Spain Tax Alert
Measures introduced to raise corporate income tax revenue and tackle VAT fraud

A tax package approved by Spain's Council of Ministers on 2 December 2016 and published in the official gazette on 3 December 2016 aims to achieve deficit reduction goals by raising tax revenue through measures to increase the corporate income tax liability of taxpayers operating in Spain (e.g. by limiting the use of losses and tax credits and eliminating certain deductions); some of the measures apply retroactively for fiscal years beginning on or after 1 January 2016. Also on 2 December, the council also approved a royal decree that includes measures to modernize the administration of VAT and prevent VAT fraud, basically by introducing a new electronic VAT reporting system (SII).

In addition, as indicated in the press conference following the Council of Ministers meeting, the council will send a draft bill to parliament with other tax measures (including a measure on environmental taxation). The royal decree on VAT and the draft bill have not yet been published, so there is limited information available on their content.

Main tax measures in deficit reduction package

Some of the corporate income tax measures in the deficit reduction package apply to fiscal years (FYs) beginning on or after 1 January 2016 and others apply to FYs beginning on or after 1 January 2017.

The following rules apply to FYs beginning on or after 1 January 2016:

- Equity impairments that previously were deductible must be reversed in an accelerated manner. In 2013, equity impairments became nondeductible and rules were introduced to determine under what circumstances equity impairments that previously had been deductible had to be reversed (due to a recovery of value), generating taxable income. A special additional rule now has been introduced so that, regardless of whether there is a recovery of value, any equity impairments that had been deductible in tax years before 2013 and that have not yet been reversed must be ratably reversed over a five-year period starting as from the FY beginning in 2016.
- The offset of tax loss carryforwards against taxable income for large enterprises is limited as follows:
    - For corporate income tax payers whose net turnover (in the 12-month period before the beginning of the current FY) is EUR 60 million or more, the offset is capped at 25% of the net taxable income (previously, the offset generally was capped at 60%).
    - For corporate income tax payers whose net turnover (in the 12-month period prior to the beginning of the current FY) is between EUR 20 and EUR 60 million, the offset is capped at 50% of the net taxable income.
    - For taxpayers with net turnover below EUR 20 million (in the 12-month period prior to the beginning of the current FY), the offset continues to be capped at 60% of the net taxable income (to be increased to 70% as from 2017).
- The use of double tax credits (foreign or domestic) by corporate income tax payers whose net turnover (in the 12-month period before the beginning of the current FY) is EUR 20 million or more will be limited to 50% of their tax liability.

For FYs beginning on or after 1 January 2017, the main change is that losses arising upon the transfer of participations qualifying for the Spanish participation exemption regime or corresponding to companies resident in tax havens or low-tax jurisdictions no longer will be deductible, nor will losses arising upon the transfer of a permanent establishment held abroad by a Spanish corporate income tax payer.

Other measures

- The abolition of the wealth tax has been postponed to 2018, so the tax will continue to be levied in 2017.
- With effect as from 1 January 2017, taxpayers no longer may request to pay tax liabilities relating to withholding and chargeable taxes (e.g. VAT) and advance payments of corporate income tax (among other items) by installments, nor may they request to postpone the payment of these liabilities.

Electronic VAT reporting system

The new VAT management system to be introduced (the SII) will require recordings in the VAT registry books to be submitted via the tax administration’s online platform on a near real-time basis.

This new system, which will apply as from 1 July 2017, requires that the data corresponding to those transactions that must be recorded in the VAT registries (i.e. the registries for issued and received invoices, the investment assets registry and the registry for certain intracommunity transactions) must be electronically submitted to the tax administration within a four-day period (however, an extended eight-day period may apply until 31 December 2017 under a transition rule).

VAT taxpayers that have to file monthly returns will be required to adopt the SII, including taxpayers that have signed-up for the monthly VAT refund registry (REDEME), large enterprises (those with annual turnover over EUR 6 million) and VAT groups. Other taxpayers may elect to use the SII.

Contacts

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