 7. The loss of all or part of the debt on the price, that is, in the event that the process of handing over funds in implementation of an agreement has not been canceled or not canceled or not nullified, but the agreed price has not been paid because it was considered lost or absent in whole or in part.
Proceeding	<p>The tax is refunded by the taxable person:</p> <ul style="list-style-type: none"> • Either by deducting it from the value of the tax due, according to the declaration submitted for the period during which the right of recovery arose, and if it appears, as a result of this declaration after exercising the right to deduct, a surplus in favor of the taxable person, this surplus will be rotated to the next tax period. • Or by requesting its recovery in accordance with the principles and procedures stipulated in Article 30 of the Law and its implementation texts.

Lebanon

Required documentation	<p>The taxable person exercising the right of recovery is:</p> <ul style="list-style-type: none"> To record the redemption in its accounting entries, To organize a corrective document that includes all the details required to organize the invoice, as stipulated in Article 38 of the Law. To send to the contractor a copy of this document indicating the value of the tax recovered in each of the cases mentioned in this decree, except for the case stipulated in Clause 7 of Article 2, when the right of recovery arises or when it is exercised. <p>The document must include information explaining the process to which the amount to be recovered, the tax period to which these amounts refer, and the reasons for the refund request. This document must be attached to the supporting documents.</p>
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Luxembourg

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	The internal regulations foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors.
Legal provision	Grand Ducal Regulations dated December 21, 1979
Requirements	<ol style="list-style-type: none"> Where, by a final decision, whether judicial or administrative, or in accordance with the law or customs of the trade, the taxable transactions are wholly or partly invalidated or the price is altered after the transaction has been carried out, the taxable amount shall be adjusted accordingly. Declaration of bankruptcy by the recipient of the transactions. The taxable base may be reduced when the recipient of the transactions subject to the tax has not made the payment of the tax due and provided that the declaration of bankruptcy is issued after the accrual of the operation. There is no time particular limitation for the reduction/ amendment of the taxable base after the declaration of the bankruptcy. Declaration of uncollectible credit. The taxable base may also be reduced proportionally when the credits are totally or partially unrecoverable. This declaration must meet the following requirements:

Luxembourg

Proceeding	<p>4. The amendment must be made at the end of the corresponding VAT period end during which the change in the tax base occurred and at the latest within 2 years.</p> <p>5. The creditor shall comply with the following steps:</p> <ul style="list-style-type: none"> • Issuing of a new invoice rectifying or cancelling the amount charged (credit note). This invoice/ credit note must indicate the amount of the correction. It will also be stated that it is a rectification document, the description of the cause for the rectification, the identification data and the dates of issue of the corresponding rectified invoices. • Writing down in the issued invoices registration book. • Communication to the VAT Authorities, at the end of the reporting period in which the issue of the rectifying invoice/ credit note is issued.
Required documentation	<p>For the communication done to the VAT Authorities (to be done through the periodic VAT returns- if any), the creditor must also submit the following information:</p> <ul style="list-style-type: none"> • Rectified invoices. • Issued credit note (or credit notes). • Supporting documents that prove that the debt is uncollectible or that the debtor has been declared in bankruptcy.



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Malta

	Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS
Definition	The internal regulations foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors.
Legal provision	Article 22 and 23 of the VAT Act Chapter 406, and Article 10 of Tenth Schedule of the VAT Act Chapter 406
Requirements	10. (1) Where a person registered under article 10 of this Act shows to the satisfaction of the Commissioner that an amount due to him as consideration for a supply made to another person has, during a tax period, become a bad debt and that output tax has been paid or is payable by the said person in respect of that supply, that person may claim the amount of the output tax corresponding to the bad debt to be allowed as a deduction by way of a bad debt relief in addition to any other deduction allowable to him as an input tax credit in accordance with the other provisions of this Schedule for that tax period or for such subsequent tax period as the Commissioner may allow.
Proceeding	(2) A claim for a deduction by way of a bad debt relief shall be subject to such directives as the Commissioner may give as to the circumstances in which it may be made and the documents or other evidence that should be produced.
Required documentation	(3) The recovery of a bad debt in respect of which a deduction has been allowed in terms of this item or of a part of such a debt shall, to the extent of the amount recovered, be treated as a taxable supply taking place at the time when the said debt or part thereof is recovered and shall be accounted for accordingly by the person to whom the deduction had been so allowed



CCPS Malta
www.ccpsmalta.com



Mexico

	Explanation - VAT RECOVERY IN CASE OF DEFAULT CUSTOMERS
Definition	The value added tax law establishes that the tax is paid when there is cash flow or when the interest of the debtor is satisfied by any means.
Tax provision	Article 1B.- the VAT Law.
Conclusion	In the case of unfulfilled clients, the assumption of payment or that the interest of the debtor is satisfied is never given, so the taxpayer does not pay the tax because it is not in the assumptions of the Law to make the payment of the tax, for this reason there is no tax to be recovered.

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Portugal

	Explanation - RECOVERY OF VAT IN CASE OF BAD DEBTS OR DOUBTFUL CUSTOMERS
Definition	The internal law provides the possibility for the supplier of goods or services to regularize VAT in their favor, regarding credits that are considered doubtful or uncollectible.
Legal provision	Article 78 and 78A to 78C of the VAT Code
Requirements	<p>1. Conditions for deducting VAT on bad debts: VAT may be deducted from credits considered uncollectible, which happens when they are:</p> <ul style="list-style-type: none"> • In the process of execution, after the registration referred to in paragraph b) of paragraph 2 of article 717 of the Civil Procedure Code; • In insolvency proceedings, when decreed to be of a limited character or when the termination of the insolvency proceedings is determined, under the terms of paragraph d) of paragraph 1 of article 230 and of article 232., both of the Insolvency and Company Recovery Code, or after the final apportionment, which results in the final non-payment of the credit; • In insolvency proceedings or in a special revitalization process, when a decision is made to ratify the insolvency plan or the recovery plan that provides for the definitive non-payment of the credit after approval of the recovery plan; <p>2. Conditions for deducting VAT on doubtful debts: In addition to be properly identified in the accounts as such, the risk of doubtful debt is considered to be duly justified when:</p> <ol style="list-style-type: none"> a. The credit has more than 12 months, since the due date and there is objective evidence of impairment and collection procedures to receive it, or, b. The credit has more than 6 months, since the due date, the value of the credit is less than 750 Euros (with VAT included) and the debtor is private or carries out exclusively exempt transactions that do not give the right to deduct.
Proceeding	<p>In order to allow the regularization of VAT related to doubtful debts:</p> <ul style="list-style-type: none"> • A request for prior authorization must be submitted electronically, within 6 months from the date when the credits were considered to be doubtful. • This request will be considered by the Tax Authority within a maximum period of 4 months, after which it is considered rejected (in cases of less than 150,000 Euros with VAT included, after this period, the request is considered granted). <p>For doubtful debts of less than 750 Euros with VAT included and the debtor is private or carries out operations exclusively exempt and does not give the right to deduct - there is no need for a prior authorization request, and regularization must be made at 2-year period from the 1st day of the calendar year following the date of default.</p> <p>The regularization of VAT related to bad debts do not need prior authorization.</p> <p>Depending on the maturity date of the credits they may need a ROC Report so that VAT can be recovered.</p>

Portugal

Required documentation	<p>The regularization of the tax is made in the periodic VAT declaration.</p> <p>The identification of invoices, the identification of the purchaser, the value of the invoice and the tax, the performance of collection procedures and the failure, in whole or in part, of such measures, as well as other proof elements, the following must be proven and certified:</p> <ol style="list-style-type: none"> a. By a statutory auditor (or independent certified accountant, in situations where the regularization of VAT does not exceed € 10,000 per periodic declaration); b. Exclusively by a statutory auditor, in other situations. <p>This certification is carried out until the application is submitted without prior authorization, or if there is no need for prior authorization, until the end of the period established for the submission of the periodic declaration.</p> <p>The statutory auditor or certified independent accountant must also certify that the legal requirements for deducting tax in respect of credits considered uncollectible are verified.</p>
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Russia

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	<p>The internal regulations foresee the possibility to recover the declared (an already paid) output VAT when:</p> <ul style="list-style-type: none"> • advance payment has been refunded to the customer, • goods sold has been returned by the customer, • works has been done with irreparable defects in performance which has appeared after works had been accepted by the customer.
Legal provision	Clause 5 of Article 171 of Russian Tax Code.
Requirements	There are no specific requirements.

Russia

Proceeding	<p>A) The amendment must be made within one year from the refund.</p> <p>B) The refund (return) transaction should be reflected in documents signed by the creditor and the customer</p> <p>C) The creditor shall issuing a VAT invoice cancelling the amount charged within 5 days after cancelation</p> <p>D) Refund (or return) transaction should be reported in VAT returns of the creditor and the customer.</p>
Required documentation	<p>Both the creditor and the customer can be asked by the Russian tax authorities to present documents confirming the refund (return) transaction, thus, they should store the following documents:</p> <ul style="list-style-type: none"> • A bill of landing, an act or other primary document confirming the refund (return) transaction, • VAT invoice cancelling the amount charged by creditor.



Schneider Group
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Serbia

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	The internal regulations does not foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors. The unpaid receivables are subject of write-off in accordance to CIT Law requirements
Legal provision	Article 16 CIT Law Serbia



Eurofast
www.eurofast.eu



Spain

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	The internal regulations foresee the possibility to recover the declared (an already paid) output VAT in case of delinquency of debtors.
Legal provision	Article 80.Three of the VAT Law
Requirements	<ol style="list-style-type: none"> 1. Where, by a final decision, whether judicial or administrative, or in accordance with the law or customs of the trade, the taxable transactions are wholly or partly invalidated or the price is altered after the transaction has been carried out, the taxable amount shall be adjusted accordingly. 2. Declaration of bankruptcy by the recipient of the transactions. The taxable base may be reduced when the recipient of the transactions subject to the tax has not made the payment of the tax due and provided that the declaration of bankruptcy is issued after the accrual of the operation. The amendment, if any, may not be made after a period of two months from the end of the maximum period established by the Bankruptcy Law.” 3. Declaration of uncollectible credit. The taxable base may also be reduced proportionally when the credits are totally or partially unrecoverable. This declaration must meet the following requirements: <ol style="list-style-type: none"> a. That one year has passed since the accrual of the output tax without having obtained the collection of all or part of the credit derived from it (6 months if the volume of operations of the holder of the credit had not exceeded 6,010,121.04 Euros in the immediately preceding year). b. That this circumstance has been reflected in the registration and accounting books. c. That the recipient of the transaction is a business or professional, or, in another case, that the taxable base of the transaction, excluding VAT, is higher than 300 euros. d. That the taxable person has requested collection by means of a legal claim against the debtor or by means of a notarial order to the same, even in the case of claims secured by public entities.
Proceeding	<ol style="list-style-type: none"> A. The amendment must be made within three months of the end of the one-year period (or six-month period) from the accrual of the transaction or the accrual of the unpaid installment in the case of forward transactions. B. The creditor shall comply with the following steps: <ul style="list-style-type: none"> • Issuing of a new invoice rectifying or cancelling the amount charged (credit note). This invoice must indicate the amount of the correction. It will also be stated that it is a rectification document, the description of the cause for the rectification, the identification data and the dates of issue of the corresponding rectified invoices. • Writing down in the issued invoices registration book. • Communication to the Tax Authorities, within a period of one month from the date of issue of the rectifying invoice.

Spain

Required documentation	<p>For the communication done to the Tax Authorities (to be done via Form 952), the creditor must also submit the following information:</p> <ul style="list-style-type: none"> • Rectified invoices. • Issued credit note (or credit notes). • Supporting documents that prove that the debt is uncollectible or that the debtor has been declared in bankruptcy.
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Thailand

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	<p>The internal regulations foresee the possibility to recover the declared (an already paid) output VAT ("the written off Vat") in case of the defaulting customer and the VAT generated from bad debt.</p> <p>Note. In order to write off "Bad Debts" from the company's account, the following characteristics shall be met:</p> <ol style="list-style-type: none"> 1. The debts arose from carrying on a business operation or in connection with the business operation or have been included as revenue in the computation of net profits, but not including debts owed by a person who is or used to be a director or managing partner whether or not the debts arose before or during the time such person is a director or managing partner; and 2. The claim for debts is not barred from court action by statute of limitations and is sufficiently evidenced for the purpose of suing the debtor.
Legal provision	Article 82/11 of Revenue Code and Notification of the Director-General of the Revenue Department on Value Added Tax (No. 85) Re: Rules, Procedures and Conditions on Apportioning Bad Debts for Deduction from Output Tax
Requirements	<p>The procedures to write-off Bad Debts the following procedures are required:</p> <ol style="list-style-type: none"> A. Debt by a debtor not exceeding THB 100,000. After demands for payment have been taken place but the debts remain unsettled, a legal opinion of lawyer is required to prove that the costs associated with the court proceedings will be higher than the amount expected to be recovered. B. Debt by a debtor of more than Baht 100,000 up to THB 500,000. <ol style="list-style-type: none"> 1. Issuing a demand letter for payment and yet the debts remain unsettled as it appears that: <ol style="list-style-type: none"> 1.1. The customer is dead, becomes a disappeared person or there is evidence of his disappearance, and he has no property for the repayment of debt,

Thailand

	<p>1.2.The customer has dissolved business and is indebted to other creditors who have preferential rights over the whole property of the customer in an amount exceeding of the property of the customer; and</p> <p>2. A civil action has been brought against the debtor and the court has accepted the plaint; or</p> <p>3. A bankruptcy action has been brought against the debtor and it has been accepted by the court.</p> <p>Note:</p> <p>i. In case the debt is more than THB 500,000 - a civil action has been brought against the debtor and after a court order or injunction the debtor does not have sufficient property to settle the debts; or a bankruptcy action has been brought against the debtor and in such case a composition has been made with the customers with the approval of the court or the customer has been adjudicated a bankrupt and there has already been the first distribution of the debtor's property.</p> <p>ii. It is required that the director or managing partner of the company issue an order approving the write-off of the Bad Debt within 30 days from the relevant accounting year-end.</p> <p>iii. After the company has complied with the above procedures, the company then must write-off the receivable as a Bad Debt expense in the relevant accounting period for item A while the Bad Debt must be written off in the accounting period in which the relevant court accepts the civil complaint or the bankruptcy petition for item B.</p>
Proceeding	<p>The Recovery Vat shall not be return to the Taxpayer directly, However, the output Vat shall be deducted on the following month instead. Generally in Thailand, VAT returns form, known as a PP 30, shall be submitted to the Revenue Department ('RD') on or before 15th day the following month in which the payment was made and the tax invoice was raised. Thus, the output tax shall be deducted at the amount of written off VAT in the PP 30 form on the following mount upon the completion of the requirement. (except in case of the debt of each debtor is not more than 500,000 baht, the accouting period of the deduction shall be the date off the court endorsed the claim, the distribution of property, accpet the payment and approved of rehabilitation plan)</p>
Required documentation	<p>Taxpayer shall submit PP 30 as they normally would with the deduction in Output Vat. However, RD can request at his own decretion for the taxpayer to provide the evidence or information on such reduction as followed:</p> <ul style="list-style-type: none"> • List of output tax with deduction and the detail of recovery VAT • Issued Invoice of the written off Tax. • Supporting documents that prove that requirement is competed (eg the copy of the Demand letter, the copy of court decision)

Turkey

Explanation - RECOVERY OF VAT IN CASE OF DEFAULTING CUSTOMERS	
Definition	The internal regulations do not fulfill the recovery potential of the declared (already paid) VAT in the event of debtors' default. However, this amount can be used as VAT to be deducted.
Legal provision	VAT Law No. 3065 and Tax Procedure Law 213
Requirements	<ol style="list-style-type: none"> 1. The value added tax calculated and declared regarding the worthless and doubtful trade receivables can be deducted in the taxation period when the receivable is written off. 2. Worthless Receivables: Receivables that are no longer available for collection. Worthless receivables are closed by posting an expense/loss. Doubtful Trade Receivables: Receivables with or without promissory notes that cannot be collected on due date and cannot be collected in the future are defined as "doubtful receivables". 3. For written off, need to ensure below <ul style="list-style-type: none"> Provided that it is related to commercial and agricultural gain, The collection of the receivables becomes impossible (decision of the Judiciary or the evidentiary legal document) The Receivable must be Overdue Must Be At The litigation or execution Stage Small claims not worth litigation and enforcement proceedings Should Not Be Subject to Guarantee
Proceeding	<p>The worthless and doubtful trade receivables can be deducted in the taxation period when the receivable is written off.</p> <ul style="list-style-type: none"> • Provided that it is related to commercial and agricultural gain, • The collection of the receivables becomes impossible (decision of the Judiciary or the evidentiary legal document) • The Receivable must be Overdue • Must Be At The litigation or execution Stage • Small claims not worth litigation and enforcement proceedings • Should Not Be Subject to Guarantee

Turkey

Required documentation	Documents related to the process (lawsuit, execution, etc.) <ul style="list-style-type: none">• Provided that it is related to commercial and agricultural gain,• The collection of the receivables becomes impossible (decision of the Judiciary or the evidentiary legal document)• The Receivable must be Overdue• Must Be At The litigation or execution Stage• Small claims not worth litigation and enforcement proceedings• Should Not Be Subject to Guarantee
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