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Debts automatically bad on opening insolvency proceedings

The finance ministry has ruled that the VAT on receivables from sales of goods or services is to be automatically cancelled on the opening of insolvency proceedings against the debtor. Payments made later by the trustee lead to re-adjustment of the VAT return.

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In October 2009, the Supreme Tax Court held that amounts due from an insolvent business were automatically irrecoverable on opening of insolvency (receivership) proceedings. The court's main point was that the debtor was now legally unable to pay the amount due. This position was to be followed, even if the trustee held out hopes for a dividend. Thus the taxable turnover of the creditor was to be adjusted in the next (usually monthly) VAT return with the write-off. Subsequent payments by the trustee (dividends) were additional turnover as and when received.

The finance ministry has now revised its VAT Implementation Decree accordingly. In doing so, it emphasises that the same principles do not apply to the customer of an insolvent business. The customer continues to be liable to pay his debt in full – merely the identity of the payment recipient has changed – and his input tax deduction is unaffected.

Schlagwörter

insolvency, irrecoverable