

NewsAlert

Real Estate Tax Services



Spain

January 2012

New Spanish Government approves measures to reduce public deficit and makes tax amendments for years 2012-2013

Following the national elections in Spain in late November 2011, the new Government met on 30th December in the last Cabinet meeting of 2011 and passed a number of budget, tax and financial measures to decrease the current public deficit. Together with the reduction of expenses estimated at €8.9bn, certain tax measures have been approved in order to increase public income by estimated €6.275bn. The effects of the new tax rules will be limited to years 2012 and 2013.

Even though the overall tax developments refer to Individual Income Tax, applicable to income and capital gains obtained by Spanish tax resident individuals, additional amendments have been passed in connection with Corporate Income Tax, Non-Resident Income Tax, VAT and Property Tax which may be of interest for investors in the Spanish real estate industry.

Corporate Income Tax

Payments on account for 2012

The law confirms the rates approved in August 2011 for payments on account due in tax periods during 2011-2013:

- 18% / 21% depending on the method of calculation;
- 24% for taxpayers with a turnover between € 20m and € 60m;
- 27% for taxpayers with turnover equal or higher than €60m.

Payments on account (3 per year) are credited against the resulting tax liability of the yearly tax return.

It should be noted that in August 2011 the application of pending tax losses for tax periods 2011-2013 was limited to a maximum of 75% of the taxable base for taxpayers with turnover between € 20m and € 60m; and to 50% of the taxable base for taxpayers with a turnover equal or higher than €60m.

At the same time, effective from 2012, the tax losses carry forward period is extended from 15 to 18 years

Withholding taxes

The standard withholding tax rate has been increased from 19% to 21% for years 2012-2013.

Non-Resident Income Tax

Rates applicable to income obtained in Spain by non-residents without the involvement of a permanent establishment have been temporarily amended as follows:

- Regular income: Increased from 24% to 24.75% for years 2012 and 2013.
- Dividends, interest and capital gains: Increased from 19% to 21% for years 2012 and 2013.

On the other hand, the so-called Branch Tax due upon repatriation of income from the Spanish permanent establishment to the offshore head office has been increased from 19% to 21% for years 2012-2013.

Property Tax

The ownership of real estate is subject to Property Tax on an annual basis. The Property Tax is payable to the municipalities, and is deductible for Corporate Income Tax purposes. The maximum rate is 1.3% for urban land. The municipality rate is applicable to the "cadastral value" of the property, i.e. the value assigned by the Tax Administration. Cadastral values are updated from time to time by the Tax Administration under the general update process.

The municipal rate depends on when the municipality was subject to the latest general update process of cadastral values. The municipal rate shall be increased for the years 2012 and 2013 as follows:

- Updated before 2002: Increase of tax rate by 10 percentage points
- Updated between 2002-2004: Increase of tax rate by 6 percentage points
- Updated between 2008-2011: Increase of tax rate by 4 percentage points

The resulting tax rates following the above increases shall be applicable to non-residential properties, the maximum rate being 1.3%.

In 2011 many municipalities in Spain were subject to a tax review. In these municipalities, the Property Tax rate will now be increased by 4 percentage points in 2012 and 2013.

VAT

The 8% VAT rate applicable on the first transfer of residential real estate has been decreased to 4% for transactions prior to December 31, 2012.

Our View

- The tax amendments described are general. Only Property Tax and VAT developments are particularly oriented to real estate.
- The tax measures passed are structured as temporary, i.e. with effect limited mainly to 2012 and 2013.
- The purpose of these tax measures is clearly to decrease the current public deficit together with the reduction of public expenditure.
- The measures regarding payments on account accelerate tax payment - i.e. they have a financial impact for taxpayers - but they do not increase the final tax liability.
- Efficient structuring and the application of the available domestic, EU and Treaty benefits may avoid the increased withholding taxes.
- Property Tax is generally recharged to tenants, so the increased taxation shall not be borne by the property owners at the end of the day.
- More measures are expected to come from the new Government in the following months.

For more information, please contact your local PwC real estate tax service provider or one of the contacts below.

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