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## ANTI-TAX FRAUD MEASURES

On October 30, 2012, the Official State Gazette published Law 7/2012, of October 29, 2012, amending tax and budgetary legislation and adapting financial legislation to step up proceedings to prevent and fight fraud.

It is a tax law aimed primarily at improving the persecution of fraud and the collection of tax debts. Of the measures adopted with this aim, the following are worth highlighting:

- The key measures within the sphere of tax collection are as follows: (i) the liability of the successors of dissolved entities has been expanded; (ii) a new liability scenario has been added for the directors of enterprises who, while continuing to perform their activity, repeatedly file self-assessments without payment; (iii) the tax authorities' powers have been expanded to adopt injunctive measures; and (iv) new infringements have been added for breaches of formal obligations and new penalties have been added for cases of resisting, obstructing, excusing from or refusing tax proceedings.
- It makes it obligatory to disclose assets and rights located abroad and sets out the effects of a breach of this obligation for personal income tax and corporate income tax purposes, by treating them as unjustified gains or unreported income.
- It disallows payments in cash in transactions with a value of €2,500 or more where any of the parties acts as trader or professional, or €15,000 for a nonresident individual who is not a professional or trader, and sets out a very onerous penalty regime.
- It makes amendments to the VAT legislation in order to (i) prevent fraudulent practices, especially in supplies of real estate, and to (ii) adapt the rules on reporting and assessing VAT to the insolvency legislation. Some of these amendments have also been included in the legislation governing the Canary Islands indirect tax ("IGIC").

In addition, while not related to fraud prevention, the opportunity was taken to include in this law an amendment to article 108 of the Securities Market Law. Following this amendment, in transactions involving shares in entities at which more than 50% of their assets are real estate, transfer tax or VAT will only apply where the transaction was carried out to fraudulently avoid the payment of taxes. This is presumed to occur, unless proven otherwise, when the indirectly transferred real estate is not used in economic activities.

These changes are discussed in greater detail below.

## 1. MEASURES TO PROTECT THE TAX DEBT

Law 7/2012 contains a host of isolated amendments to the articles of the General Taxation Law and the VAT and IGIC laws, aimed to protect the tax debt in scenarios where obstacles and difficulties have been identified for collecting it in practice, and to increase penalties to dissuade practices of evading payment.

### 1.1 Succession to the tax obligations of dissolved and liquidated entities

Up to now, the General Taxation Law allowed the outstanding tax obligations of dissolved and liquidated companies and entities with a legal personality to be transferred to their shareholders, members or co-owners, and capped their liability at the amount of the value of the liquidation dividend.

Now, their liability has been expanded to include any equity payments they received in the two years preceding the dissolution date which reduced the assets that should have been used to meet those obligations.

The limit on the penalties applicable to the infringements committed by the companies and entities referred to in article 40 of the General Taxation Law has been increased to the value determined by reference to the previous paragraph.

### 1.2 Shift of tax liability

#### ■ Secondary liability

A new case of secondary liability has been added to facilitate the collection of tax debts from the appointed or actual directors of companies who, while continuing to perform their activities, (i) file self-assessments without payment (ii) repeatedly, and (iii) without this responding to an actual intention to fulfill the tax obligation to which the self-assessment relates. For these purposes:

- Repeated filing of self-assessments will be deemed to have taken place where, in a same calendar year, at least half of the returns required to be filed have been filed without payment.
- Self-assessments will be deemed to have been filed without payment where the total amount paid over in the calendar year is lower than 25% of the sum of the self-assessed amounts of tax payable.
- It will be presumed that there is no actual intention to fulfill the tax obligation where any non-preferred claims of third parties maturing after the tax debt for which the directors are secondarily liable have been paid.

- Joint and several liability

The following changes had been added in relation to jointly and severally liable parties:

- Where liability shifts to a jointly and severally liable party, the statute of limitations for claiming the debt from that party starts to run on the day after the end of the period for voluntary payment by the principal debtor.

What is new in this regard is that, if the event giving rise to liability takes place after the day following the end of the period for voluntary payment by the principal debtor, the statute of limitations begins to run on the day on which that qualifying event takes place.

- An amendment to the General Budget Law shifts liability for the payment of outstanding government levies (which already existed in the General Taxation Law with respect to tax debts) to the persons or entities that:
  - ◆ Cause or cooperate in the concealment or transfer of assets or rights of the party subject to the obligation to pay the tax debt, with the aim to prevent actions by the tax authorities.
  - ◆ Breach attachment orders as a result of willful misconduct or negligence.
  - ◆ While being aware of the attachment, injunctive measure or placing of the security interest, have collaborated in or consented to transactions involving the attached assets or rights, or the assets or rights on which the injunctive measure or security interest had been created.
  - ◆ As custodians of the debtor's assets and after receiving notice of the attachment, collaborate or consent to transactions involving them.

In these cases, the State Tax Agency will determine the liability, which will apply to the total value of the assets or rights attached or transferred.

### 1.3 Injunctive measures

The tax authorities have the authority to adopt injunctive measures to ensure the collection of the debts falling within their powers (i) when there is reasonable evidence that, if those measures are not adopted, collection of the debt would be thwarted or seriously impeded, (ii) provided the measures are proportional to the damage they are intended to prevent, and (iii) only if they do not cause harm that is costly or impossible to remedy.

The new change added by Law 7/2012 is that an assessment proposal in an audit or inspection process is not needed for the injunctive measures that are to be adopted because they can be adopted during the course of tax application procedures or where a tax offense has been reported or a criminal complaint filed for a tax offense. Up to now, this option only existed for tax debts relating to amounts withheld or charged.

#### 1.4 Attachment procedures

- Official notice of attachment and provisional noting of claim

The law allows a decision to be made to prohibit the disposal of the real estate assets of a company when the tax authorities have placed an attachment on a taxpayer's shares in that company.

In other words, not only can the attachment be placed on the shares in the company owned directly by the taxpayer but the prohibition on disposal can be extended to the real estate owned by that company.

For this to happen:

- An attachment must have been placed on the taxpayer's shares in the company that owns the real estate, without the need for the collection proceeding to refer to the company; and
- The taxpayer must exert effective control, which may be full or partial, or direct or indirect, over the company that owns the real estate, on the terms of article 42 of the Commercial Code, even if it is not required to file consolidated financial statements.

The prohibition on the disposal of the real estate, for which the provisional noting of a claim can be made on the sheet open for the real estate at the property registry, can be removed by the tax authorities if the company proves that retaining it could cause harm that is costly or impossible to remedy.

- Attachment of assets or rights in credit institutions or deposit taking institutions

The tax authorities can decide to attach funds, securities, certificates or other assets delivered or entrusted to a certain branch of a credit institution or other deposit taking person or institution.

Up to now, the notice of attachment had to identify the asset or right known by the acting authorities, but the attachment could extend, without needing prior identification, to the other assets and rights deposited at that specific branch. Law 7/2012 extends that possibility to all the assets and rights deposited at that institution, falling within the powers of the central government, autonomous community or local authority ordering the attachment.

- Authority to investigate assets in criminal tax offense processes

The law gives the collection bodies of the State Tax Agency the power to investigate, under the supervision of the courts, the assets that could be used to pay the monetary sums associated with the offense.

The State Tax Agency must inform the criminal judge of the proceeding being carried out, of its ancillary proceedings and outcomes, and the judge will decide to confirm, modify or remove the adopted measures.

### 1.5 Insolvency proceedings

- Deferred and split payment of tax debts

The law prohibits the deferral or split payment of tax debts qualifying as post-insolvency order claims under commercial legislation, so any applications for these methods of payment will be rejected. This measure is aimed at preventing other claims from having more likelihood of being collected in practice than those owed to the tax authorities.

- Statute of limitations for tax purposes

A change has been made to the rules relating to the recommencement of the computation of the statute of limitations period, where it has been tolled by an insolvency order on the debtor, which are now as follows:

- The computation of the statute of limitations period will recommence when the court judgment ending the insolvency proceeding becomes final. Previously, it recommenced when the judgment was received.
- Where an arrangement has been approved, the limitations period will recommence (i) when the arrangement is approved, for the tax debts not subject to that arrangement; and (ii) when they become payable by the debtor, for the tax debts subject to the arrangement. This period has not been modified.

- Amendments to the VAT Law and, similarly, to the IGIC Law

On the one hand, debtors entering insolvency proceedings:

- Must file two tax returns in the return period in which the insolvency order takes place: (i) one, for taxable events prior to the insolvency order, and (ii) another for taxable events occurring thereafter. This proceeding has yet to be implemented by regulations at the date hereof.
- The tax return relating to the taxable events in the period before the insolvency judgment must contain all the cumulative balances carried forward for offset from periods before that judgment.
- Any input VAT paid before the insolvency judgment that has yet to be deducted must be deducted in the tax return for the period in which it was paid, which can be done by correcting that tax return, provided the four-year period has not elapsed.
- The deducted tax relating to corrected invoices issued by creditors must be corrected in the tax return for the period in which it was deducted, without any surcharges or late-payment interest being applicable.

- If the taxable transaction is rendered invalid by an asset clawback or other actions to challenge it within an insolvency proceeding:
  - ◆ The taxable person must correct the tax initially charged in the tax return for the period in which the chargeable tax was reported.
  - ◆ If the initial purchaser or acquirer is also involved in an insolvency proceeding, the VAT initially deducted must be corrected in the tax return for the period in which the input VAT was deducted, without any surcharges or late-payment interest being applicable.

On the other hand, a technical adjustment has been added to the wording for cases in which the amount of VAT must be increased when the insolvency proceeding has come to an end, to adapt it to the new Insolvency Law. In this regard, the creditor that has modified the taxable amount as a result of that order must modify it again, to increase it, by issuing a correcting invoice in the following cases:

- When the order by the Provincial Appellate Court revoking the insolvency judgment upon appeal becomes final.
- At any stage of the proceeding, when it is confirmed that all of the recognized claims have been satisfied or covered by payments into court; that the creditors have been fully satisfied by any other means; or that the technical insolvency no longer exists.
- Once the common phase of the insolvency proceeding has ended, when the decision accepting the decision to discontinue or waiver by all the recognized creditors is final.

## 1.6 Penalty regime

- Penalties in the case of a shift of liability

Liability for tax can in some cases include penalties. The changes made by Law 7/2012 in this respect are as follows:

- The party held liable for the penalties imposed on the infringing party can now give its acceptance to the decision to shift liability, and benefit from the 30% reduction; it can also benefit from the 25% reduction for prompt payment.
- Tax penalties subject to a shift of liability can now also benefit from the effect of the automatic stay of penalties contested in due time and form, and not having to pay late-payment interest until the end of the voluntary payment period opened by the decision bringing the economic-administrative jurisdiction to an end.

This does not apply to tax debts subject to a shift of liability and to liabilities for the payment of debts, where the liability results from the acts of willful misconduct by the liable party defined in article 42.2 of the General Taxation Law.

- Incorrect use of media other than remote media

New cases of tax infringement have been defined as follows: (i) where the taxpayer is required to file tax self-assessments, returns or the documents related to customs obligations on electronic, IT and remote media, but has used other media to file them, and also, in those cases (ii) where that obligation has been breached in relation to requests to supply information.

- Resisting or obstructing the tax authorities' work

The penalties have been made tougher for the following infringements committed in the context of a tax inspection:

- Not facilitating the examination of documents, reports, background information, books, records, files, invoices, receipts and main or ancillary accounting entries, computer programs or filing systems, operating and control systems and any other data with tax relevance.
  - Not complying with any request notified as required.
  - Failing to appear, save for justified causes, at the stipulated place and time.
  - Not allowing or preventing tax officials from entering or visiting properties or premises or inspecting premises, machines, facilities or operations relating to tax obligations.
- Initiation of the proceeding for nonmonetary penalties

Penalty proceedings must be initiated before the end of the three month period following the date on which the assessment or decision is notified or deemed notified.

Law 7/2012 has extended that period for nonmonetary penalties, to the effect that, in those cases, the three-month period will now be computed from the date on which the nonmonetary penalty is notified or deemed notified.

## 1.7 New cases of reverse charge liability for VAT and IGIC

Three new cases requiring a reverse charge of VAT in real estate transactions have been put in place to prevent fraudulent practices in which the VAT or IGIC is not paid over to the tax authorities yet is deducted by the recipient.

- Supplies of real estate
  - Cases of waiver of the exemption on the supplies referred to in article 20.1.20 and article 20.1.22 (supplies of rural land and others that are not classified as buildable land, and second and subsequent supplies of buildings); and

- Supplies made to enforce security interests in the real estate; the security interest is also deemed to be enforced when the real estate is transferred in exchange for full or partial discharge of the secured debt or of the obligation to discharge that debt by the acquirer.

- Works of construction

The third case is that of works of construction, with or without the supply of materials, or loan of personnel to perform the works, under contracts made directly between the developer and the contractor having as their subject-matter the urban development of land or the construction or renovation of buildings.

This also applies to the rest of the chain, in particular where the recipients of the transactions are also the primary contractor or other subcontractors.

This change has not been included in the IGIC legislation.

In keeping with the new cases of reverse charge liability, additional provision six of the law, setting out the rules applicable to the reporting of transactions carried out as a consequence of compulsory enforcement court or administrative proceedings, has been amended so as not to apply to the real estate transactions subject to the reverse charge mechanism. As you may know, the reverse charge mechanism does not apply in this special proceeding but rather the recipient is authorized to issue the invoice and file the tax return in order to pay over the VAT liability for and on behalf of the enforcement debtor.

## 1.8 Other changes

- Incorrectly reported tax obligations

The statute of limitations for the tax authorities' right to determine the tax debt through an assessment has been tolled when the authorities' actions are initially directed at another tax obligation because of the filing of an incorrect return by the taxpayer.

- Bonds for a stay of execution in appeals for reconsideration in the economic-administrative jurisdiction

Law 7/2012 establishes that the bond required to be posted to stay execution of decisions against which an appeal for reconsideration has been filed in the economic-administrative jurisdiction must cover, in addition to the principal and the late-payment interest generated by the stay, any surcharges that apply at the time of the execution of the decision.

Under the previous wording, the bond had to cover the surcharges that applied at the time of the petition for the stay.



## 2. ASSETS AND RIGHTS LOCATED ABROAD

Law 7/2012 approves the new obligation to report assets and rights located abroad to the tax authorities, which is a measure to close in on undisclosed income.

### 2.1 Disclosure obligations

An additional provision has been included in the General Taxation Law setting out the obligation to disclose the following assets and rights located abroad:

- Accounts located abroad held at institutions engaged in banking or lending transactions where the taxpayer is the account-holder or beneficiary or has the power to operate the account.
- Any certificates, assets, securities or rights, representing the capital stock, equity or assets of all kinds of entities, or representing the transfer to third parties of own capital owned by the taxpayer, and which are held or located abroad.
- Life or disability insurance for which the taxpayer is the policy-holder, and life or temporary annuities for which it is the beneficiary, arranged with entities established abroad.
- Real estate and rights in real estate located abroad, owned by the taxpayer.

The disclosure obligation will also apply to anyone who is deemed to be the beneficial owner on the terms of article 4.2 of Law 10/2010, on the prevention of money laundering and the financing of terrorism, that is, for:

- The individual/s on whose behalf a business relationship is to be established or a transaction is carried out.
- The individual/s who ultimately own or control, directly or indirectly, more than 25% of the capital stock or of the voting rights of a legal entity, or who otherwise exert control, directly or indirectly, over the management of an entity. This does not apply to companies listed on a regulated market of the European Union or of equivalent third countries.
- The individual/s who own or control 25% or more of the assets of a legal instrument or entity that manages or distributes funds or, where the beneficiaries have not yet been appointed, the category of persons in whose benefit the legal entity or instrument has been created or acts.

This new obligation, which is drafted in very broad terms, can have a disproportionate scope. It would therefore be desirable for the regulations implementing it to establish reasonable application criteria.

## 2.2 Penalty regime

A penalty regime has been put in place for cases where those returns (i) are filed late; (ii) are incomplete or inexact or have false data when filed, or (iii) are filed other than on the electronic, IT or remote media stipulated, if such media are compulsory. These will be treated as very serious infringements.

The fines determined in these cases generally amount to €5,000 per piece or set of data referring to the same asset, if the tax return has not been filed, or where it has been filed but the data provided is incomplete, inexact or false, with a minimum of €10,000.

The amount per piece or set of data is reduced to €100 (with a minimum of €1,500) if the return is filed late without a prior demand, or if it is filed other than on electronic, IT or remote media, if there is an obligation to use those media.

These penalties are incompatible with the standard penalties for (i) late filing tax self-assessments or returns without causing a loss to the tax authorities, and for (ii) incorrectly filing this type of tax returns or self-assessments.

## 2.3 Effects on personal income tax and corporate income tax

### ■ Taxation of undisclosed income

On top of the penalties described above, the failure to fulfill this new disclosure obligation on time also has personal income and corporate income tax effects:

- In personal income tax, the holding, reporting or acquisition of assets or rights in relation to which the disclosure obligation has not been fulfilled on time will be treated as unjustified capital gains and included in the general component of net taxable income for the earliest tax period among those that are not statute-barred and can be reassessed.
- In corporate income tax, the assets and rights will be treated as being acquired out of undisclosed income, which will also be allocated to the earliest tax period among those that are not statute-barred and can be reassessed. This applies to all fiscal years ending on or after October 31, 2012.

The law establishes, in not very clear wording, that this income will be allocated to the appropriate period in which this new wording of the law is in force.

This is, therefore, a nonrebuttable presumption which applies even if the taxpayer can prove that those assets or rights derive from a statute-barred year. That presumption will not apply, however, where the taxpayer evidences that those assets and rights were acquired:

- Out of disclosed income, which would include the income adjusted using the “special tax return” under additional provision one of Royal Decree-law 12/2012.

- Or out of income obtained in tax periods in which the taxpayer was not a personal income tax or corporate income taxpayer, as applicable.
- Penalty regime

Treating the income as unjustified capital gains or undisclosed income entails the imposition of a penalty for a very serious infringement, attracting a proportional monetary fine at 150% of the amount of the gross tax payable resulting from its inclusion in the tax base for the earliest tax period among those not are not statute-barred and can be reassessed.

Solely for the purpose of determining the penalty base, its calculation will not include any amounts remaining to be offset, deducted or used, carried forward from previous fiscal years or relating to the fiscal year under inspection that could reduce the tax base or the net tax base or the gross tax payable.

This penalty is incompatible with those established in articles 191 (tax infringement for failure to pay over the tax debt that should have been reported in a self-assessment) and 195 (tax infringement for incorrectly determining or reporting positive or negative items or apparent tax credits) of the General Taxation Law, although the reductions for agreement and prompt payment established in its article 188 are applicable.

These effects became effective on October 31, 2012, the date of entry into force of Law 7/2012, although they have yet to be implemented by regulations.

### 3. PAYMENTS IN CASH

In keeping with what other EU countries have done to prevent opaque transactions and activities, a restriction has been placed on the use of cash for certain economic transactions. These provisions will apply to all payments made following the 20 days after the publication of Law 7/2012, that is, starting on November 19, 2012, even if they refer to transactions arranged before that date.

#### 3.1 Restrictions on the use of cash

Law 7/2012 places restrictions on cash being used for payment in transactions, subject to the following rules:

- Transactions in which any of the parties is acting as trader or professional, and which involve a sum of €2,500 or more, cannot be paid in cash.
- That sum is €15,000 where the payer is an individual who can prove that he is not tax resident in Spain and is not acting as a trader or professional.
- These sums must be calculated by reference to all the transactions or payments into which a single supply of goods or services has been divided.

- The parties involved in transactions that cannot be paid in cash must retain proofs of payment for 5 years following the payment, to evidence that it was made using any method other than cash.
- This restriction does not apply to payments made into credit institutions.

### 3.2 Penalty regime

A penalty regime has been put in place for cases where the restrictions described have not been met, in which cases both the payers and the recipients of the cash are the infringing parties, who will be jointly and severally liable for the infringement and the associated penalty.

The infringement, which becomes statute-barred after five years, is classified as serious, attracting a fine equal to 25% of the amount paid in cash, and is compatible with the penalties for tax infringements or breach of the obligation to report payment methods, under Law 10/2010, on the prevention of money laundering and the financing of terrorism.

The law provides an exemption from liability for reporting any potential payment made in breach of the legal restriction, within the three months following the date of the payment. The first of the parties to make a filing reporting the breach will be released from liability; neither party will be released from liability if they both report the breach simultaneously.

## 4. ARTICLE 108 OF THE SECURITIES MARKET LAW

Article 108 of the Securities Market Law determines the transfer tax applicable to the transfer of shares in the capital stock of companies at which more than half of their assets are composed of real estate.

This legislation, which has been extensively questioned by legal experts, has been amended to confine this tax to cases where the shares in those companies are sold in order to fraudulently avoid payment of the relevant tax. In this regard:

- A general exemption from VAT or transfer tax is established for transfers of securities (previously, the law referred only to transfer tax).
- That exemption does not apply in the following cases: (i) transfers of securities not admitted to trading on official secondary markets, made on the secondary market, (ii) where those transfers are aimed at avoiding the payment of the tax that would have been levied on the real estate owned by the entities concerned.

The circumstances in which the transfer of the real estate is made will therefore determine whether the transactions are subject to VAT or to transfer tax, rather than being automatically subject to and not exempt from transfer tax under the “transfers for a consideration” heading, as they have been to date.

- It is presumed, unless proven otherwise, that there is an evasion aim in the following scenarios:
  - a) Where control is obtained of an entity at which at least 50% of its assets consist of real estate in Spain not used in business activities, or where, after such control has been obtained, it is increased.
  - b) Where control is obtained of an entity whose assets include securities that allow it to exert control over another entity at which at least 50% of its assets consist of real estate in Spain not used for business activities, or where, once such control has been obtained, it is increased.
  - c) Where the transferred securities have been received in exchange for contributions of real estate assets made by reason of the incorporation of companies or a capital increase, if those assets are not used for business activities and less than three years have elapsed between the contribution and the transfer date.

Where securities are transferred to the company itself for their redemption, the evasion scenarios set forth in a) and b) above will be deemed to exist, the taxpayer being the shareholder that obtains control of the company on the terms mentioned.

Obtaining control in the case of business entities will be calculated by reference to the securities of the other entities in the same corporate group.

- Readers are reminded that to compute the assets, the carrying amounts of the assets will be replaced by their actual values on the transaction date. Law 7/2012 requires the taxpayer to draw up an inventory of the assets at that date and provide it to the tax authorities if they ask for it.
- If, under the anti-evasion provisions, the transaction is subject to and not exempt from VAT, the taxable amount will be calculated in proportion to the market value of the real estate. If the securities were received in exchange for contributions of real estate, the taxable amount will be the proportional part of the value of the contributed real estate, relating to the transferred securities.
- If the transfer is subject to transfer tax, the tax base will be calculated as follows:
  - In the case of acquisition of control of entities that own real estate, the proportional part of the actual value of all the real estate that relates to the ownership interest the transferee comes to hold.
  - In the case of acquisition of control of entities with shares in entities that own real estate, the calculation will only be by reference to the real estate of the affiliates at which at least 50% of their assets consist of real estate not used in business activities.
  - Lastly, in the case of securities received in exchange for the contribution of real estate, the proportional part of the actual value of the real estate contributed at the time relating to the transferred securities.

Together with these amendments to article 108 of the Securities Market Law, related amendments have been made to VAT law, in particular:

- Elimination of the exception to the incompatibility existing between VAT and transfer tax in cases of transfers of securities to which the provisions of article 108 of the Securities Market Law apply; and
- An exception to the exemption for financial transactions for services relating to securities not admitted to trading on an official secondary market, where their transfer is made to evade tax on the transfer of real estate owned by the entities represented by those securities, on the terms established in article 108 of the Securities Market Law, discussed above.

## 5. OTHER CHANGES

### 5.1 Personal income tax: exclusion from the objective assessment regime

Starting on January 1, 2013, the objective assessment method (and, thus, the special simplified VAT method) will not apply to taxpayers who perform certain economic activities where their gross income for the preceding year was in excess of given thresholds.

### 5.2 VAT legislation: new case of infringement – Incorrect reporting of dispatches from free zones, free warehouses and other warehouses

The failure to file or the incorrect or incomplete filing of VAT returns relating to transactions treated as imports (in cases of dispatches from free zones, free warehouses and other warehouses, and the discontinuance of customs and fiscal arrangements) has been determined as a new type of infringement.

This will be deemed as a serious infringement and will entail the imposition of a proportional monetary fine equal to 10% of the VAT chargeable on the transactions not specified or specified incorrectly or incompletely. In this way, the provisions in the law are consistent with the cases of failure to report taxes payable on transactions in which the taxable person is their recipient.

Nonetheless, in cases of discontinuance of warehouse arrangements other than customs, that fine will only apply if the reported VAT is lower than the amount effectively chargeable in the period in question.

## 6. ENTRY IN FORCE

This law took effect on October 31, 2012. However, as mentioned throughout this newsletter:

- The provisions relating to the restrictions on cash payments will apply to the payments made on or after November 19, 2012, even if they refer to transactions arranged before that date.
- The disclosure obligation relating to assets and rights located abroad has yet to be implemented by regulations.
- The new rule on the allocation of undisclosed income for corporate income tax purposes will take effect in the tax periods ending on or after October 31, 2012. In other words, for entities whose tax year coincides with the calendar year, it will already apply for fiscal year 2012.
- The new cases excluded from the objective assessment method for personal income tax will be subject to the standard rules starting on January 1, 2013.

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