GARRIGUES
Commentary

Tax

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Amendment of the Personal Income Tax Regulations and of the Nonresident Income Tax Regulations

On June 11, 2015, the Official State Gazette published Royal Decree 633/2015, of July 10, 2015, amending the Personal Income Tax Regulations, approved by Royal Decree 439/2007, of March 30, 2007 (the "**Personal Income Tax Regulations**" or the "**Regulations**") and the Nonresident Income Tax Regulations, approved by Royal Decree 1776/2004, of July 30, 2004 (the "**Nonresident Income Tax Regulations**" or the "**Regulations**").

It must be remembered that a first round of amendments to the Personal Income Tax Regulations (concerning advance payments and tax credits for large families or dependents with disabilities) had already been introduced in Royal Decree 1003/2014, of December 5, 2014.

Below is a summary of the main new features, without entering into the amendments in which the royal decree simply adapts the references to specific articles of the Law or reiterates matters regulated in the Law.

1. Personal income tax

1.1 Exemptions

1.1.1 Severance for dismissal or termination

The personal income tax regulations have traditionally laid down a rule determining that the exemption for severance is conditional on the actual departure of the worker from the enterprise. There is a rebuttable presumption for these purposes that there is no departure where the worker returns to work for the same enterprise or another related enterprise in the three years following the dismissal or termination.

The preexisting regulations contained their own rules on related enterprises (which differed from those in the Corporate Income Tax Law) where related party status is defined by the relationship between the members/shareholders and the company. The Corporate Income Tax Law established that related enterprises existed where a 5% interest was owned (1% in listed companies), whereas for the purposes of the departure described above, the personal income tax regulations increased those percentages to 25% and 5%, respectively.

In the new Corporate Income Tax Law (Law 27/2014, of November 27, 2014), the rule on related parties between the members/shareholders or investors and the company has changed the interest to 25% (with no distinction between listed and unlisted enterprises). The Personal Income Tax Regulations have replaced the previous rule with a provision applying the Corporate Income Tax Law, and so, now, in both laws, related party status between members/shareholders and the company is determined at 25%.

1.1.2 Scholarships

The Personal Income Tax Law recently extended the exemptions for public scholarships and scholarships provided by nonprofit organizations to apply to those provided by bank foundations as regulated in Law 26/2013, of December 27, 2013.

The Personal Income Tax Regulations have traditionally determined the requirements to apply the legal exemption to scholarships. The only amendment that has now been introduced in the Regulations is that the requirements for the exemption for scholarships for studies provided by nonprofit organizations applies to those provided by bank foundations. As a reminder, the requirements are that the scholarship must be provided on the basis of the principles of merit, ability, equal opportunity and nondiscrimination in the conditions for access and publicity of the scholarship application process, which is considered to be fulfilled where:

(i) The scholarships are offered to broad population groups, with no restrictions other than the type of studies and the activities associated with the subject-matter or purpose specified in their rules.

(ii) The notice of the scholarship application process is published in the Official State Gazette (or in the Autonomous Community Gazette) and, either in a national newspaper with a large circulation or on the organization's website.

(iii) The scholarship is given on a competitive basis.

1.2 Salary income

1.2.1 Income in kind: shares awarded to employees

The Personal Income Tax Law capped the exemption at €12,000 per year, which is provided for the award of shares to employees in cases where they are offered on the same conditions to all the company’s employees.

The Personal Income Tax Regulations have added that:

(i) The offer must contribute to the employees’ participation in the enterprise.

(ii) In the case of groups or subgroups of companies, the requirement relating to being offered on the same conditions to all the employees must be fulfilled at the company where the employee awarded the shares works.

(iii) It has been added in relation to that requirement that it will not be deemed to be breached where to receive the shares the employees must (i) have a minimum length of service, which must be the same for all of them, or (ii) be personal income taxpayers.

1.2.2 Income in kind: use of employer-provided energy-efficient vehicles

The Personal Income Tax Law provides the option to apply a 30% reduction to the value of income in kind based on the use of employer-provided vehicles considered to be energy efficient, in a rule that applies to cases where the salary income in kind is satisfied by

enterprises whose normal activity includes performance of the activities giving rise to that income.

The Personal Income Tax Regulations determine in this respect that:

(i) The value of the income in kind will be reduced by 15% where the vehicles satisfy the following conditions: (i) they must comply with the Euro 6 emission limit values provided in annex I to Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007, (ii) their official CO_2 emissions must not be in excess of 120 g/km and (iii) the market value that would be determined for the vehicle, if new, before taxes, must not exceed €25,000.

(ii) The reduction will be 20% where, in addition, they are hybrid vehicles or vehicles propelled by internal combustion engines which can use alternative fossil fuels (autogas –LPG- and natural gas), provided, in this case, that the market value referred to in the preceding paragraph does not exceed €35,000.

(iii) Lastly, the reduction will be 30% in cases of any of the following types of vehicles:

- Battery electric vehicle (BEV).
- Extended-range electric vehicles (E-REV).
- Plug-in electric vehicles (PHEV) with a minimum range of 15 kilometers, provided, in this case, that the market value that would be determined for the vehicle, if new, before taxes, does not exceed €40,000.

1.2.3 *Other deductible expenses*

Law 26/2014 has generally eliminated the reduction for obtaining net salary income (except for net income below €14,450) and introduced in its place a new case of deductible expense, in respect of "other expenses", amounting to €2,000 per annum, which can be increased in certain circumstances. Namely:

(i) In the case of an unemployed person registered at the office of employment who accepts a job that requires him to move his residence to another municipality, the amount can be increased by a further €2,000 in the period containing the change of residence and the following period.

(ii) A disabled person with salary income as an active employee can increase the expense by a further €3,500; or by 7,750 if he can evidence that he needs third-party assistance or has reduced mobility or a disability of at least 65%.

Moreover, the Law establishes that the limit on these expenses will be equal to gross salary income less the other deductible expenses.

In keeping with these provisions, the Personal Income Tax Regulations introduce the necessary changes for the application of this new deduction in respect of other expenses, by establishing that for the purposes of applying that limit, where the taxpayer obtains in a period income from a job which qualifies for a greater expense than the figure mentioned above (unemployed/disabled) and other salary income, the increase in the deductible expense will be attributed only to the gross income mentioned first.

1.2.4 Multiyear income: severance for dismissal or termination paid in installments

The Personal Income Tax Law establishes that the 30% reduction for income generated over more than two years may be applied where, in the case of income derived from the termination of an employment contract (ordinary or special), it is paid in instalments.

For these purposes, the Personal Income Tax Regulations require fulfillment of the rule that the result of dividing the number of years in which the income was generated (the years of service at the company, according to the Law), computed on a date to date basis, by the number of tax periods for the installments must be higher than two.

1.3 Income from movable capital

1.3.1 Switching between Long-Term Savings Plans

The Personal Income Tax Regulations implement the new legal rules on holders switching between long-term savings plans ("PALP"). In these provisions the Regulations remind us that the holder of a PALP can switch the economic rights in an individual long-savings plan and the funds placed in an individual long-term savings account to another PALP also held by it, without this implying a withdrawal of funds.

To do so, satisfaction of the following conditions is required:

(i) The switch will not be possible where the economic rights or the funds are subject to an attachment, charge, pledge or restriction on withdrawal determined by law or contract.

(ii) To make the switch, the holder must apply to the insurance company or credit institution that is to provide the new plan, accompanying his application with identification of the PALP and notification to the original plan provider for it to order the transfer, and must produce all the financial and tax information need to complete it.

(iii) The new provider must warn the taxpayer, expressly and visibly, that depending on the specific terms and conditions of the insurance, deposit or financial contract documenting the Plan, the switched amount may be lower than the amount guaranteed by the original provider.

(iv) No penalties, costs or discounts may be applied to the amount that is switched in respect of the transfer of funds itself. For these purposes, in the case of an individual insurance policy for a long-term savings plan, the economic rights must be recognized at the amount of the mathematical reserve or at the market value of the assets of the plan.

(v) In these switching processes authorization is given for the communication of the application for transfer, the transfer of cash and the transfer of information between the institutions involved to be done through the Spanish Electronic Clearance System, by means of the transactions which, for these cases, are authorized on that system.

1.4 Income from economic activities

The Personal Income Tax Regulations do not add any significant changes to the previous wording in relation to income from economic activities or any notable new features with respect to the Law, although it does recall that the new regulations on the objective assessment method will not come into force until January 1, 2016.

1.5 Capital gains and losses

1.5.1 Exemption for lifetime annuities

Law 26/2014 introduced a new case of exemption that can be applied by taxpayers aged over 65 on the capital gains derived from the transfer of any item of their property, provided the total amount obtained on the transfer is put within 6 months towards an insured lifetime annuity payable to them. Where the capital gain is subject to a withholding and the transfer value reduced by the amount of the withholding is used in full to set up a lifetime annuity in the 6-month period, the period for putting the amount of the withholding towards setting up the lifetime annuity will be extended until the end of the fiscal year following the year in which the transfer is made.

The Personal Income Tax Regulations also lay down the following requirements for applying the exemption:

(i) The lifetime annuity contract must be signed between the taxpayer, who will be the beneficiary, and an insurance company.

(ii) The lifetime annuity contracts may contain reversion mechanisms or defined benefit periods or counterinsurance mechanisms in the event of death after the lifetime annuity has been set up.

(iii) The lifetime annuity must be paid out made at intervals of a year or shorter intervals and start to be received within a year from when it was set up. Moreover, the annual amount of income cannot decline by more than 5% with respect to the previous year.

(iv) The taxpayer must notify the insurer that the lifetime annuity is the reversion of the amount obtained on the transfer of his items of property.

In relation to the exemption limit, which the Law sets at €240,000, it is clarified in the regulations that:

(i) Where the reinvested sum is lower than the proceeds of the disposal, only the proportional part of the capital gain that relates to the reinvested amount will be free from tax.

(ii) If the reinvestment, including all previous reinvestments, exceeds €240,000, only the difference between €240,000 and the amount of the previous reinvestments will be considered to be reinvested. In other words, a proportional method will have to be applied to determine the reinvestment that may benefit from the exemption.

(iii) Where the reinvestment is not made in the same year as the disposal, the taxpayer will be required to report in his personal income tax return for the year in which the capital gain is obtained his intention to reinvest on the conditions and in the periods specified.

The Regulations add that a breach of any of the specified conditions, or an advance against all or part of the economic rights related to the established lifetime annuity, will make the capital gain taxable. The related tax must be attributed to the year in which the gain was obtained and late-payment interest will be payable all of which must be done by filing a supplementary return between the date on which the breach takes place and the end of the regulatory period for the return for the tax period in which that breach takes place.

1.6 Tax credits

1.6.1 Tax credit for income obtained in Ceuta and Melilla

The Personal Income Tax Regulations specify that, for the purpose of applying the tax credit for the income obtained in Ceuta and Melilla from companies that effectively and physically operate in those territories and which relates to income qualifying for application of the reduction established in article 33.6 of the Corporate Income Tax Law, those companies must include in the notes to their financial statements the following information:

(i) Income for the year allocated to reserves which come from income qualifying for the reduction in article 33.6 of the Corporate Income Tax Law.

(ii) Income for the year allocated to reserves which come from income not qualifying for that reduction.

(iii) Income for the year distributed among the shareholders/members of the company, specifying the amount that relates to income qualifying for that reduction.

(iv) In the event of distribution of dividends out of reserves, specification of which reserve was used of the two which are mentioned in letters a) and b) above, according to the type of income they come from.

The disclosures in the annual report will continue to be made insofar as there are reserves from income qualifying for the reduction provided for in article 33.6 of the Corporate Income Tax Law.

1.6.2 Adjustment of tax credits due to breach of requirements

The Personal Income Tax Regulations have traditionally established how to adjust certain tax credits, where the requirements laid down to benefit from them are breached. Now an adjustment has been defined in relation to forfeiture of the right to the tax credit for the enterprise saving account (cuenta ahorro-empresa) in the tax periods after the period in which it was applied.

1.7 Special "inbound expatriates" regime

Law 26/2014 introduced significant changes in the "inbound expatriates" regime. As a reminder, this regime allows anyone who becomes tax resident in Spain as a result of a relocation to Spain to elect to be taxed as a nonresident income taxpayer in the year in which they change their residence and in the following five years.

The appropriate adaptations are made in the Personal Income Tax Regulations, including most notably the following:

(i) With respect to the legal requirement that the relocation take place as a result of (i) an employment contract, or (ii) the acquisition of director status, the Regulations state that the following income will not be deemed to have been obtained during the application of the special regime:

(a) neither the income arising from an activity carried on before the relocation to Spain,

(b) nor the income obtained after the date on which the end of the relocation to Spain is notified,

although the income will be taxed where it is deemed to have been obtained in Spain in accordance with the Nonresident Income Tax Law.

(ii) Included among the tax credits deducted to calculate the final tax payable is the tax credit for international double taxation (article 80 of the Personal Income Tax Law) applicable to salary income obtained abroad, subject to the limit of 30% of the portion of the gross tax payable relating to all of the salary income obtained in the tax period.

For these purposes, the effective average tax rate must be calculated by reference to the gross tax payable and the net taxable income, excluding, in both cases, the portion relating to dividends, interest and capital gains.

(iii) The provisions governing the documentation to be furnished together with the notice of election to apply the regime have generally been retained, with the addition of certain new rules:

(a) Where the relocation is ordered by the employer, the relocation letter must be attached.

(b) Where the relocation results from the acquisition of director status at an entity, it will be necessary to deliver a supporting document issued by the entity, specifying the date on which director status was acquired and that the interest owned by the taxpayer in the entity does not trigger related entity status on the terms of article 18 of the Corporate Income Tax Law.

(c) Where taxpayers end their relocation to Spain without forfeiting tax residence in Spain in that year, this circumstance must be notified to the Spanish tax authorities within one month after the relocation to Spain ends, on the notification form established for the purpose.

1.8 *Capital gains due to change of residence (exit tax)*

Law 26/2014 introduced a new regime under which, in the case of personal income taxpayers who forfeit their status as such due a change of residence, the positive differences between the market value of the shares of any type of entity owned by the taxpayer and their acquisition cost will be considered capital gains, provided that the taxpayer had had that status for at least ten of the fifteen tax periods preceding the last tax period for which the personal income tax return must be filed and either of the following conditions is satisfied:

(i) the combined market value of the shares must exceed €4,000,000; or

(ii) on the due date in the last tax period for which the personal income tax is filed, the interest owned in the entity must exceed 25%, provided that the market value of the shares in that entity exceeds €1,000,000. In this case, this regime will only apply to the shares in these entities.

1.8.1 *Inclusion of the capital gain*

Any capital gains thus determined must be included in the savings component of taxable income for the latest period for which the personal income tax return must be filed. The Personal Income Tax Regulations state that a supplementary self-assessment must be filed but without any penalty, late-payment interest or surcharge, within the filing period for the tax relating to the first year in which the taxpayer no longer has such status as a result of the change of residence.

1.8.2 *Requests for deferral due to temporary relocation*

Law 26/2014 established in certain cases of temporary relocations the option of requesting a deferral of the payment of the tax debt. The Personal Income Tax Regulations state that deferral of the debt will be governed by the General Revenue Regulations (Royal Decree 939/2005), with the following special provisions:

- Requests must be submitted within the filing period for the tax for the first year in which the taxpayer no longer has such status as a result of the change of residence, and the territory to which the taxpayer is moving must be specified in the request.
- The deferral will expire at the latest on June 30 of the year following the end of the period of five years following the last year for which the personal income tax return must be filed. However, if this period has been extended, the expiration of the deferral will be extended to June 30 of the year following the end of the new period.
- If the deferral is requested for employment reasons, the taxpayer must provide a document issued by the employer evidencing the employment relationship giving rise to the relocation.
- If the taxpayer transfers the shares before the end of the five-year period, the deferral will expire two months after the shares are transferred.

For the case envisaged in the law of an additional extension of the five-year period, the Personal Income Tax Regulations specify that:

- The request must be submitted within the three-month period preceding the end of the five years following the last year for which the personal income tax return must be

filed, and specify the reasons for the extension of the deferral as well as the period of time that is considered necessary to acquire personal income taxpayer status again.

- In light of the documentation provided, the tax authorities will decide on the eligibility for the requested extension as well as on the years to be extended. The request will be deemed to have been rejected if there is no express decision within three months.

1.8.3 Change of residence to other states of the European Union or of the European Economic Area

A brief reminder is needed here that where the change of residence is to another EU or EEA state with which there is an effective exchange of tax information, the taxpayer may choose to self-assess the gain only where in the 10 years following the last year for which the personal income tax return must be filed (i) the shares are transferred inter vivos, (ii) the status of resident of an EU or EEA state is forfeited, or (iii) certain reporting obligations are breached.

The Personal Income Tax Regulations specify that this election must be made by notifying the tax authorities between the relocation date and the end date of the filing period for the tax for the first year in which the taxpayer no longer has such status due to the change of residence. Any change of address must be notified within two months after it occurs.

In cases where the gain must be self-assessed because any of the above conditions is satisfied, the self-assessment will be filed between the date on which satisfaction of any of the above conditions occurs and the end of the immediately following filing period for the tax, or in the filing period for the tax for the first year in which the taxpayer no longer has such status due to the change of residence, if this occurs later.

1.9 Withholdings

1.9.1 Base for calculating withholdings

(i) The Personal Income Tax Law establishes that income generated over more than two years is multi-year income where in the preceding five tax periods the taxpayer has not obtained other income with a generation period exceeding two years to which the reduction has been applied.

For the purposes of applying the multi-year treatment or not when calculating withholdings on cash payments or payments in kind, the payer must take into account which types of income out of those paid by the payer itself in the preceding five tax periods benefited from the reduction when calculating the withholdings on cash payments or payments in kind, unless the worker notifies the employer that this reduction was not applied in his subsequent personal income tax return.

(ii) In cases of (i) receipt of deferred capital from life insurance that generate capital gains relating to premiums paid before December 31, 1994, or of (ii) transfers of shares in collective investment schemes acquired before that date, for the "abatement coefficients" to apply, the taxpayer must notify the withholding agent, of (i) the total amount of deferred capital received; or (ii) the transfer value of the shares or units in collective investment schemes, as applicable.

1.9.2 Withholding rates

Concerning the progressive withholding tax scale applicable to salary income, the Personal Income Tax Regulations apply the scale set out in additional provision thirty-one of the Personal Income Tax Law and introduced by Royal Decree-Law 9/2015. The new scale, compared with the scale applied previously in 2015 and with that established for 2016, is as follows:

	Tax rate		
Withholding base	**2015**	**2016**	**Royal Decree-Law 9/2015**
Up 12,450	20%	19%	19.50%
12,450 – 20,200	25%	24%	24.50%
20,200 – 34,000/35,200 (*)	31%	30%	30.50%
34,000/35,200 – 60,000	39%	37%	38.00%
60,000 and above	47%	45%	46.00%

(*) 34,000 in 2015 and 35,200 in 2016

The flat withholding rates for cash payments and payments in kind (applicable from July 12, 2015[1]) are as follows:

- A 15% rate for income arising from conducting courses, conferences, talks, seminars and the like, or arising from the preparation of literary, artistic or scientific works, provided that the right to exploit them is transferred.
- A 15% rate for income that is consideration for a professional activity (7% during the first three years of the professional activity).

  The 7% rate will also apply to income paid to: (i) municipal revenue collectors, (ii) mediators who use the services of external auxiliary services and (iii) salespersons of the state-owned lotteries and betting company.
- A 19.5% rate for the following types of income:
  - Salary income received by taxpayers in their capacities as directors and board members where the income originates from entities with net revenues below €100,000.
  - Income from movable capital.
  - Capital gains on the transfer or redemption of shares and units in collective investment schemes.
  - Capital gains arising from forestry operations by residents of communal forests or scrubland.

[1] For those paid before this date, the rate in force for 2015 before the amendment introduced by the above-mentioned Royal Decree-Law 9/2015 will apply; in the case of types of income that are now subject to a withholding rate of 19.5%, this new rate applies to income for which the withholding obligation on cash payments and payments in kind arises on or after July 12.

- Prizes that are delivered as a result of participation in games, contests, raffles or random combinations, whether linked or not to the offer, promotion or sale of certain goods, products or services.

- Income from the lease or sublease of urban real estate.

- Income from intellectual or industrial property, the provision of technical assistance, the lease of personal property, business or mines and the sublease of such assets.

Lastly, the following withholding rates are maintained in 2015 (before and after July 12):

- For directors and board members, 37%.

- For workers relocated to Spain, 47% for compensation from €600,000.01 and above.

- For the attribution of income from the licensing of image rights, 20%.

1.9.3 Adjustment of the withholding rate

Where adjustments were made to the withholding rate before July 12, the new applicable withholding rate was capped at 47%. On or after that date, however, the maximum withholding rate resulting from the adjustments will be 46%, unless the adjustment is made to the withholding rate on August 1, on which the 47% rate will apply until July 31.

The above rates will be 24% or 23% respectively where the whole amount of salary income was obtained in Ceuta and Melilla and qualifies for the tax credit for income obtained in Ceuta and Melilla.

1.9.4 Obligations of the withholding agent for cash payments and payments in kind: Annual summary return of withholdings on cash payments and payments in kind

Concerning the identification of the income obtained (and other information related to the income), the new regulations add that the information on (i) the supply of products at discounted prices at company canteens or cafeterias or company commissaries, and on (ii) staff social and cultural services, only needs to be supplied when indirect mechanisms are used to provide the services.

1.10 Formal reporting obligations

The Personal Income Tax Regulations introduce the following formal reporting obligations:

(i) Insurance entities or credit institutions that market long-term savings plans must send an information return on the holders and the contents of the long-term savings plans during the year.

This information return must be filed in February each year in relation to the information for the immediately preceding year.

(ii) Insurance entities that market life annuities that may qualify for the exemption for reinvestment in the case of transfers of items of property must send an information return on the holders of the life annuities and their identification.

The information return must be filed in January each year in relation to the information from the immediately preceding year.

(iii) Entities that carry out capital reductions with repayment of contributions or carry out distributions of additional paid-in capital collected on securities not admitted to trading on one of the regulated markets and representing the equity of companies or entities—unless one of the parties required to file the information return on certain financial transactions is a participant in these transactions—must file an information return on the transactions that are not subject to withholding tax and are performed with individuals.

This information return must be filed in January each year in relation to the information from the immediately preceding year.

The Personal Income Tax Regulations have also retained the reporting obligations already in effect with respect to (i) the tax credit for amounts paid to subscribe to shares in newly or recently created companies, (ii) donations received each calendar year by the beneficiary entities, (iii) the monthly and annual information that must be supplied by the social security institutions and the mutual insurance societies on their members, (iv) the data held at the Civil Registry on births, adoptions and deaths; and (v) the individual systematic savings plans referred to in additional provision three of the Personal Income Tax Law.

2. Nonresident income tax

2.1 Draft return

Nonresident income taxpayers who obtain real estate income that may be imputed to them may request to be provided with a draft return for each property triggering that income. The draft return will be for information purposes only and will not release the taxpayer from his obligation to file a return for this income.

In these cases, the tax authorities may ask taxpayers to submit the information and documents needed to prepare the return.

2.2 Base for calculating the obligation to withhold tax on cash payments or payments in kind

Life insurance contracts generating capital gains or losses and transfers or redemptions of shares or units in collective investment schemes

For the purposes of calculating the withholding base, a reference has been added in the Nonresident Income Tax Regulations to the Personal Income Tax Regulations so that, in the case of (i) the receipt of deferred capital from life insurance policies that generate capital gains or losses relating to premiums paid before December 31, 1994, or of (ii) transfers of shares or units in collective investment schemes acquired before that date, the “abatement coefficients” will apply.

For these purposes, before the withholding obligation arises in both cases, the taxpayer must notify the withholding agent for the cash payment or payment in kind (in writing or by any other means that provides a record of receipt) of (i) the total amount of deferred capital received; or (ii) the value of the transfer of the shares or units in collective investment schemes, as applicable.

2.3 Optional regime for taxpayers resident in other EU member states

The regulations envisage a new case which allows taxpayers resident in other EU member states on lower incomes to elect to be taxed as personal income taxpayers.

Accordingly, this option may now be elected not only by individuals resident in the EU who evidence that at least 75% of their income for the period consists of salary income and income from economic activities obtained in Spain which has effectively been taxed in respect of nonresident income tax, but also by those whose income in Spain was lower than 90% of the personal and family allowance that would have applied had they been tax resident in Spain, provided that the income obtained outside Spain was also lower than that allowance.

In addition, the reference to the regime not applying to taxpayers resident in countries or territories classed by regulations as tax havens has been eliminated.

2.4 Capital gains. Application for refund due to reinvestment in principal residence

Law 26/2014 introduced the exemption for capital gains obtained by a resident in an EU or EEA member state with which there is an effective exchange of tax information, generated on transfers of real estate that has been the principal residence of a non-Spanish tax resident where the proceeds obtained from the transfer are reinvested in another principal residence, and subject to the same conditions as applied to Spanish tax residents.

The Nonresident Income Tax Regulations provide the option of applying for a full or partial refund of the tax debt paid over in these cases.

To this end, the nonresident taxpayer will submit an application to the provincial or local tax office for the area where the property is located, within three months after the date of acquisition of the principal residence, furnishing the documentation that evidences the transfer of the principal residence in Spain and the subsequent acquisition of the new principal residence.

3. Entry into force

The royal decree entered into force on July 12, 2015.

However, the amendments concerning personal income tax will apply to the tax periods beginning on or after January 1, 2015, except for those relating to the objective assessment method for economic activities, which will apply to tax periods beginning on or after January 1, 2016.

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