

GARRIGUES

# Tax Newsletter

December 2025 - January 2026

In our Tax Newsletter, we regularly compile and summarize the most significant new developments in this area (judgments, decisions by the economic-administrative tribunals and the Directorate-General of Taxes, legislation, and other new developments).



### Noteworthy judgment

## If an EU-resident recipient of a royalty is not its beneficial owner, the reduced withholding rate under the tax treaty cannot be applied either



**According to the Supreme Court, if the payments fall within the scope of the Royalty Directive and the exemption does not apply because the recipient is not the “beneficial owner”, the withholding must be made by applying the rate of the domestic legislation and not that of the relevant tax treaty.**

Article 14.1.m) of the Revised Nonresident Income Tax Law regulates an exemption for Spanish-source royalties where certain requirements are met. Basically, (i) the paying and receiving companies must be subject to and not exempt from one of the taxes mentioned in [Council Directive 2003/49/EC of June 3, 2003](#), and must take one of the forms provided for in that directive, (ii) both entities must be tax resident in the EU and not considered resident in a third country for the purposes of a tax treaty concluded with that third country; (iii) the entities must be associated (within the meaning of the Directive itself); and (iv) the recipient must receive the royalties for its own benefit and not as a mere intermediary or authorized agent of another person or entity. This domestic exemption transposes into Spanish law the exemption established in the above-mentioned directive.

In this context, in its [judgment of January 12, 2026](#), the Supreme Court analyzed a case in which a Spanish entity belonging to a multinational group pays royalties to a group entity that is tax resident in the Netherlands and acts as a manager in the collection of royalties. The assets that generate the right to these royalties are owned by a second entity also incorporated in the Netherlands but resident in Curaçao. Specifically, it analyzes whether “after ruling out the applicability of the exemption provided for in article 14.1.m) of the Revised Nonresident Income Tax Law (which transposes Council Directive 2003/49/EC of June 3, 2003, on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States) and given the existence of a tax treaty that provides for a specific regime for the disputed income, the withholding rate must be that provided for in that tax treaty or that contained in the domestic legislation regulating the tax.”

The Supreme Court concluded that, based on the principle of the primacy of EU law, where the payment falls within the scope of the directive but the exemption is not applicable because the recipient is not the beneficial owner, it is not possible to refer to the relevant tax treaty either (in this case, article 12 of the Spain-Netherlands tax treaty) to determine the applicable withholding rate, but rather to the domestic legislation (given that it fully transposes the directive, which establishes a comprehensive and priority regime for interest and royalty payments between associated companies of EU Member States). Therefore, the applicable withholding tax will be 24% (in the year analyzed, 24.75%) and not 6%.

## Tax procedure

### The existence of contradictory decisions in enforcement of secondary liability proceedings violates the right to a fair trial

European Court of Human Rights. [Judgment of December 18, 2025](#)

This judgment originates from various enforcement of secondary liability proceedings initiated by the Spanish Tax Agency against the insolvency managers of a company, who had authorized payments that unduly reduced the company's assets, which were necessary to meet its tax debts. The three insolvency managers challenged this secondary liability before the National Appellate Court in substantially identical proceedings, but two of them obtained favorable judgments that significantly limited the liability attributed to them, while the third (the applicant before the ECHR) had his appeal dismissed in its entirety, without the court explaining why it ruled differently or responding to submissions relevant to determining the scope of his liability. For this reason, the ECHR concluded that the right to a fair trial established in article 6.1 of the European Convention on Human Rights had been violated.

### The tax authorities have the burden of proving the date on which they receive the decisions that they appeal

Supreme Court. [Judgment of December 12, 2025](#)

The Supreme Court concluded that, for the purposes of filing the appeal provided for in article 241 of the General Taxation Law, the public authorities must use communication systems that offer certainty as to the date on which the decisions of the economic-

administrative tribunals are notified to them, and reliable proof of such notification must be included in the case file.

Accordingly, where the timeliness of an appeal filed by the tax authorities is questioned, the burden of proof regarding notification of the contested decision will lie with both the court that issued it and the appealing authorities. If there was no formal notification, the *pro actione* principle cannot be applied in favor of the authorities, as this would compromise legal certainty and the right of the interested party to the finality of a favorable decision.

### The penalty regime of Form 720, declared contrary to EU law, does not give rise to financial liability on the part of the legislating State

Supreme Court. [Judgment of December 11, 2025](#)

The Supreme Court held that the legislating State is not financially liable for the application of the penalty regime for the information return on assets and rights abroad (Form 720), despite the fact that it was declared contrary to EU law by the CJEU judgment of January 27, 2022 (C-788/19) ([alert of January 27, 2022](#)).

The court affirmed that the essential requirement of a sufficiently characterized infringement, which is indispensable for enforcing financial liability against the State, was not met. In particular, it underscored that (i) the incompatibility of the provision with EU law was not evident or manifest, (ii) there was room for state discretion in matters of non-harmonized direct taxes, (iii) the issue was of considerable legal complexity, and (iv) there was no established European case law at the time the provision was adopted. The court

further added that the Spanish legislature acted diligently, reacting quickly after the CJEU ruling.

### **The tax inspectors may correct uncontested assessments where there is a duly justified error of interpretation or application of the law**

Supreme Court. [Judgment of December 11, 2025](#)

The Supreme Court clarified the scope of article 156.3.d) of the General Taxation Law and confirmed that the body that is competent to issue the assessment may rectify the proposal contained in an assessment signed on an uncontested basis where it notices an error in the application of the legal provisions. The court emphasized that assessments signed on an uncontested basis are only binding on the taxpayer with respect to the facts that the taxpayer declares and accepts, but do not condition the legal assessment that the tax authorities must make. In the specific case analyzed, the court concluded that the legal procedure or method applicable to the valuation of transferred shares, even if it results in a specific amount, does not constitute a purely factual matter or a proven fact, but rather a legal matter that can be reviewed.

### **It is not possible for a tax audit of reported values to yield different results for co-owners of the same property**

Supreme Court. [Judgment of December 9, 2025](#)

The Supreme Court concluded that the same asset acquired by several co-owners cannot be valued differently in different valuation procedures. Therefore, even if one of the co-owners consented to the result of an audit of reported values and it became final, the tax authorities must modify the value resulting from that audit if a subsequent management procedure regarding the same taxable event and another co-owner has concluded with a different and lower value.

### **The TEAC agrees that late-payment interest on refunds arising from the unconstitutionality of Royal Decree-Law 2/2016 must be calculated from the date on which the prepayments were made**

Central Economic-Administrative Tribunal. [Decision of November 25, 2025](#)

The TEAC changed its position and adopted the case law of the Supreme Court derived from its [judgment of May 13, 2024 \(June 2024 newsletter\)](#), concluding that the amounts paid over in accordance with a provision declared unconstitutional (specifically, Royal Decree-Law 2/2016) are considered incorrectly paid tax. Therefore, together with the interest accrued between the date on which the prepayments were made and the date of their refund, the tax authorities must pay interest on that amount (late-payment interest) from the date on which the incorrect tax payment was made until the date on which they proceed to pay it.

### **The unjustified rejection of exculpatory evidence in tax penalty proceedings violates fundamental rights and renders the penalty null and void**

Supreme Court. [Judgment of November 24, 2025](#)

The tax authorities relied, for the purpose of imposing the penalty, on evidence obtained in response to a request for information under article 93 of the General Taxation Law, without giving the interested party the opportunity to contradict the exculpatory evidence obtained from the request. The Supreme Court concluded that the fact that the body competent to impose the penalty did not expressly rule on the request for exculpatory evidence sought by the interested party in the proceedings, without justifying or giving reasons for the rejection or refusal of its examination, constitutes grounds for the invalidity of the penalty decision. The penalty thus imposed violated the fundamental right to use relevant evidence for the defense

and the presumption of innocence under article 24.2 of the Constitution and is therefore null and void, without the possibility of rectification.

### **A review of the case file is not necessary to settle suspensive interest**

Central Economic-Administrative Tribunal.  
[Decision of November 13, 2025](#)

The TEAC concluded that the settlement of suspensive late-payment interest generated by the suspension of payment of a debt while the tax assessment is being challenged does not require the step of review of the case file or of the filing of submissions by the taxpayer, given that such settlement is an act strictly linked to the enforcement of administrative decisions, regulated by article 66 of the Administrative Review Regulations, which does not provide for the need for such step.

### **The tax authorities may apply the methodology of the wealth tax to value shares for the purpose of setting the limit on the scope of joint and several liability under article 42.2 a) of the General Taxation Law**

Central Economic-Administrative Tribunal.  
[Decision of November 13, 2025](#)

A taxpayer was declared jointly and severally liable for the payment of tax debts for having contributed to concealing the assets of the principal debtor (article 42.2 a) of the General Taxation Law). In such cases, the amount that can be claimed from the taxpayer is the lesser of (i) the value of the assets or rights that could have been attached or sold and (ii) the amount of the resulting debt.

The TEAC concluded that, in order to determine the scope of this joint and several liability when the concealed or transferred assets are shares not admitted to trading, the tax authorities may value such shares by applying the rule provided for in the Wealth Tax Law, provided that they justify that this method reflects the market value at the time of concealment and without

prejudice to the right of the interested party to request a second expert appraisal. However, the TEAC clarified that this rule cannot be applied automatically, as its original purpose is not to determine such market value. Therefore, it is up to the tax authorities to justify its suitability.

### **Invoices required by law may be used in penalty proceedings without violating the right against self-incrimination**

Supreme Court. Judgments of December [4](#) and [10](#), 2025

The Supreme Court confirmed that the fundamental right against self-incrimination does not prevent the tax authorities from requesting, in a tax penalty proceeding, the invoices that the taxpayer is legally obliged to keep. According to the court, the right against self-incrimination in penalty proceedings only includes (i) the right not to answer questions from which the commission of the offense can be directly inferred and (ii) the right not to provide documents or other evidence that could harm the defense, where their existence depends on the will of the taxpayer.

### **A claim resulting from enforcement of secondary liability under article 42.2.b) of the General Taxation Law must receive the same insolvency classification as the original claim**

Supreme Court. [Judgment of November 4, 2025](#)

The Supreme Court concluded that joint and several liability for failure to comply with attachment orders under article 42.2.b) of the General Taxation Law does not constitute a tax penalty, but rather liability of a compensatory nature limited to the damage caused. For this reason, the claim derived under the aforementioned article cannot be classified as subordinate in the insolvency proceeding pursuant to article 92.4 of the Insolvency Law, but rather must receive the same insolvency

classification as the claim that triggered the secondary enforcement of liability.

### **Regulations governing electronic proceedings before the DGT and economic-administrative claims and appeals**

The Official State Gazette of December 1 and 2, 2025, published [Order HAC/1358/2025, of November 20, 2025](#) and [Order HAC/1361/2025, of November 20, 2025](#), which establish that, for electronic proceedings before the DGT and for the filing, processing, and resolution of claims and appeals in economic-administrative proceedings, the rules governing the Tax Agency will apply, unless specific regulations exist in this regard. Specifically, these rules will apply to (i) the evidencing of representation, powers of attorney, and their registration, (ii) the rules on notifications by electronic means, including the notification system, and (iii) electronic seals, the secure verification code, and signatures using this code. In addition, standardized and voluntary forms are approved for the formulation of queries, the evidencing of representation, and the submission of applications, claims, appeals, and others.

### **The criteria for communicating the non-application of ZEC tax incentives are regulated**

On December 2, 2025 [Decision of November 17, 2025](#) was published, regarding Circular 1/2025 of October 28, of the Governing Council, which introduces clearer and more up-to-date criteria for communicating the non-application of ZEC tax incentives, in accordance with article 48.4 of the Regulations implementing Law 19/1994. This communication must be made when it has not been possible to comply with the requirements of article 31 of Law 19/1994 and must be based on objective reasons beyond the control of the entity, particularly in events of force majeure. The communication period will begin when these events become known and, in any case, within the first seven months after the end of the fiscal year concerned

## Corporate income tax and nonresident income tax

### The application of the leveling reserve is a taxpayer's right and not a tax option

Central Economic-Administrative Tribunal.  
[Decision of December 18, 2025](#)

The TEAC applied the case law of the Supreme Court and concluded that the reduction in the tax base resulting from the recording of the leveling reserve is a taxpayer's right, as the tax law does not give an alternative to choose between different and mutually exclusive tax regimes. Therefore, the right to apply this benefit may be exercised at any time within four years after the self-assessment was filed, with the possibility of modifying what was originally reported.

### The Constitutional Court endorses the minimum corporate income tax prepayment, as it considers that it does not violate the ability-to-pay principle

Constitutional Court. Judgments of [November 20](#) and [December 16, 2025](#)

The Constitutional Court has dismissed the issue of unconstitutionality raised with regard to additional provision 14 of the Corporate Income Tax Law and has held that the method of calculating the minimum prepayment (in general, 23% of the positive accounting result) does not violate the ability-to-pay principle in article 31.1 of the Constitution. The court considered that the accounting result is a real and valid indicator of the ability to pay, which is sufficient to justify prepayments, despite not including off-balance sheet adjustments or the offset of tax losses.

The judgment emphasized that prepayments are autonomous and provisional obligations, in which the ability-to-pay principle operates with less intensity, allowing the legislature ample leeway to configure these advance payments. It also rejected the idea that the system involves systematic taxation on fictitious income or that it generates a disconnect between the advance payment base and the final tax base that is contrary to the Constitution. Finally, it considered it legitimate that the full personalization of the tax burden be deferred until the final assessment of the tax.

The judgment included the dissenting opinion of five of the eleven judges, who concluded that the minimum prepayment violates the ability-to-pay principle.

### Group trusts exempt from taxation in the US under Rev Ruling 81-100 can only invoke the benefits of the tax treaty if they meet the requirements of the limitation on benefits clause

Central Economic-Administrative Tribunal.  
Decisions of [July 17](#) and [October 20, 2025](#)

A US group trust exempt from taxation in the US under Rev Ruling 81-100 requested a refund of the difference between the Spanish withholding rate (19%) applied to the distribution of dividends from Spanish entities and the rate applicable under the Spain-US tax treaty (article 10 - 15%), on the basis that it was considered an exempt pension fund in the US, was not fiscally transparent, and was resident in that state for the purposes of the tax treaty. The entity provided a certificate of tax residence in that state, without specifying its ultimate beneficiaries. The income accrued before the

entry into force of the new protocol to the tax treaty signed between the two countries, i.e., before November 27, 2019.

The TEAC concluded that, in order to apply the benefits of the tax treaty in force prior to the entry into force of the protocol in cases where an organization is exempt from tax, it is necessary to prove that more than half of its beneficiaries, members, or participants are entitled to the benefits of the tax treaty (article 17.1.d)), which has not happened in this case, and therefore the status of beneficial owner of the income received by the group trust for the application of the reduced rate has not been sufficiently proven.

It should be recalled, however, that the current wording of article 17 of the tax treaty differs from that analyzed by the TEAC in cases such as this and, therefore, the applicability of this position to income accrued after the entry into force of the protocol will require an interpretation of the current limitation on benefits clause of that treaty.

### **Nonresident insurers can calculate their tax in Spain by deducting the provision for share in financial income**

Supreme Court. Judgments of [November 17](#) and December [4](#), [9](#), [10](#) and 11, 2025 (appeals [5203/2023](#) and [7741/2023](#))

The Supreme Court confirmed that, in order to avoid discrimination contrary to the free movement of capital, insurance companies resident in other EU Member States that only make financial investments in Spain (on which they obtain capital gains without a permanent establishment) may consider, for the purposes of the deductibility of expenses provided for in article 24.6 of the revised Nonresident Income Tax Law, that those relating to technical provisions for profit sharing are deductible, provided that the direct relationship between such expenses and the income obtained in

Spain is evidenced. Our [publication of December 18, 2025](#) analyzes these judgments in greater detail.

### **Spanish subsidiaries of groups with parent companies in another Member State are not required to prepare, approve, and publish the Public CbC**

Spanish Accounting and Audit Institute (ICAC). [Ruling 5, of January 19, 2026, of Spanish Accounting and Audit Institute Gazette \(BOICAC\) No. 144/December 2025-5](#)

A Spanish-resident company is part of a multinational group whose parent company is resident for tax purposes in Italy. The group has exceeded the threshold of €750 million in consolidated revenue during the previous two fiscal years, which triggers the obligation to prepare and publish the corporate income tax report in accordance with Directive (EU) 2021/2101 (Public CbC). The Italian parent company will prepare the report in accordance with Italian law, which establishes a deadline of 12 months from the end of the fiscal year, while Spanish law sets a deadline of six months. The Spanish subsidiary asked whether it could claim an exemption from publication where the report is published by the Italian parent company outside the Spanish deadline, whether it would be in formal breach if it followed the parent company's calendar, and whether it could submit its financial statements to the Commercial Registry without any problems without first publishing the country-by-country report.

The ICAC concluded that the obligation to prepare the report generally lies with the ultimate parent company of the group. In the case in question, the company obliged to do so is the parent company resident in Italy, and therefore the preparation, approval, publication, and deadlines for the report will be governed by the Italian regulations that have incorporated the directive, not by the Spanish regulations.



## Personal income tax

### The courts rule on the depreciation of leased properties

Central Economic-Administrative Tribunal. [Decision of December 18, 2025](#); and Supreme Court. [Judgment of November 20, 2025](#)

The Personal Income Tax Law establishes that the net income derived from the leasing of properties may be reduced by the amounts allocated to their depreciation and that relate to their actual decline in value. The regulations establish that this actual loss in value requirement is met where, in each year, it does not exceed 3% of the greater of the acquisition cost and the cadastral value (excluding land). In addition, the regulations establish that, in the subsequent transfer of the property, the acquisition value must be reduced by the minimum depreciation, which will be that resulting from the maximum depreciation period or the corresponding fixed percentage, as applicable. In relation to these rules:

- a. The TEAC has concluded that the annual depreciation of 3% to determine income from immovable capital can only be applied until the acquisition value of the property, excluding land, is reached. In other words, once this maximum amount has been reached, it will no longer be possible to depreciate the asset for tax purposes.
- b. The Supreme Court concluded that the minimum depreciation that must reduce the acquisition value in the transfer of previously leased properties may be less than 3% of the value of the structure, when this lower percentage relates to the actual and effective decline in value of the property. In the absence of specific regulations on the calculation of the minimum depreciation in the Personal Income Tax Law or its regulations, the

court accepts the use of technical depreciation methods appropriate to the actual useful life of the property, such as those provided for in article 12 of the Corporate Income Tax Law or in the Order of March 27, 1998.

### In order to refute an unjustified capital gain, its origin and the legal transaction through which the asset or right was acquired must be evidenced

Supreme Court. Judgments of November 27, 2025, appeals [5514/2023](#) and [2028/2023](#)

Article 39 of the Personal Income Tax Law establishes that assets, rights, or income the possession or acquisition of which does not correspond to the income or capital reported by the taxpayer are unjustified capital gains, imposing on the taxpayer the burden of proving their origin to avoid their inclusion in the general component of taxable income.

The Supreme Court established that, in order to refute the classification of a capital gain as unjustified, the taxpayer must prove the origin or source of the assets, i.e., (i) where they originate from (by identifying the means of transfer of the assets or rights), (ii) from whom they originate (by identifying the person who transferred them), and (iii) why they are transferred (by evidencing the legal transaction by which the ownership of the assets and rights was transferred).

## The remuneration of the guarantor of a company in which the guarantor is a shareholder constitutes income from movable capital in the general component of taxable income

Supreme Court. Judgments of November [19](#) and [20](#), 2025

The Supreme Court has ruled that remuneration received by an individual acting as guarantor for a company in which the guarantor is a shareholder, within the context of a financial assistance agreement not provided for in the law, must be classified as income from movable capital under article 25.4 of the Personal Income Tax Law and therefore be included in the general, rather than the savings, component of taxable income. According to the court, this type of agreement does not fall under article 25.2 of the Personal Income Tax Law (transfer of own capital to third parties), since the guarantor's assets are not transferred or assigned to the company, but rather continue to be owned by and available to the guarantor, being encumbered solely as security vis-à-vis third parties. Furthermore, it underscored that, in this case, the configuration of the agreement reinforces its non-legislated nature, since the guarantor can assess the viability of the financial transaction in advance before assuming the risk.

## The legal obligation to be included in the RETA is sufficient for the income of professional partners to be classified as income from economic activity

Supreme Court. [Judgment of November 12, 2025](#)

Article 27 of the Personal Income Tax Law establishes that the income of professional partners is classified as income from economic activity if certain requirements are met, including that the taxpayer "is included" in the special social security regime for self-employed workers or independent contractors ("RETA") or under an alternative welfare mutual insurance society.

The Supreme Court concluded that this classification does not require formal registration with the RETA. It is sufficient that, according to the social security classification rules, the partner should be included in that regime. In other words, the "inclusion" referred to in the law is material or legal and derives from the social security classification rules, while formal registration under article 307 of the General Social Security Law is merely declaratory in nature and failure to do so constitutes an administrative infringement, but does not alter the nature of the income.

## Aid to persons affected by railway accidents will be exempt from personal income tax

The Official State Gazette of January 28, 2026, published [Royal Decree-Law 1/2026](#), of January 27, 2026, on aid to victims of the railway accidents in Adamuz (Córdoba) and Gélida (Barcelona). This specific aid, which is supplementary to other indemnities, is expressly declared exempt from personal income tax.



## Indirect taxes and customs duties

### The activities of a credit intermediary may be exempt, even if the credit intermediary does not have the power to act on behalf of the bank or influence the terms of offers

EU General Court. Judgment of [November 26, 2025](#)

The General Court concluded that the activities of a credit intermediary consisting of searching for and canvassing customers for mortgage loans, assisting in preparatory work, and channeling communication with credit institutions (being remunerated based on the amount of the agreements actually concluded) are covered by the “negotiation of credit” exemption in article 135(1)(b) of Directive 2006/112/EC, even though the credit intermediary has no power to act on behalf of the bank, does not influence the terms of the offers, and customers remain completely free to conclude agreements and choose a bank. In other words, even if certain isolated acts of the intermediary are physical, technical, or administrative, if the services, taken as a whole, are intended to facilitate the conclusion of agreements, we are dealing with a VAT-exempt service consisting of the “negotiation of credit”.

The fact that the remuneration depends on the actual conclusion and volume of the transaction may also indicate that the purpose of the service as a whole is to facilitate the conclusion of the agreement. The court also emphasized that the exemption does not require influence on the terms of the agreement or representative authority, nor is it affected by the customer’s freedom to conclude a credit agreement or choose a credit institution.

### The cost of labels supplied free of charge must be added to the customs value

Central Economic-Administrative Tribunal. [Decision of November 17, 2025](#)

It analyzed whether certain costs incurred by an importer should be included in the customs value of the imported goods (articles 70 and 71 of the Union Customs Code); and, specifically, whether the labels supplied free of charge by the buyer to its manufacturers, the costs of technical controls at source carried out by third parties (safety, environment, and quality), and the costs arising from corporate social responsibility (CSR) audits and controls required of suppliers constitute components of the goods, payments as a condition of sale, or simple internal costs.

The court concluded that the cost of the labels should be added to the customs value, as they are components supplied free of charge by the buyer that are incorporated into the goods. On the contrary, the costs of technical and CSR controls should not be added to that value, as they do not constitute a condition of sale or a payment to the seller, but rather voluntary actions by the buyer to ensure quality, regulatory compliance, and supplier selection.

### Failure to register with the SII prevents the deduction of input VAT

Central Economic-Administrative Tribunal. [Decision of October 27, 2025](#)

The TEAC analyzed whether an entity can deduct input VAT that, at the start of an inspection proceeding, was not recorded in the book of invoices received that the entity kept

through the Immediate Information Sharing System (“SII”) and concluded that this possibility was not permitted. However, it clarified that this approach would not be applicable to deferred import VAT not recorded in the SII, since, in this case, the complete adjustment principle applies and there is no risk of loss of revenue for the Public Finance Authority. Nonetheless, the court set aside the penalty imposed on the entity for having deducted input VAT not recorded in the SII, as it did not consider there to be sufficient fault, highlighting that there is a specific penalty regime for these formal breaches of the SII.

### **The entry into force of Veri\*factu is delayed**


The Official State Gazette of December 3, 2025, published [Royal Decree-Law 15/2025, of December 2, 2025](#) (validated by the [Decision of December 11, 2025](#), published on December 16, 2025), postponing until 2027 the entry into force of the obligations imposed by the Veri\*factu Regulations. For further details, see our [publication dated December 3, 2025](#).

### **Form 319 is approved, VAT forms are amended, and a register of reliable operators for VAT purposes is created for certain fuels that leave the non-customs warehousing regime, as well as the guarantee form**

Orders [HAC/1495/2025](#), [HAC/1496/2025](#), and [HAC/1497/2025](#), all dated December 17, 2025, were published in the Official State Gazette on December 22, 2025. These orders regulate the creation and maintenance of the register of reliable operators and approve form 319 (for interim VAT payments on supplies of gasoline, diesel, and biofuels after discharge of the non-customs warehousing regime) and the requirements and aspects corresponding to the guarantees referred to in section eleven of the schedule to the VAT Law, on the supply of certain fuels that leave the non-customs warehousing regime (in addition to the corresponding guarantee form).

To enable the deduction of this interim payment in the corresponding self-assessment form

including the subsequent guaranteed taxable and non-exempt supply, the Official State Gazette of January 26, 2026, published [Order HAC/27/2026 of January 22, 2026](#), amending VAT forms 303, 322, and 353 and the annual summary (form 390).



## Local taxes

### **The G+B coefficient cannot be applied in the cadastral valuation of a property built under a concession for the provision of a public service of residence and day center**

National Appellate Court. [Judgment of November 25, 2025](#)

The National Appellate Court confirmed that the G+B coefficient is not applicable in the cadastral valuation of a property built under an administrative concession for use as a public residence and day center, based on the case law of the Supreme Court set out in its judgments of February 25, 2021, and April 10, 2024 (newsletters of [March 2021](#) and [April 2024](#)). The National Appellate Court based its decision on the fact that, according to the documentation in the case, the property was not built for sale, but rather for the provision of a public service.

### **The amendment to an ordinance relating to the tax on economic activities is set aside due to a failure to state the reasons that led to the alteration of the location multipliers**

Castilla-La Mancha High Court. [Judgment of November 10, 2025](#)

The Castilla-La Mancha High Court has set aside an amendment to an ordinance relating to the tax on economic activities due to a failure to

state the reasons for an amendment to the location multipliers applicable in the municipality for calculating the tax charge. According to the court, the report adopted by the municipal council prior to amending the ordinance lacked a sufficient explanation to enable taxpayers to understand the actual reasons for changing aforementioned multipliers.

### **The activity of licensing the right to operate a franchise is understood to be carried out for tax on economic activities purposes at the premises where the license is managed by the franchisor**

Central Economic-Administrative Tribunal. [Decision of October 27, 2025](#)

The TEAC concluded that the franchising activity of licensing the right to operate a franchise is understood to be carried out at the premises from which the licensing of the use of the trademark is managed and not at the premises where each franchisee carries out their activity; and that the heading for the tax on economic activity rates will be 859, "Rental of other movable property, n.e.c.".

## The economic activities taxation of companies that sell their products through corners or stands in establishments owned by third parties is analyzed

Central Economic-Administrative Tribunal. Decisions [441/2025](#) and [3246/2025](#) of October 27, 2025

The TEAC stated that, in order to determine the tax on economic activities heading applicable to the activity carried out by companies that have corners or stands in establishments owned by other entities, a distinction must be made between (i) cases in which the entity that has the corner or stand sells its products directly to the end customer (in which case the economic activity of that entity must be classified as “retail trade” for tax on economic activities purposes); (ii) from those in which they are sold to the entity that provides the space where the corner or stand is located, in which case the activity will be classified as “wholesale trade”.

## Delegation of powers in census management and inspection of the tax on economic activities

The Official State Gazette of December 24, 2025, published [Order HAC/1508/2025, of December 17, 2025](#), on the delegation of census management of the tax on economic activities, and [Order HAC/1509/2025, of December 17, 2025](#), on the delegation of inspection of the tax on economic activities.

## The tax rate applicable in the final assessment of the ICIO is that in force at the start of the construction, installation or works

Valencia High Court. [Judgment of July 11, 2025](#)

The Valencia High Court concluded that the tax rate applicable in the final assessment of the tax on construction, installation projects and works (“ICIO”) is that in force on the date of commencement of the works, as this is when the tax falls due, and not that which is established when the works are completed. It should be recalled, however, that this is an issue that has been raised on several occasions at the high courts of justice and on which there are contradictory rulings.

## Other news

### The average sale prices for 2026 of certain modes of transport for the purpose of auditing values have been published

The Official State Gazette of December 23, 2025 published [Order HAC/1501/2025, of December 17, 2025](#), approving the applicable average sale prices in the management of transfer and stamp tax, inheritance and gift tax and the special tax on certain modes of transport.

### Numerous tax forms are approved and amended

The Official State Gazette on December 12, 2025 published [Order HAC/1430/2025, of December 3, 2025](#), amending the orders approving the following information forms, with effect on returns relating to fiscal year 2025 (except for form 195, which must be used from January 1, 2026):

- **Form 182**, for gifts, donations, and contributions received.
  - **Form 184**, annual return on flow-through entities.
  - **Form 193**, annual summary on personal income tax withholdings on certain types of income from movable capital and corporate income tax and nonresident income tax withholdings (permanent establishments) on certain types of income.
  - **Form 195**, quarterly return on accounts and transactions in which holders have not provided the taxpayer identification number (TIN) to credit institutions by the established deadline; and Form 199, annual return identifying transactions with checks from credit institutions.
  - **Form 282**, annual information return on aid received under the Canary Islands economic and tax regime (REF) and other State aid, deriving from the application of EU law.
  - **Form 289**, annual information return on financial accounts in the field of mutual assistance.
  - **Form 345**, annual return on participants and contributions in relation to plans, pension funds and alternative systems, welfare mutual insurance societies, insured provident plans, individual systematic savings plans, employee welfare plans, and long-term care insurance.
- The same Official State Gazette published [Order HAC/1431/2025, of December 3, 2025](#), amending the following forms (with effect for returns for fiscal year 2025 and following years):
- **Form 190**, annual summary of personal income tax withholdings (introducing a new field to report on carried interest to which the tax regime provided for in Additional Provision 53 of the Personal Income Tax Law applies).
  - **Form 347**, transactions with third parties.
  - **Form 270**, annual summary of withholdings in respect of the special tax on prizes from certain lotteries and bets.
- Previously, on December 9, 2025, the Official State Gazette published [Order HAC/1413/2025, of November 28, 2025](#), amending Form 780, for self-assessment of the tax on the interest and fee income for certain

financial institutions, and Form 781, for prepayments of that tax, to incorporate the corresponding references to the Economic Accord between the Central Government and the Autonomous Community of Navarra.

### Implementation of the objective assessment method for personal income tax purposes and the simplified special VAT scheme for 2026

The Official State Gazette of December 11, 2025 published [Order HAC/1425/2025, of December 9, 2025](#), implementing for 2026 the personal income tax objective assessment method and the simplified special VAT scheme.

### New Sustainable Mobility Law published

On December 4, 2025, [Law 9/2025 of December 3, 2025, on Sustainable Mobility](#), was published. For further details on its tax-related changes, see our [publication dated December 5, 2025](#).

### Clarification note on Bizum payments

Royal Decree 253/2025, of April 1, 2025 (summarized in our [April 2025 tax newsletter](#)) introduced a new obligation to provide information on transactions carried out by traders or professionals who are members of the collection management system through payments associated with mobile phone numbers (Bizum). This obligation is fulfilled by submitting on a monthly basis the new form 170 approved by Order HAC/747/2025, of June 27, 2025 ([June – August 2025 tax newsletter](#)).

On December 15, 2025, the State Tax Agency issued an [information note](#) clarifying that this information covers the accumulated monthly billings, carried out through Bizum, by traders and professionals established in Spain and not Bizum transactions between individuals.

### The royal decree-law of December 2025, with urgent measures on energy efficiency, is not validated

The Official State Gazette of December 24, 2025, published [Royal Decree-Law 16/2025, of December 23, 2025](#), proposing, inter alia, to extend certain measures to address situations of social vulnerability and adopting urgent tax- and social security-related measures. In the tax area, among other measures, the royal-decree law extended personal income tax credits for energy efficiency improvement works in homes and for the purchase of plug-in electric and fuel cell vehicles and charging points, in addition to extending the possibility of freely amortizing for corporate tax purposes investments that use energy from renewable sources and investments in certain vehicles and charging points. These and other measures were summarized in the [publication dated December 26, 2025](#).

However, **this piece of legislation was not ultimately validated**, as indicated in the [Decision of January 27, 2026](#), published in the Official State Gazette of January 28, 2026. On February 4, 2026, [Royal Decree-Law 2/2026 of February 3, 2026](#), was published, which basically replicates the same new tax developments and is currently pending validation.

For further information:

Tax

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