

EXTRAORDINARY TAX MEASURES IN SPAIN TO ADDRESS THE ECONOMIC AND SOCIAL IMPACT OF CORONAVIRUS

To address the impact of the COVID-19 virus and the exceptional situation in Spain, several tax measures have been approved in the form of Royal Decrees-Law.

These measures are largely designed to ensure the liquidity of the system by extending the payment deadlines for certain tax debts and provide some flexibility for the deferral of certain tax debts and regarding the timeframes for completing tax procedures.

1. DEFERRAL OF PAYMENT OF TAX DEBTS NOT EXCEEDING €30,000 FOR COMPANIES AND SELF-EMPLOYED PERSONS WITH TURNOVER NOT EXCEEDING €6 MILLION IN 2019

Royal Decree-Law 7/2020, of 12 March, adopting urgent measures to address the economic impact of the COVID-19 virus ("**RDL 7/2020**"), published in Spain's Official State Gazette on 13 March, enables companies and self-employed persons to defer the payment of tax debt without having to provide guarantees, provided they meet the following conditions:

(i) Tax debts eligible for deferral.

- A deferral is granted on the payment of the tax debt corresponding to self-assessments and assessments to be filed and paid between 13 March 2020 and 30 May 2020 (both inclusive);
- A deferral is also granted on the tax debt deriving from tax withholdings and payments on account, tax deflected and payment instalments of Corporation Tax (tax debts that are usually excluded from this possibility).
- Only those tax debts below €30,000 can be deferred (debts eligible for the deferral with a full or partial exemption from providing guarantees).

(ii) Subjective scope. The debtor must be an individual or legal entity having a turnover not exceeding €6,010,121.04 in 2019.

The deferral is granted for a period of six months. No default interest will accrue during the first three months of the deferral.

The Spanish Tax Authorities (*Agencia Estatal de la Administración Tributaria* (AEAT)) have published provisional instructions for applying for the deferral on their website [here](#).

Key issues

- Deferral of payment of tax debts not exceeding €30,000 for companies and the self-employed with turnover below €6 million in 2019
- Extension of the deadline for the filing and payment of tax returns and self-assessments for companies and self-employed persons with a turnover not exceeding €600,000 in 2019
- Extension of deadlines for tax procedures
- Extension of limitation periods, expiry dates and the maximum duration of tax procedures
- Other measures

2. EXTENSION OF THE DEADLINE FOR PRESENTATION AND PAYMENT OF DECLARATIONS AND SELF-ASSESSMENTS FOR COMPANIES AND SELF-EMPLOYED PERSONS WITH TURNOVER NOT EXCEEDING €600,000 IN 2019

Royal Decree-Law 14/2020, of 14 April, on the extension of deadlines for the presentation and payment of certain tax returns and self-assessments ("**RDL 14/2020**"), published in Spain's Official State Gazette on 15 April, extends the deadlines for the presentation and payment of all tax returns and self-assessments expiring in the period running from the entry into force of this royal decree (that is, 15 April) and 20 May 2020.

The extension of the deadline for presentation and payment of such tax returns and self-assessments is until 20 May 2020, unless the form of payment chosen is direct debit, in which case the deadline will be 15 May 2020.

It is a necessary requirement that the taxpayer be a person or entity with a turnover not exceeding €600,000 in 2019 in order to benefit from this measure.

RDL 14/2020 states that this measure will not apply to those taxpayers who apply the special tax consolidation regime for Corporate Income Tax or the special regime for groups of entities for Value Added Tax, regardless of turnover.

3. CORPORATE INCOME TAX PAYABLE IN INSTALMENTS: EXTRAORDINARY OPTION USING THE "BASE METHOD"

The "base method" mentioned in Article 40.3 of Act 27/2014, of 27 November, on Spanish Corporate Income Tax sets out how the amount of the payment instalments is calculated on the part of the tax base for the current period, for the first 3, 9 or 11 months of the year (as corresponds). This "base method" must be applied by those taxpayers whose net turnover exceeds €6 million during the previous 12 months prior to the start of the tax period to which the instalments correspond. It is voluntary for the rest of taxpayers, who must choose to apply it in the relevant tax communication by the deadline established in tax law (during the month of February, if the financial year coincides with the calendar year or during the period between the start of the tax period and the deadline for making the first payment instalment corresponding to the tax period in question, when this latter period is less than 2 months). If the "base method" is not chosen then the "quota method" applies by default, whereby payment instalments are calculated according to the entire tax amount due (tax quota) stated on the Corporate Income Tax return for the last tax period elapsed on the first day of the period when the corresponding payment instalment is due.

Given the current economic situation, as an exception, those Corporate Income Tax payers whose tax period began on 1 January 2020 and who have not chosen to apply the "base method" within the period established for this purpose (and who were not required to apply it because their turnover for the 12 months prior to the start of the tax period was less than €6 million) will be permitted to apply this method to the second and third payment instalment due in the 2020 tax period (it was not possible to apply this measure in the first instalment since its deadline was 20 April and this measure was passed after this date). In this case, the first payment instalment will be deductible from the tax quota for the rest of the instalments paid in relation to the same tax period.

Those payers of Corporate Income Tax who took advantage of the extended deadline to make the first payment instalment for financial year 2020 based on the measure contained in RDL 14/2020 described in section 2 above (i.e. Corporate Income Tax payers with a net turnover of less than €600,000 in 2019) may choose to apply the "base method" prior to 20 May 2020, coinciding with the deadline for filing the corresponding tax return.

4. EXTENSION OF TAX PAYMENT DEADLINES

In light of the difficulties that the exceptional situation caused by COVID-19 may entail for taxpayers with regard to fulfilling certain tax obligations and tax procedures, several measures have been introduced to make the deadlines for the payment of certain taxes more flexible (i.e. payment of tax assessments done by the AEAT, payment of deferred debt, deadlines for meeting requirements, etc.), in particular:

- (i) The following tax deadlines are extended until 30 May 2020, provided that the tax procedure in question has not already concluded prior to the entry into force of Spanish Royal Decree 463/2020, of 14 March, declaring a state of emergency to manage the health crisis situation caused by the COVID-19 virus ("**RD 463/2020**") (i.e. prior to 13 March):

- a) the payment of tax debts deriving from tax assessments done by the Tax Authorities and of those debts that are in the enforcement stage;
 - b) the payment of tax debts that have been deferred or divided into instalments under the corresponding deferral or instalment agreements;
 - c) auctions to be held by electronic means and the awarding of assets;
 - d) meeting requirements, attachment proceedings, information requests impacting tax matters and giving arguments in acts commencing the allegations stage or hearing stage in tax application procedures, sanctioning procedures or proceedings seeking the declaration of nullity, refunds of tax amounts unduly paid, the rectification of material errors and revocation.
 - e) the enforcement of guarantees on real estate and which have been granted in foreclosure proceedings.
 - f) fulfilling information requirements and requests made by Spain's Directorate General for the Cadastre.
- (ii) The deadline for the above-mentioned procedures is extended until 30 May 2020 (unless the general deadline established is later), if they are notified following the entry into force of Spanish Royal Decree-Law 8/2020, of 17 March, on urgent extraordinary measures to address the economic and social impact of COVID-19 ("**RDL 8/2020**") (i.e. if they are notified after 18 March 2020).
- (iii) Since the entry into force of the declaration of the state of emergency (14 March 2020), the period for lodging appeals for reversal or bringing economic-administrative claims governed by Spanish General Tax Act 58/2003, of 17 December (*Ley General Tributaria* (LGT)) and its implementing regulations will begin on 30 May 2020, both in those cases in which the period had already begun but had not yet ended by 13 March 2020 (i.e. it will apply to notices issued as of 14 February) and in those cases in which the corresponding notice was issued while the state of emergency was in force.

The Spanish Tax Authorities have published questions and answers in relation to these extensions of deadlines on their website [here](#).

These measures will also apply to those actions, formalities and procedures carried out by the tax authorities of the autonomous communities and local entities, and to those appeals and tax claims governed by the Consolidated Text of the Act Regulating Local Tax Authorities (*Ley Reguladora de las Haciendas Locales*).

5. EXTENSION OF MAXIMUM DURATION, LIMITATION PERIODS AND EXPIRY DATES

Certain measures have also been introduced to extend the maximum periods during which tax procedures apply, limitation periods and the expiry dates of any actions or rights established in Spanish tax legislation. To be precise:

- (i) The period between the entry into force of the state of emergency (i.e. 14 March 2020) and 30 May 2020 will not count towards the maximum duration of those tax procedures, sanctioning procedures and review procedures begun at the initiative of the Tax Authorities. This does not prevent the AEAT from being able to perform any procedure it considers necessary, during this time. In particular, Royal Decree-Law 11/2020, of 31 March, on the adoption of urgent supplementary social and economic measures to address COVID-19 COVID-19 ("**RDL 11/2020**") specifies that such period will not apply either for the purpose of enforcing economic-administrative decisions.
- (ii) Likewise, the period between the entry into force of the state of emergency (i.e. 14 March 2020) and 30 May 2020 will not count as part of the limitation periods (for assessments, collections, sanctioning or obtaining refunds of tax amounts unduly paid) or expiry dates established in tax legislation.

RDL 11/2020 has clarified that the extension of the maximum duration of tax procedures, limitation periods and expiry dates will also apply to those actions, formalities and procedures carried out by the tax authorities of the Autonomous Communities and Local Entities.

6. SUSPENSION OF THE ENFORCEMENT PERIOD FOR CERTAIN TAX DEBTS IN THE CASE OF FINANCING GRANTED PURSUANT TO ARTICLE 29 RDL 8/2020

In an attempt to mitigate the harmful effects of the COVID-19 pandemic and lend support to companies, the Spanish Government has approved, among other measures, a State-secured line of credit for a maximum amount of €100 billion in

the terms set out in Article 29 of RDL 8/2020. On 24 March, the Council of Ministers approved the first tranche for an amount of up to €20 billion and, on 10 April, the second tranche of the State-secured line of credit for an amount of up to an additional €20 billion.

According to Article 12 of Royal Decree-Law 15/2020, of 21 April, on urgent supplementary economic and labour measures ("RDL 15/2020"), the enforcement period will not begin in relation to tax returns-settlements and self-assessments that are the competence of the AEAT, for which the voluntary payment period ends between 20 April 2020 and 30 May 2020 but for which the corresponding tax debt need not be paid, provided that the following requirements are met:

- (i) that the taxpayer have requested, within the mentioned period, the financing referred to in Article 29 of RDL 8/2020, and for at least the amount of such tax debts;
- (ii) that the taxpayer provide the AEAT, no later than five days after the deadline for filing the tax return-settlement or self-assessment, with a certificate issued by the financial institution, confirming that the taxpayer has requested the financing and indicating the amount thereof and the tax debts such financing is to cover.
- (iii) that the request for financing be granted for at least the amount of the tax debts indicated.
- (iv) that the tax debts be repaid effectively, completely and immediately once the financing is granted. However, this requirement will be considered not to have been met upon the failure to pay the debts within one month after the end of the term indicated in paragraph (i) above.

If any of the above requirements are not met, the start of the enforcement period will not be considered to have been impeded because the period for filing the corresponding self-assessment has ended.

The First Transitional Provision of RDL 15/2020 establishes that tax debts deriving from returns-settlements and self-assessments that were filed prior to the entry into force RDL will be considered repaid during the voluntary payment period, even if the enforcement period has begun, when: (a) the taxpayer provides the AEAT, no later than five days after the day following the entry into force of RDL 15/2020, with a certificate issued by the financial institution, confirming that the taxpayer has requested financing, and (b) the requirements set out in (iii) and (iv) above are met.

Should the taxpayer fail to meet any of these requirements, the tax collection actions during the enforcement period will commence or continue.

7. VALUE ADDED TAX

RDL 15/2020 includes a series of measures regarding the applicable tax rates for Value Added Tax (VAT) in the following cases:

- (i) In an attempt to expedite the supply of healthcare material to help combat the COVID-19 pandemic, as a temporary measure, from the entry into force of RDL 15/2020 (i.e. 22 April) until 31 July 2020, a 0% tax rate will be charged on the intracommunity acquisition, importation and delivery of these types of goods whose intended recipients are public entities, non-profit organisations or hospitals. The application of the 0% tax rate does not entail a restriction of the right to deduct the VAT charged by the taxpayer performing the transaction.

This measure is supplemented by Commission Decision (EU) 2020/491 of 3 April 2020, which introduced, effective as of 30 January 2020, an exemption on the importation of goods acquired by public entities or organisations authorised by Member States to combat the effects of the COVID-19 outbreak.

- (ii) However, as a permanent measure, the tax rate applicable to newspapers, magazines and books in digital form (e-books) has been reduced from 21% to 4%, in order to facilitate access to these media during confinement. This has served, in particular, to eliminate the discrimination existing to date between books sold in physical format (taxed at 4%) and books in digital format, which were taxed at 21%.

8. OTHER MEASURES

Objective assessment method in Personal Income Tax and simplified arrangement for VAT (commonly known as modules, signs or indices)

RDL 15/2020 establishes certain measures designed to help taxpayers of Personal Income Tax (*Impuesto sobre la Renta de las Personas Físicas*) who perform economic activities and determine their net income according to the objective assessment method. These measures also apply to the simplified arrangement for Value Added Tax:

- (i) Those taxpayers who waive the application of the objective assessment method for Personal Income Tax in their tax self-assessment corresponding to the payment instalment due for Q1 2020 may choose to apply that regime for the 2021 tax period (provided they meet the requirements and do so in due time and form, in accordance with the legislation in force). It is important to note in this regard that, otherwise, the waiver will be effective for a minimum period of three years. The effects of this waiver and its subsequent revocation will also apply to the corresponding simplified special arrangement for VAT.
- (ii) Those taxpayers who perform any of the economic activities listed in Annex II of Order HAC/1164/2019, of 22 November, which establishes, for 2020, the objective assessment method for Personal Income Tax and the simplified special arrangement for VAT for calculating the amount of the corresponding payment instalment to be made, those calendar days, in each calendar quarter, while the state of emergency is declared will not count as days when the activity was performed. Likewise, those days will not count when calculating the prepayment of VAT to be made in 2020.

Changes to Transfer Tax and Stamp Duty

RDL 8/2020 brings with it a new exemption from payment of the progressive amount in the form of Stamp Duty due under Transfer Tax and Stamp Duty (*Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados*) with regard to the execution of deeds formalising the contractual novations of mortgage loans under RDL 8/2020. However, RDL 11/2020 has limited the scope of this measure, indicating that it will only apply to scenarios based on the moratorium on mortgage debt for the acquisition of primary housing envisaged in RDL 8/2020.

Customs measures

In an attempt to streamline customs procedures and thus ensure the supply chain of goods from third countries, RDL 8/2020 gives the Customs and Special Taxes Department of the Spanish Tax Authorities (*titular del Departamento de Aduanas e Impuestos Especiales*) the authority to order that customs declaration and clearance procedures be carried out by any body or official from the Customs and Special Taxes Department (thereby preventing these procedures from becoming paralysed due to any of its members being affected by COVID-19).

In addition, RDL 11/2020 introduces the possibility to request deferral of payment of the customs and tax debt corresponding to customs declarations that must be presented as of its date of entry into force (that is, 1 April 2020) and until 30 May 2020 (both inclusive), provided the following conditions are met:

- (i) Tax debts to be deferred.
 - The debt to be deferred must be for an amount of between €100 and €30,000.
 - The deferral will not apply to imports subject to Value Added Tax.
- (ii) Subjective scope. The debtor must be a person or entity with a turnover not exceeding €6,010,121.04 in 2019.

The deferral is granted for six months. No default interest will accrue during the first three months of deferral.

Local tax measures (in some of Spain's largest cities)

➤ **Madrid**

Madrid City Council has initiated a procedure for modifying the municipal regulations on Real Estate Tax and the Tax on Economic Activities, however, the procedure is still at the public consultation phase, which began on 31 March last. The draft bills of the regulations for both taxes envisage the following discounts:

- (i) 25% rebate on the Real Estate Tax (*Impuesto sobre Bienes Inmuebles*) due on property designated for leisure activities, food and beverage and restaurant services, and commercial purposes. This rebate will be

subject to maintaining the average number of employees on the workforce during the tax period and must be applied for prior to 15 June 2020¹.

- (ii) 25% rebate on the Tax on Economic Activities (*Impuesto sobre Actividades Económicas*) for leisure and restaurant activities, travel agencies, commercial activities and large retail premises (department stores). Taxpayers must apply for this rebate prior to 15 June 2020 and it is also subject to maintaining the average number of employees on the workforce during the tax period².

In addition, Madrid City Council has approved the following tax measures:

- (i) One-month moratorium on the payment of the Municipal Road Tax (*Impuesto sobre Vehículos de Tracción Mecánica*), Vehicle Entrance Tax (*Tasa por Pasos de Vehículos*) and ATM Fee (*Tasa de Cajeros Automáticos*), which are due for the period from 1 April to 1 June 2020. This gives taxpayers one month of leeway, so that the voluntary payment period begins on 1 May and ends on 1 July.
- (ii) An extension of all deadlines set by the City Council and that have not yet passed at the date of closure of citizen's information bureaus, including those in relation to administrative appeals and for limitation periods, until these establishments are reopened to the public, for the number of days equal to the days such offices have been closed.

➤ **Barcelona**

Barcelona City Council has announced³ a series of measures destined to alleviate the effects of COVID-19 involving, among other things:

- (i) Real Estate Tax. The deadline for payment is extended to 3 July (the term initially expired on 4 May for those taxpayers who had not set up a direct debt for the tax and 3 June for those using direct debit or who had requested the payment be staggered).
- (ii) Municipal Road Tax (IVTM). The deadline for payment, via direct debit or otherwise, is postponed and will not expire on 3 July 2020.
- (iii) Fee for private use of public streets. The amount of this fee will be refunded due to the impossibility of taking advantage of public areas for those days in which the activity was impossible for all establishments affected for the duration of the state of emergency.
- (iv) Public charge for collection of commercial and industrial waste. The public charge for collection of commercial and industrial waste will not be levied on businesses, restaurants, self-employed persons and companies affected by the impossibility of opening to the public for the duration of the state of emergency announced by the Spanish government.

¹ <https://www.madrid.es/portales/munimadrid/es/Inicio/El-Ayuntamiento/Gobierno/Informacion-publica/Proyectos-normativos/Proyecto-inicial-de-modificacion-de-la-Ordenanza-Fiscal-reguladora-del-Impuesto-sobre-Bienes-Inmuebles-/?vgnextfmt=default&vgnextoid=4b89d493aaa21710VgnVCM1000001d4a900aRCRD&vgnnextchannel=86ee2313d1606310VgnVCM1000000b205a0aRCRD>.

² <https://www.madrid.es/portales/munimadrid/es/Inicio/El-Ayuntamiento/Gobierno/Informacion-publica/Proyectos-normativos/Proyecto-inicial-de-modificacion-de-la-Ordenanza-Fiscal-reguladora-del-Impuesto-sobre-Actividades-Economicas-/?vgnextfmt=default&vgnextoid=ac39d493aaa21710VgnVCM1000001d4a900aRCRD&vgnnextchannel=86ee2313d1606310VgnVCM1000000b205a0aRCRD>.

³ <https://ajuntament.barcelona.cat/premsa/2020/03/16/barcelona-suspen-i-ajorna-el-pagament-de-tributs-municipals-com-a-mesura-dajut-urgent-a-leconomia-local-davant-lestat-dalarma-pel-covid-19/>

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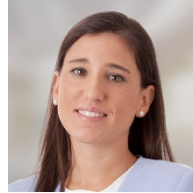
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