

Organic Law 10/2015, of September 10, 2015, on access and publicity concerning certain information contained in judgments rendered in tax fraud matters

On September 11, 2015, the Official State Gazette (issue 218) published Organic Law 10/2015, of September 10, 2015 on access and publicity concerning certain information contained in judgments rendered in tax fraud matters.

This Organic Law has added a new article 235 *ter* to the Organic Law on the Judiciary. Under this new article:

- (i) Recognition is given to the right to public access to the decision in final judgments of conviction in matters particularly relevant to tax compliance monitoring (namely, crimes against the Public Treasury and crimes of fraud against the European Union budget –articles 305, 305 *bis* and 306 of the Criminal Code–, crimes of concealment of assets creditors and of providing an incomplete list of the assets attached in judicial or administrative enforcement proceedings –articles 257 and 258 of the Criminal Code– where the defrauded creditor was the Public Treasury, and contraband crimes –article 2 of the Organic Law on the Suppression of Contraband– where there is a loss to the Public Treasury of the Spanish central government or of the European Union.
- (ii) Public access will be gained through the publication in the Official State Gazette of an extract of the decision for conviction set forth in the certificate that will be issued for this purpose by the court clerk, which must include the following information: **a)** the identifying particulars of the court process; **b)** name and address or corporate name of the convicted party and, if applicable, of the party with civil liability; **c)** the crime in respect of which the conviction was made; **d)** the imposed penalties; and **e)** the amount of the loss caused to the Public Treasury in all respects, according to the terms established in the judgment.
- (iii) This new regime on the publicity of judgments of conviction in tax fraud matters will not be applicable if the convicted party or, where applicable, the party with civil liability, paid or deposited into the account for deposits and payments into court associated with the competent court the whole amount equal to the loss caused to the Public Treasury in all respects, before the judgment becomes final.

The Organic Law discussed in this Commentary will come into force at the end of two months after its publication (final provision three) and will apply to judgments rendered after its entry into force (single transitional provision).

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