

GARRIGUES

Tax Newsletter

April 2026

In our Tax Newsletter, we regularly compile and summarize the most significant new developments for the practice of tax law (judgments, decisions by the economic-administrative tribunals, resolutions by the Directorate-General of Taxes (DGT), legislation, and other news).



Key judgments

Courts emphasize the importance of providing reasons and of respecting the principle of legitimate expectations



The CJEU has reiterated that courts must provide adequate reasons for deciding not to refer a question for a preliminary ruling, even where the parties have not requested this; and the Supreme Court has strengthened the principle of legitimate expectations, by recalling that the application of benefits to customs clearance cannot be denied where the certificates of origin supporting the importation have expired, provided that the customs authorities were able to verify them within the prescribed period.

In a recent judgment ([March 24, 2026, case C-767/23](#)), the CJEU underlined the importance of the preliminary ruling procedure, a cornerstone of the European Union's judicial system, recalling that courts whose decisions are not subject to further appeal must refer a question for a preliminary ruling where they are required to rule on issues relating to the interpretation or validity of EU law.

As a safeguard for that obligation, the CJEU has established that, where the competent court considers that there is no need to make a reference for a preliminary ruling, it must state the specific reasons for that decision. In particular, it must indicate which of the so-called "Cilfit exceptions" apply. Those exceptions are: (i) the irrelevance of the question, (ii) the fact that the provision of EU law in question has already been interpreted by the CJEU, and (iii) the fact that the correct interpretation of that law is so obvious as to leave no scope for reasonable doubt. This obligation to state reasons applies even where none of the parties has expressly requested a reference for preliminary ruling, if EU law has been invoked.

We analyzed this judgment in depth and its importance for cassation appeals in Spain in our Garrigues Tax Blog post [dated April 28, 2026](#).

On a separate note, the Supreme Court has reiterated the importance of the tax authorities respecting the principle of legitimate expectations. Specifically, in a [judgment of March 24, 2026](#), the Supreme Court held that, although the customs authorities are not under obligation to accept the certificates of origin documenting imports after the two-year period established in the law has expired, they must do so if during that period, they have had the opportunity to review and accept those certificates. We analyzed this judgment and its practical implications beyond a customs context in our Garrigues Tax Blog post dated [May 12, 2026](#).



Tax procedure

Failure to call on the taxpayer to sign tax auditors' reports does not automatically render them null and void

Supreme Court. [Judgment of April 22, 2026](#)

The Supreme Court has clarified that the failure to call on the taxpayer to sign contested assessments does not, in itself, render them void as a matter of law, provided the defect did not affect the final content of the assessment or cause a fundamental breach of the taxpayer's safeguards and rights.

The court also concluded, in relation to personal income tax, that, where the taxpayer carries out multiple economic activities, its net income must be determined separately for each activity, although a joint calculation may be accepted where it does not alter the final result.

The right of defense of parties with secondary liability is not breached where they have had effective access to the case file

Supreme Court. Judgments of [March 18](#) and [April 17](#), 2026

The Supreme Court has held that the party with secondary liability for tax has full rights to challenge assessments, and that the administrative case file submitted to the court must therefore contain all the substantive and formal elements needed for that party to contest both the basis giving rise to the liability and the actual assessments issued to the principal debtor. Moreover, the appellant's failure to request supplementation of the file does not remove the tax authorities' duty to provide a complete and properly indexed file, meaning

that the consequences derived from any deficiencies must be attributed to the tax authorities.

On that basis, in its judgment dated April 17, the Supreme Court concluded that the right to effective judicial protection of the party with secondary liability (in this case, the director of the debtor company) had not been breached where that party had the right to contest the facts and legal reasons stated in the assessment issued on the principal debtor, because those facts and reasons were decisive for a decision on the proceedings conducted against it.

The expiry of a marginal note on a tax lien does not prevent enforcement of secondary liability on a purchaser who acquired the asset while the lien was in force

Supreme Court. [Judgment of April 6, 2026](#)

The Supreme Court confirmed that a tax lien on assets for the payment of inheritance tax (article 79 of the General Taxation Law, "LGT") constitutes a legal right in rem, and its validity is not restricted by expiry of the marginal note entered on the register (article 100.4 of Inheritance Tax Regulations). This marginal note is purely for informational purposes, aimed at defining the scope of protection provided to third parties relying on the information in the register, so its expiration does not extinguish the tax lien or prevent the initiation of secondary liability proceedings. The decisive factor for this purpose is the acquisition date of the property. In other words, the party that acquires the asset with the tax lien registered and in force cannot invoke the protection under article 34 of the Mortgage Law, irrespective of

whether the secondary liability proceedings are initiated after the expiry of the five-year period applicable to notes on the register.

Lastly, the court clarified that secondary liability proceedings are governed by the rules on that secondary liability, so the starting point for the statute of limitations is when the principal debtor is declared insolvent, not the date that the marginal note expires.

Appeal for judicial review without a stay does not toll the statute of limitations on the tax authorities' right to claim payment of the tax debt

Supreme Court. [Judgment of March 20, 2026](#)

The Supreme Court has clarified that the reference to the “proceedings carried out with the taxpayer's formal knowledge in the course of such claims or appeals” as grounds for tolling the statute of limitations on the tax authorities' right to claim payment of assessed tax debts, relates only to appeals made in the administrative and economic-administrative jurisdiction, not to appeals for judicial review. In other words, although the filing of an appeal for judicial review generally tolls the statute of limitations, the tax authorities' right to claim payment of the tax debt is only tolled if the enforcement is stayed in the judicial review jurisdiction.

Self-assessments are not administrative decisions, so they cannot be rendered null and void as a matter of law

Supreme Court. [Judgment of March 20, 2026](#)

The Supreme Court stated that self-assessments are collaborative acts by taxpayers, through which they fulfill a legal duty to quantify and pay in the tax, but they do not constitute administrative decisions, not even implicit ones. Consequently, they cannot be examined in the extraordinary procedure for reviewing decisions that are null and void as a matter of law pursuant to article 217 of the LGT, which is reserved exclusively for decisions

issued by the tax authorities or by economic-administrative bodies.

The court added that where the taxpayer considers that their self-assessment is incorrect, even if the error derives from a law subsequently held to be contrary to EU law or to the Constitution, the appropriate channel is a request for correction under article 120.3 of the LGT, within the statute of limitations period. That correction is the only way that an administrative decision – express or implicit – will arise, which may be reviewed in the administrative and court jurisdiction.

TEAC determines principles regarding the validity of tax notifications

Central Economic-Administrative Tribunal. Decisions of [February 19](#) and [March 25](#) 2026

The Central Economic-Administrative Tribunal (“TEAC”) concluded that disregarding the address of the designated representative for notification purposes is a formal defect that does not automatically invalidate the notice because its validity depends on the diligence exercised by the authorities and, in particular, on whether the decision actually came to the taxpayer's knowledge. Specifically, TEAC determined the following principles:

- a. In proceedings initiated at the request of the interested party, if that party has designated a representative or address for notification purposes, the tax authorities must make an attempt at notification on that channel before notifying by public notice. Failure to make that attempt invalidates any notification by public notice.
- b. In proceedings initiated ex officio, a notification served at the taxpayer's tax domicile, even if it is received by a duly identified third party, may be valid (despite there being a designated representative), provided the decision has actually come to the interested party's knowledge and their right of defense has not been affected.

Notices of commencement of audit proceedings do not qualify for an economic-administrative claim

Central Economic-Administrative Tribunal.
[Decision of February 27, 2026](#)

TEAC has determined that notices of commencement of audit proceedings do not qualify for an economic-administrative claim, because they are simply formalities that do not contain any statement recognizing or denying rights or imposing duties on citizens.

New principles determined in relation to enforcement of secondary liability

Central Economic-Administrative Tribunal.
Decisions of February 17 ([R.G. 428/2023](#) and [7850/2023](#)) and [March 17, 2026](#)

TEAC has determined new principles in relation to enforcement of secondary liability, ruling that:

- a. The punitive nature of (i) joint and several liability for anyone who causes or collaborates in the commission of a tax infringement (article 42.1(a) of the LGT) and (ii) secondary liability for directors who enable or permit the commission of tax infringements by the managed entity (article 43.1(a) of the LGT) prevents the tax authorities from correcting a misclassification of liability (from joint and several to secondary) through a new penalty proceeding where the initial one has been invalidated.
- b. According to the [supreme court judgment of November 22, 2024 \(December 2024-January 2025 newsletter\)](#), although proceedings carried out against jointly and severally liable parties generally toll the statute of limitations period for the enforcement of secondary liability, that

effect ceases where the secondary liability proceeding against them is rendered invalid. In that case, the party declared jointly and severally liable “was in fact never liable”, and therefore those acts cannot toll the statute of limitations period for subsequent proceedings for the enforcement of secondary liability.

Tax Agency provides rules on the appraisal of properties provided as security for deferred, split or stayed payments

Tax Agency. [Direction 1/2026, of April 7, 2026](#)


In a [judgment dated March 17, 2025](#), the National Appellate Court rendered null the requirement that the property provided as security in deferred or split payment of tax debts must be appraised by companies or professionals entered on official registers.

In compliance with this judgment, the State Tax Agency has approved Direction 1/2026, amending the previous Direction 1/2023, and clarifying that the participation of these professionals is preferred but not mandatory. This avoids the imposition of restrictions not set out in the regulations for access to deferred and split payment arrangements.

However, the direction has kept more stringent rules for applications for stays, which do establish an essential requirement that the real estate must be appraised by a company or professional entered on the relevant register, if one exists.

It also put in place a mandatory minimum structure for the appraisal report, and noted that any failure to comply with the required content, the inclusion of qualifications or conditions, or any technical shortfalls in the appraisal may result in rejection of the application.

The direction entered into force on April 8, 2026, and applies to all procedures in progress.



Corporate income tax and nonresident income tax

Investments made by absorbed entities before registration of the merger do not qualify as reinvestment of the RIC

Supreme Court. [Judgment of April 6, 2026](#)

The Supreme Court ruled that an absorbing company in a merger cannot report as its own the investments made by the absorbed company before that merger, for the purposes of reinvesting the Reserve for Investment in the Canary Islands ("RIC"). According to the Court, article 27 of Law 19/1994, of July 6, 1994, defines a finite sequence for recording, investing and maintaining the RIC, which requires complete personal and subject-matter traceability between the entity recording the reserve and the one making the reinvestment.

The court added that the legal subrogation provided for under the merger regime is characterized by continuity and does not convert the economic acts of a third party into investments of the acquiring entity; it also states that retroactivity for accounting purposes only allows the allocation of profits or losses, without altering the ownership of the investments for tax purposes. According to the Court, an indirect reinvestment is a strictly defined exception in the law that does not allow for the transfer of investments through a merger.

Properties used for short-term vacation rentals can be depreciated as industrial buildings

Directorate General for Taxes. [Resolution V0690-26 of March 27, 2026](#)

According to the DGT, homes leased for short-term use as a vacation home can be depreciated as industrial buildings if hotel industry services are provided in them. For these purposes, the DGT recalled that the Urban Leasehold Law excludes these uses of homes, whereas the Industry Law includes tourism activities in its scope of application.

The sale of a property to partially settle a debt gives rise to both operating and financial result

Directorate General for Taxes. [Resolution V0689-26 of March 27, 2026](#)

A company has a property with a book value of €25 million in its assets, and a €23 million mortgage belonging to another company in its liabilities. A third party will acquire the property for €10 million. It will use 6.5 million to partially repay the loan and the creditor will write off the rest of the debt, and discontinue the legal action in progress. The company will then be dissolved.

Supported by a report from the Spanish Accounting and Audit Institute (ICAC) and resolution 12 in Official Gazette of the ICAC, issue 96 (December 2013), the DGT stated that this transaction generates (i) operating result equal to the difference between the fair value of the consideration received (10 million) and the book value of the property (25 million); and (ii) financial result equal to the difference between

the amount of the debt being canceled (23 million) and the amount effectively paid (6.5 million). Both amounts are included in the corporate income tax base on an accrual basis. In the subsequent dissolution with liquidation, the entity must include in its tax base the difference between the market value of the assets transferred to the shareholders and their value for tax purposes (article 17.4 and 17.5 of the law).

For tax periods before 2015, the exemption applicable to income allocated to members of joint ventures from activities carried out abroad does not require own resources in the foreign jurisdiction

Central Economic-Administrative Tribunal.
[Decision of March 25, 2026](#)

Unlike the current Corporate Income Tax Law, the Revised Corporate Income Tax Law did not expressly require a joint venture to have its own human and material resources abroad in order for its members to be able to apply the exemption for income obtained outside Spain. However, both the tax authorities and TEAC have been finding that the exemption only applied if the joint venture actually performed an activity abroad using those resources.

TEAC has now changed its position and aligned it with that of the National Appellate Court, by concluding that, for fiscal years prior to 2015 (before the entry into force of the current Corporate Income Tax Law), the exemption is not conditional on the existence of those resources. Instead, it is simply required for the joint venture to participate in a project performed abroad, even if not directly.

An administrative adjustment to year-end inventory entitles the taxpayer to correct the self-assessment for the following fiscal year

Central Economic-Administrative Tribunal.
[Decision of March 25, 2026](#)

TEAC has found that where tax auditors increase the year-end inventory figure through a positive adjustment to the tax base, the taxpayer has the right to apply for correction of its self-assessment for the following fiscal year, to ensure that the beginning inventory matches the figures determined by the auditors in the preceding fiscal year. The tribunal also clarified that the adjustment must be made in the immediately following fiscal year, because the reversal is based on an adjustment made by the tax authorities rather than on an accounting error attributable to the taxpayer (in which case, it would be allocated to the fiscal year in which the accounting error is detected).

The exemption for share transfers does not apply to the creation of a usufruct on shares, although it does apply to the option agreement preceding their effective transfer

Galician Regional Economic-Administrative Tribunal.
[Decision of March 14, 2025](#)

Tax auditors denied application of the exemption under article 21.3 of the Corporate Income Tax Law to income obtained from the creation of a usufruct and to income deriving from the subsequent execution of a call option agreement on shares of an investee, which transactions were carried out before the final transfer of those shares ten days later.

The Galician Regional Economic-Administrative Tribunal (TEAR) confirmed that this exemption cannot be applied to the income obtained from the creation of the usufruct, given that this does not imply the transfer of the legal ownership of the shares (articles 467 et seq of the Civil Code), an essential requirement for applying the exemption.

In relation to cross-option agreements, by contrast, the tribunal has held that a complete analysis must be performed of the transaction leading to the transfer of the shares (which must be deemed to occur when the risks associated with them are transferred, i.e. upon their sale). Given that both transactions were carried out in the same fiscal year and within a short timeframe, the exemption should be applied to both the income obtained from the option agreements and that arising from the subsequent transfer.

The basis of the tax credit for live performances does not include expenses related to the rental of premises, food and beverages, or to personnel not involved in the production

Directorate General for Taxes. [Resolution V0652-26 of March 20, 2026](#)

An entity stages theatrical performances at premises it owns, and provides food to attendees in a “dinner show” format. It was submitted for resolution whether the tax credit under article 36.3 of the Corporate Income Tax Law can be applied in different scenarios (own management, outsourcing the sale of tickets, assignment of use of the property to a group company) and which expenses can be included in the tax credit base.

The DGT pointed out that the taxpayer generating the tax credit is the person who bears the risk of production of the live performance, irrespective of whether they are also the promoter. The tax credit base consists of the direct costs of an artistic, technical and promotional nature (wages of actors, sound and lighting technicians, technical directors, stage props and promotional expenses), less any subsidies received. The tax credit base does not include costs relating to rental or depreciation of premises, or food and beverages, or to waiting staff expenses, or expenses for personnel not directly involved in the show (such as front-of-house staff, door staff, or customer service personnel).

The tax authorities cannot make adjustments to transactions between an individual and an indirect investee pursuant to article 18.2.a) of the Corporate Income Tax Law

Central Economic-Administrative Tribunal. [Decision of February 19, 2026](#)

TEAC determined that transactions carried out by an individual with a company in which they hold an indirect interest should not be regarded as falling under article 18.2.a) of the Corporate Income Tax Law (“an entity and its shareholders or members”), but rather under 18.2.f) (“an entity and another entity in which the former has an indirect ownership interest equal to at least 25 percent of share capital or shareholders’ equity”). For these purposes, TEAC clarified that the fact that subarticle f) refers to an “entity” does not mean it is not applicable to an individual.

Applying this to the examined case, TEAC overturned the assessment decision as regards related-party transactions, given that the auditors failed to base the adjustment on article 18.2.f) of the Corporate Income Tax Law, and TEAC cannot remedy this defect in their reasoning.

A number of issues have been examined in relation to the capitalization reserve

Catalan High Court. [Judgment of December 10, 2025](#)

Galician Regional Economic-Administrative Tribunal. [Decision of March 14, 2025](#)

Directorate General for Taxes. Resolutions [V0558-26, of March 10, 2026](#) and [V0391-26, of February 25, 2026](#)

A number of decisions and judgments have been rendered in relation to the capitalization reserve. Namely:

- a. **Tax prepayments:** the Galician TEAR concluded that the capitalization reserve reduction cannot be applied when making

tax prepayments because fulfillment of the increase in equity requirement can only be verified at the end of the tax period.

- b. **Recording of the restricted reserve:** according to the DGT (resolution [V0558-26](#)), the requirement to record the reserve can be considered to be met with a reserve recognized in prior periods, provided that it was duly recorded in the accounts (as a completely separate item with the appropriate heading) and is available because its holding period has run, and, in addition, it becomes restricted during the new holding period.
- c. **Reserve-holding requirement:**
- i. The DGT (ruling [V0391-26](#)) concluded that, in general, share capital reductions through the acquisition of treasury shares do not affect the capitalization reserve because the portion of the amount paid that relates to the nominal value of the shares acquired and to the associated additional paid-in capital must receive the same treatment as a capital reduction with repayment of contributions (since both items are part of the funds contributed by the shareholders). Only if the price paid exceeds the aggregate of the par value of the shares and the additional paid-in capital can that excess qualify as a distribution of reserves generated by the entity, that is, as a reduction to equity.
 - ii. The Catalan High Court held, however, that if equity is reduced as a result of the recognition – by mistake – of certain expenses as reserves, the holding requirement will be affected even if that recognition is incorrect. The court pointed out that under recognition and measurement basis 22 of the Spanish National Chart of Accounts, accounting errors must be corrected in the year that they are detected, and this cannot have retroactive effects on prior fiscal years; and moreover, that accounting errors cannot invalidate the legal effects arising from the accounting statements filed by the taxpayer itself.

- d. **Tax options:** the DGT (resolution [V0558-26](#)) confirmed that, in light of the Supreme Court's case law and TEAC's decisions, the capitalization reserve constitutes a right for the taxpayer rather than a tax option, insofar as the provision does not set out alternatives for the taxpayer to elect, nor does it contain different and mutually exclusive legal regimes.

Losses generated by the dissolution and liquidation of an investee are deductible

Directorate General for Taxes. [Resolution V0552-26 of March 10, 2026](#)

The DGT analyzed the treatment of losses arising from the liquidation of a subsidiary with which the parent company also held various receivables, where the liquidation resulted in zero tax liability.

According to the DGT, if the impairment losses on the receivables had not previously been deductible (because the subsidiary had entered insolvency proceedings and the liquidation phase had been opened), the loss arising from the definitive write-off of those receivables would be deductible (article 20 of the Corporate Income Tax Law).

Furthermore, pursuant to article 21.8 of the law, the loss arising from the dissolution of the investee is deductible in the tax period in which the dissolution takes place, reduced by the amount of exempt dividends received in the previous ten years.

Improving the efficiency of dividend distributions within the group qualifies as a valid economic reason for applying the tax neutrality regime to a merger

Directorate General for Taxes Resolutions [V0263-26, of February 9, 2026](#) and [V0644-26, of March 20, 2026](#)

The DGT (resolution [V0263-26](#)) found that an upstream merger, in which an intermediate subholding company whose sole function is to channel the dividends of the operating


subsidiaries is absorbed, can benefit from the tax neutrality regime. It explained in particular that eliminating inefficiencies derived from the existence of an intermediate tier (avoiding duplications in dividend distributions and potential tax and financing costs) qualifies as a valid economic reason.

Along the same lines, the DGT (resolution [V0644-26](#)) concluded that, for the purposes of applying the neutrality regime, there is a valid economic reason in a downstream merger in which a subsidiary (whose assets consist exclusively of financial investments and which does not carry on an economic activity) absorbs its parent (holding entity). The DGT specifically pointed out that the aims of simplifying the corporate structure, reducing administrative costs and improving transparency are valid.

The tax credit base for in-kind gifts of impaired assets is their net book value after deducting the impairment loss

Directorate General for Taxes. [Resolution V0359-26 of February 19, 2026](#)

The DGT noted that the tax credit base for in-kind gifts is the book value of the assets at the time they are transferred, understood as the net amount at which inventories are recorded on the balance sheet, after deducting any provisions for impairment that may have been recognized.



Personal income tax

Indemnification for latent defects paid by the seller reduces the property's transfer value for calculating the capital gain

Directorate General for Taxes [Resolution V0732-26 of March 30, 2026](#)

The submitter transferred a property and then signed a private agreement with the purchaser, to whom indemnification was paid for hidden defects in the property. The DGT pointed out that this indemnification will affect determination of the capital gain or loss resulting from the transfer, operating as a reduction to the sale price, within the meaning of article 1,486 of the Civil Code. For that purpose, evidence must be provided of the existence of hidden defects and their matching the amount paid using any means of proof accepted by law. The assessment of that evidence falls within the powers of the tax management and audit bodies.

Indemnification for loss of profits due to delay in reinstating an employee on leave is not exempt from personal income tax

Supreme Court. [Judgment of March 10, 2026](#)

The Supreme Court examined the scope of the exemption under article 7.d) of the Personal Income Tax Law in respect of indemnification paid in respect of third party liability for personal injury, in the amount legally or judicially recognized. It concluded that this exemption does not apply to indemnification paid by an employer to an employee in compliance with a judgment issued by the labor courts where the amount is determined by reference to wages not received over a given period as a result of the employer's failure to reinstate the employee

in their position following a period of leave of absence. According to the court, this indemnification is intended to cover a loss of earnings of an economic nature and does not aim to indemnify for personal injury, whether physical, psychological, or moral, which are the only types of damage falling within the scope of the exemption.

The existence of recurring losses does not preclude classification as an economic activity

Madrid High Court. [Judgment of November 26, 2025](#)

The tax authorities denied the existence of an economic activity due to finding recurring losses and a reduced volume of revenues, which led them to reject deduction of the expenses reported by the taxpayer.

The court pointed out, however, that the existence of losses - even if prolonged over time - does not in itself preclude classification as an economic activity. The decisive factor for these purposes is the organization of material and human resources used to perform the activity.

Contributions to employee welfare plans require an employment relationship and cannot benefit shareholders or directors with an exclusively commercial (independent contractor) relationship

Directorate General for Taxes. [Resolution V0618-26 of March 17, 2026](#)

The DGT recalled that pension obligations can only relate to personnel with an employment

relationship. Therefore, contributions cannot be made for the benefit of majority shareholders that perform management and administration duties, or directors with an exclusively commercial (independent contractor) relationship. Accordingly, only the individuals who have an employment relationship are entitled to a reduction for this type of contributions in their taxable income subject to personal income tax.

The value audited by the autonomous community for transfer tax purposes forms part of the acquisition value when calculating the capital gain

Directorate General for Taxes. [Resolution V0570-26 of March 11, 2026](#)

The submitter acquired a residential property, and paid the relevant amount for transfer and stamp tax purposes. Subsequently, the autonomous community reviewed the declared value and determined a higher value, so it issued an additional tax assessment. Applying the case law of the Supreme Court, the DGT pointed out that in the event of audits of reported values for transfer tax purposes, the audited value will be deemed the actual acquisition value for determining the capital gain or loss for personal income tax purposes.

The transfer of energy saving rights through an Energy Saving Certificate Agreement generates a capital gain not subject to withholding

Directorate General for Taxes. [Resolution V0478-26 of March 2, 2026](#)

The DGT has concluded that the consideration received for the assignment of energy saving rights constitutes a capital gain that must be included in the savings component of taxable income and is not subject to withholding. The capital gain must be calculated as the difference between the transfer price and the acquisition cost. The latter must consist solely of any expenses incurred in the procedure for obtaining those rights, excluding any amounts

paid for the installation of air heat systems, as these will form part of the acquisition value of the property as a capital improvement.

No two-year generation period for extraordinary remuneration agreed ex novo, even if it remunerates services provided over that period

Directorate General for Taxes. [Resolution V0206-26 of February 4, 2026](#)

The board of directors of an entity decided to grant extraordinary remuneration to several employees for work performed in connection with a contract over several prior fiscal years (more than two). The DGT determined that the right to the remuneration arises ex novo with the decision, and that its receipt is not linked to the passage of a period exceeding two years. Nor can it be classified as multiyear income, as this type of remuneration is not included among the cases established by regulations. Consequently, the 30% reduction for multiyear income does not apply.

The acquisition value of shares awarded to an employee is their market value at the time of the award, regardless of the application of the personal income tax exemption

Directorate General for Taxes. [Resolution V0207-26 of February 4, 2026](#)

The submitter participates in a program run by the group where they work, under which employees can acquire shares at a reference price (through payroll deductions) and also receive free shares based on those acquired.

The DGT concluded that the sale of these shares triggers a capital gain or loss.

In the case of shares received for no consideration, their acquisition value is the normal market value at the time of award (i.e. their quoted market price), regardless of whether the initial award was taxed as

employment income in kind or was totally or partially exempt.

As regards the shares acquired through payroll deductions, their acquisition value is the actual amount paid plus any expenses inherent to the acquisition.

Custody fees for precious metals are not deductible as expenses for the administration and custody of marketable securities

Directorate General for Taxes. [Resolution V0210-26 of February 4, 2026](#)

The submitter asked whether the custody of precious metals can be equated to the custody of shares or investment funds for the purposes of deducting administration and custody expenses for marketable securities under article 26.1.a) of the Personal Income Tax Law. The DGT stated that precious metals (such as gold) do not qualify as marketable securities and, therefore, the expenses arising from their custody are not deductible.



Indirect taxes and customs duties

The design of labels also counts as a packaging cost for determining the customs value

Court of Justice of the European Union.
[Judgment of March 26, 2026 \(case C-307/23\)](#)

The CJEU analyzed a case involving labels designed in Germany on the European purchaser's account and provided free of charge, in electronic format, to suppliers from third countries for their printing and placement on cans. The key issue was to determine whether those costs should be treated as "design work" carried out within the EU (and, therefore, excluded from the customs value) or as costs linked to the "packaging" of the goods.

The court chose this second interpretation and determined that the labels form a functional and commercial part of the package, since they provide essential information for the sale and use of the product, even if they are not necessary for the physical production of the canned food. In conclusion, the costs of these intangible services must be added to the customs value pursuant to article 32.1.a).(ii) of the former Community Customs Code (similar to the current article 71.1.a).(ii) of the Union Customs Code), even where the design work was carried out within the territory of the Union.

The taxable person has two avenues for reducing the amount of VAT charged, irrespective of the nature of the original payment

Central Economic-Administrative Tribunal
[Decision of March 24, 2026](#)

Based on the case law of the Supreme Court, TEAC has revised its previous position and

concluded that the taxpayer has two avenues available to correct the output VAT charged in excess, irrespective of the fact that the original payment was not incorrect:

- a. Initiate a procedure for correction of the original self-assessment to include the VAT accrued and charged that is to be corrected.
- b. Adjust the corrected output VAT by including it in the self-assessment for the period in which the correcting invoice is issued, or in subsequent periods, up to a maximum period of one year from the date that the correcting invoice was issued.

Intra-group transfers of shares by mixed holdings fall within the distinct sector of financial activity

Supreme Court. [Judgment of March 11, 2026](#)

The Supreme Court confirmed that, in the case of mixed holding companies to which the distinct sectors regime applies, intra-group transfers of shares form part of the distinct sector of financial activity and are not ancillary to the management support activity, in accordance with the criteria derived from the case law of the CJEU. However, the chamber acknowledged in abstract terms that these share transfers can be excluded from the calculation of the deductible proportion where they qualify as an independent economic unit within the meaning of article 7.1 of the VAT Law.

For application of 10% VAT to child and youth protection services the activities must belong to programs addressed to effectively or potentially vulnerable individuals

Supreme Court. [Judgment of March 19, 2026](#)

The Supreme Court has held that sports programs for children and young people under the age of 25 conducted by a private entity cannot be taxed at the 10% reduced rate established for child and youth protection services, because they do not constitute “social care” services.

According to the Court, in order to apply the reduced rate, consideration must be given to the type of recipient and to the specific objectives pursued by the providers and their social commitment. In the examined case, it was a purely private activity of providing sports programs for children and young people, separate from any protective purpose related to situations of vulnerability, need or deprivation.

Purchase and sale of virtual “gold” in a video game is not exempt from VAT nor does it qualify as a “voucher”

Court of Justice of the European Union. [Judgment of March 5, 2026 \(case C-472/24\)](#)

The CJEU was asked whether the purchase and sale of virtual currency used in an online video game (RuneScape “gold”) could fall within the VAT exemption for transactions concerning non-traditional currencies under article 20.1.18.j) of the Spanish VAT Law (article 135(1)(e) of the VAT Directive) or, alternatively, whether it could be classified as a “multi-purpose voucher” (article 30(a) of the Directive).


The CJEU concluded that the “gold” cannot be equated to a currency because it is not accepted as a means of payment outside the game environment and its function is confined to that virtual ecosystem. According to the Court, it cannot be classified as a “voucher” either, given that it constitutes, in itself, a consumable electronic service rather than an instrument conferring a right to a subsequent benefit.

Consequently, the transactions are subject to VAT pursuant to the rules established for electronic services.

The CJEU confirmed that a member state can require certain ancillary supplies to be treated separately from hotel accommodation services for the purpose of applying the standard VAT rate, even where a single price is charged

Court of Justice of the European Union. [Judgment of March 5, 2026 \(joined cases C-409/24 to C-411/24\)](#)

The CJEU concluded that the VAT Directive does not preclude national legislation (in the case analyzed, German legislation) which requires that certain ancillary supplies (such as breakfast, parking, wifi, fitness and wellness services) be excluded from the reduced rate applicable to short-term accommodation and be subject instead to the standard rate, even where they are supplied for a single lump-sum price. According to the Court, where the Member State has exercised its authority to single out specific aspects within a category listed in Annex III of the VAT Directive, the fact that the elements constitute a single supply (from the perspective of the average consumer) is not, in itself, decisive.



Local taxes

The “installed capacity” for the purposes of the tax on economic activities must include that relating to the equipment for manufacturing pharmaceuticals

Central Economic-Administrative Tribunal. Decisions of [February 27](#) and [March 24](#), 2026

According to TEAC, the computation of the “installed capacity” tax element for the tax on economic activities in relation to the manufacturing activity of a pharmaceutical laboratory must include the capacity of all the equipment involved directly in the production process, which owe their existence to needs imposed by legislation for the correct manufacture of pharmaceutical products.

It is possible to charge a local fee for the removal of urban solid waste and another for the treatment of that waste

Directorate General for Taxes. [Resolution V0165-26 of January 29, 2026](#)

The DGT confirmed that the tax authorities can charge simultaneously (i) a local fee for supplying the public service of urban solid waste removal and (ii) another local fee for the treatment of that waste, provided the tax ordinance defines, for each fee, a distinct taxable event for the supply of each of those services.

The tax authorities cannot notify the assessment of the municipal capital gains tax before the end of the tax return period

Directorate General for Taxes. [Resolution 0001-26 of January 22, 2026](#)

The DGT concluded that if the system established in a tax ordinance for management of the municipal capital gains tax is based on the reporting and assessment of the tax, the taxpayer must file a return within the time limit established by the law (30 business days in inter vivos transactions and 6 months, which can be extended to a year, in mortis causa transactions) and the tax authorities cannot issue and notify the relevant tax assessment until that period has run.

Other news

Urgent tax measures have been approved for damage caused by the DANA and other emergencies

[Royal Decree-law 10/2026, of April 28, 2026](#), approving urgent tax measures and other support measures in response to the damage caused to victims of DANA related events and other emergency situations, was published in the Official State Gazette (BOE) on April 29, 2026. The main new tax legislation is summarized below.

- **No tax on support granted by the Valencia Autonomous Community in connection with the DANA:** with effect from October 29, 2024, any such support granted by the Valencia Autonomous Community to persons affected by the DANA does not have to be included in the taxable income subject to personal income tax or corporate income tax.
- **No tax on support granted by not-for-profit entities due to the DANA:** with effect from October 29, 2024, the amounts paid between October 29, 2024 and December 31, 2025, by the private not-for-profit entities referred to in Law 49/2002, of December 23, 2002, intended to compensate for personal injury and material damage to the homes, household goods and vehicles of the individuals affected by the DANA, are exempt from personal income tax. The exemption is limited to the damage suffered or to repair or replacement costs.
- **No tax on support granted as a result of forest fires and other civil protection emergencies:** since August 26, 2025, the support for personal injury set out in the Council of Ministers' Decision delivered on that date – declaring the territory affected by forest fires and other civil protection emergencies occurring between June 23 and August 25 2025 as an 'area seriously affected by a civil protection emergency' – is exempt from personal income tax.
- **No tax on indemnification paid to victims of sexual abuse:** with effect from April 30, 2026, and also applicable to earlier fiscal years in the statute of limitations period, the following are exempt from personal income tax: (i) amounts paid by the Catholic Church to victims of sexual abuse in accordance with the General Protocol for Action signed on March 30, 2026; and (ii) any other amounts paid by the Church under its own compensation schemes and programs.

Moreover, clarifications are included in relation to the following measures approved by Royal Decree-law 7/2026, of March 20, 2026 (summarized in our [publication dated March 23, 2026](#)). Among others:

- In relation to the reduction to zero, until June 30, 2026, of the partial refund rate for professional diesel, it is provided that, if in April the variation in the fuel CPI does not exceed the CPI for the same month in the previous year by more than 15%, the refund rate applicable in June 2026 will be €49 per 1,000 liters.
- The 10% reduced VAT rate on electricity supplies will apply to consumers with contracted power of 10 kW or less.

Further information:
Tax

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