

SPANISH TAX CHANGES

“The higher the rise, the harder the fall” is a well-known phase which, unfortunately for Spain, applies to countries as well as individuals. With the property boom of the late 90’s and early 00’s, a lengthy period of interest rates being lower than inflation and membership of the Euro, Spain has enjoyed at least 10 golden years. But now the facts speak for themselves; in 2009 the Governments tax take was lower than in 1999; Eurostat has issued statistics which show Spain’s tax receipts to have fallen from 41.1% of Gross Domestic Product in 2007 to 34.7% in 2009. Whilst in 2007 the figure was less than 5% below the European average, it has now doubled to 10%. To reinforce how bad the situation is, over the same period the percentage figures for Greece have only fallen 2.8%, from 39.7% to 36.9% of GDP.

So understandably the Spanish Government has had to react, although on a piecemeal basis. Whilst the main brunt of the attack has been by cutting expenditure (investment in public works put back some years, public pensions frozen in 2011 and civil servants salaries immediately cut between 1% and 10%) taxation changes to boost income are also being employed. Not that all taxes have increased; there have been some taxation cuts in order to attempt to boost the economy and reverse unemployment.

The following is a summary of measures that the Government has introduced recently:

INCOME TAX

1. Self-employed individuals with a turnover of less than €5 million and employing less than 25 people will receive a 20% reduction against profit provided they maintain or increase the number of employees. This tax benefit applies retrospectively from 1st January 2009 and finalizes on 31st December 2011.
2. The special allowance of €400 introduced from 1st January 2008 will cease with effect from 1st January 2010 for those earning more than €12,000 p.a. Those earning less than €8,000 p.a. will continue to receive the allowance in full and those earning €8,000 - €12,000 will receive the allowance on a sliding scale.
3. Individuals who move to Spain after 31st December 2009 to start employment and elect to be taxed under the “Beckham Law” scheme (i.e. taxed at the flat rate of 24% on Spanish-source income instead of rates up to 43% on worldwide income) are excluded if their annual income exceeds €600,000.
4. The rate of tax on savings income (interest, dividends, proceeds from qualifying life insurance contracts and capital gains) increases from 18% to 21% on 1st January 2010 (subject to a reduced rate of 19% on first €6,000 of savings income).

5. Interest received by shareholders from loans to companies had been treated as general income (and taxed up to 43%) rather than savings income (and taxed at the fixed rate of 18% to 31st December 2009). However such income can now be treated a savings income provided the loan does not exceed 3 times shareholders' funds attributable to that taxpayer.
6. Prizes received from the Spanish State Lotteries have always been exempt from Income Tax. However prizes won by Spanish residents from other E.U. State lotteries are, in principle, fully taxable. Naturally such discrimination is contrary to the spirit of Community law and so following pressure from the E.U. such prizes are now exempt. This change has been backdated to 1st January 2009.
7. A new deduction has been introduced for improvements made to the taxpayers' habitual residence in respect of energy-saving or renewable energy, installation of telecommunication infrastructure, substituting installations of basic supplies or improving access. The maximum expense for which a deduction can be claimed is €12,000 per property over the period between 14th April 2010 and 31st December 2012. The tax deduction is 10% of the expense.
A condition of receiving this deduction is that payment to the supplier must be by cheque, via the banking system or by credit card. No cash payments!
8. The Government has announced that the aid given to purchasers of new cars under the Plan 2000E program (usually €1,000) is taxable and must be included in the Income Tax returns. This announcement was received unenthusiastically (to say the least).

NON-RESIDENT INCOME TAX

1. The tax rate on savings income (dividends, interest and capital gains) rises from 18% to 19% with effect from 1st January 2010.
2. Rental income received was taxed in the hands of non-residents at the rate of 24% on gross income. However this tax treatment was discriminatory because residents with an identical source of earnings were taxed on net income (i.e. gross income less deductible expenses). Thanks to pressure from the E.U., with effect from 1st January 2010 both resident and non-resident taxpayers are treated equally i.e. taxed on net income.

CORPORATION TAX

1. A lower Corporation Tax rate has been introduced for companies with a turnover of less than €5 million and less than 25 employees, on the condition that employment is maintained or increased. The rates are 20% on the first €120,202.41 of profit and 25% on any excess.

2. The ability to freely determine a depreciation rate for new fixed assets (including real estate) has been extended from the years 2009 and 2010 to 2011 and 2012 provided staff numbers are maintained.

VALUE ADDED TAX

1. As from 1st July 2010 there will be an increase in the standard rate of VAT (from 16% to 18%) and the reduced rate of VAT (from 7% to 8%). The super-reduced rate of 4% remains unchanged.
2. The definition of what is considered to be rebuilding work has been amplified. The consequences are that more construction work is subject to the reduced rate of VAT and more rebuilt properties will be subject to VAT at the reduced rate on first sale after rebuilding finishes (which is advantageous to traders who purchase such property because they can reclaim the VAT).
3. As an additional stimulus to the building sector (which could employ a large number of Spanish workers currently out of work) for the period 14th April 2010 to 31st December 2012 work undertaken on renovating or repairing the housing stock is subject to the reduced rate of VAT instead of the standard rate (subject to conditions). This includes painters, electricians, plasterers etc.
4. VAT on bad debts can be recovered quicker by companies with a turnover below €6,010,121.04 (after 6 months rather than 1 year has expired from invoice date).

OTHER ISSUES OF INTEREST

1. It is well known that some properties are being sold at highly-discounted prices with the current economic conditions. If the property is new then the sale is subject to VAT and, in general terms, other sales are subject to Transfer Tax based on the value declared i.e. value shown on the sales deed. Transfer Tax is collected by the hard-up Autonomous Communities. Many cases are occurring where the latter make an open market valuation of such property and, if higher than the distressed sales value, claim further Transfer Tax on any difference.
2. Many countries, including the UK, are offering varying forms of fiscal amnesty to taxpayers in order to encourage repatriation of funds currently held by overseas banks and at the same time improve future tax takes. Officially Spain has not joined the club but unofficially the facts are different. There is a tacit acceptance by the authorities to accept the origin of the undeclared funds to have occurred more than 5 years previously – and hence be time-expired. The Spanish Tax Authorities then tax any income arising from this capital (interest, dividends etc) over the last 4 years and apply interest and fines. They are also willing to discuss principles with an intermediary (normally tax advisers) on a no-names basis before the taxpayer takes a decision to declare or otherwise.

3. The Spanish State is in the process of pushing other laws through Parliament which have the following proposed tax changes
- Taxpayers purchasing their habitual residence after 1st January 2011 will no longer be able to claim the deduction for acquisition of a habitual residence if their salary exceeds €24,107 p.a. However taxpayers who purchased their habitual residence prior to 31st December 2010 can continue to apply the reduction irrespective of income.
 - Landlords who declare rental income will be able to treat 60% of net rental income as non-taxable instead of the 50% at present.
 - The tax advantages associated with employee benefits arising from company share option schemes will be limited to the first €600,000 of benefit.
 - To extend the super-reduced VAT rate of 4% to all items in the food chain. This would reduce the cost of meat, fish and bottled water, all of which at present are taxed at the reduced rate of 7%.
4. As you may be aware, the various Autonomous Communities in Spain have the right to amend certain elements of tax laws for application to taxable events occurring in their Community. This power is being used more frequently and on 18th March 2010 Andalucía published a law with various tax changes, the most important of which are:
- The rate of Transfer Tax for sales of real estate rises to 8% when the value exceeds €400,000 (except in the case of stand-alone garages when the 8% rate applies once the value exceeds €30,000).
 - Individuals who become self-employed in 2010 can apply a €400 tax deduction (rising to €600 for persons aged above 45 years).
 - A tax deduction of 20% of the amount invested in the purchase of shares in a Spanish company whose activities are based in Andalucía, subject to a maximum allowance of €12,000. The allowance is however subject to a number of conditions.
 - In the area of Inheritance and Gifts Tax the State allowance of 95% reduction in the tax base for inheritances and gifts of family businesses has been lifted to 99% and the period for which the assets must be held by the heir / donee is reduced from 10 years to 5 years. It also opens up the benefits to employees who are not family of the deceased / donor. However there are many conditions associated with these tax benefits which must be studied before making any decisions.

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26.5.2010