CHANGE TO FORM 145 (NOTIFICATION OF DATA OF RECIPIENTS OF SALARY INCOME TO THEIR PAYERS AND OF CHANGES IN PREVIOUSLY NOTIFIED DATA) IN RELATION TO TAXPAYERS ENTITLED TO THE TAX CREDIT FOR INVESTMENT IN THEIR PRINCIPAL RESIDENCE

Today, January 30, 2012, saw the publication in the Official State Gazette of the Decision of January 23, 2012, of the Tax Management Department of the State Tax Agency, amending the Decision of January 3, 2011, approving Form 145 (notification of data of recipients of salary income to their payers and of changes in previously notified data).

This change to Form 145 stems from the new wording on the tax credit for investment in the taxpayer's principal residence introduced by Royal Decree-Law 20/2011, of December 30, 2011, on urgent tax and financial budgetary measures to redress the public deficit. The following points need to be recalled here:

1. Up to and including 2010, the tax credit for investment in the taxpayer's principal residence did not depend on the amount of the taxpayer's taxable income.

    To bring the withholding tax on salary income closer to the taxpayer's final tax bill, the tax authorities allowed the withholding rate for salary income to be lowered by two whole numbers, in the cases of taxpayers who invested amounts in their principal residence out of borrowed funds that qualified for the tax credit, provided that their annual salary income was less than €33,007.20 and these circumstances were notified to the payer.

2. Law 39/2010, of December 22, 2010 confined the tax credit to taxpayers with taxable incomes below €24,107.20, although a transitional system was set up for taxpayers who were already entitled to the tax credit before January 1, 2011 but could no longer take it as a result of this ceiling.

    In light of the above, the Personal Income Tax Regulations were amended to allow the reduction by two whole numbers only in cases where the total amount of salary income was below €22,000, unless the transitional system applied, in which case the limit remained unchanged at €33,007.20.

3. The pre-2011 wording on the tax credit for investment in the taxpayer's principal residence has now been reinstated, however, (even for 2011 itself), which means that taxpayers can, once again, take the tax credit regardless of the amount of their taxable income.

    As a result, the Personal Income Tax Regulations have been amended (indirectly, by introducing an additional provision) to return to the quantitative limit in force up to and including 2010. Accordingly, the reduction in the withholding rate by two whole numbers is again available for all taxpayers with annual salary incomes below €33,007.20, provided that they notify their payer that they are investing amounts in their principal residence out of borrowed funds that qualify for the tax credit.

These changes have led to the current amendment to Form 145 (notification of data of recipients of salary income, or changes in their data) to eliminate the distinction between taxpayers applying the standard tax credit system and those applying the transitional system. In short, any taxpayers who wish to reduce their withholding rate by two whole numbers and are entitled to do so, should notify their payer that they are entitled to the tax credit and that the total amount of their gross salary income from all payers is below €33,007.20 per year.

As this new legislation only applies to income paid on or after February 1, 2012 (provided that it is not income relating to January), it will take effect only in relation to notifications of data to the payer, or of changes in the previously notified data, that are to be made on or after February 1, 2012.