

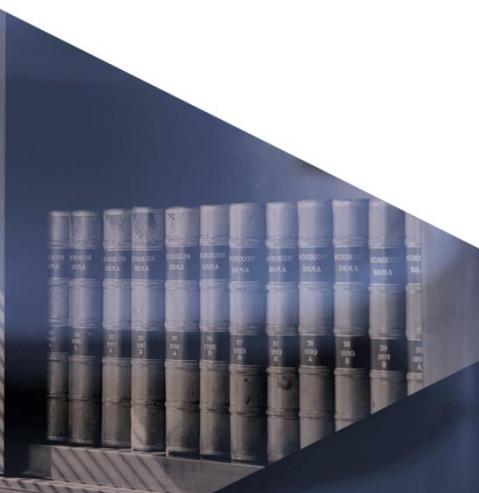


# Tax Law Newsletter

*November 2017*

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**CJEU rules on VAT bad debt relief**

A photograph of a row of law books on a shelf, with a pen resting on top of them, set against a dark background.

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## *CJEU rules on VAT bad debt relief*

On November 23<sup>rd</sup>, the Court of Justice of the European Union (CJEU) delivered its decision in *Enzo Di Maura* case (C-246/16), following an Italian referral for preliminary ruling in respect to limits applied to the implementation of VAT bad debt relief.

The case concerned the interpretation of article 11C(1) of the Sixth VAT Directive 77/388/EEC (already article 90 paras 1,2 of VAT Directive 2006/112/EC) providing for the right of the taxable person to reduce the VAT taxable amount of supplies of goods and services, and consequently, the VAT payable to the State, in the event that, after a transaction has been concluded, part or all of the consideration has not been paid by the customer.

CJEU ruled that although the EU Member States, strictly in situations of total or partial non-payment, are permitted to derogate from an adjustment of the VAT taxable amount, they do not however have the power to exclude it altogether, as such would be incompatible with several principles governing EU VAT common system.

Under Greek VAT law, until the end of 2016, in the event that a company had made supplies of goods or services to customers and had not been paid, it was entitled to file a VAT claim for bad debt relief only in the case that its customer was placed under special liquidation, whereas, currently, VAT adjustment is *de facto* entirely excluded in all cases of bad debts. As a result, the taxable person is finally burdened with the unpaid VAT amount.

In the light of the latest CJEU decision, taxable persons confronted with similar cases of partial or total non-payment could validly argue, at judicial level, that unjustified exclusion, under Greek VAT law, of their right to file a claim for VAT bad debt relief in cases of definitely irrecoverable debts is in violation of EU VAT law, seeking, on this basis, a refund of the unduly paid VAT on bad debts.



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*The present newsletter contains general information only and is not intended to provide specific professional advice or services.*

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