

GARRIGUES

Tax Newsletter

February 2026

In this newsletter we provide a regular roundup of the main new developments in tax law (legislation, judgments, decisions by the economic-administrative tribunals and resolutions by the Directorate-General of Taxes, among others) in Spain.



Featured decisions

Examination of new administrative principles on conflicts in the application of tax provisions and sham transactions



Although the Supreme Court has already concluded that the “classification,” “conflict in the application of tax provisions,” and “sham transaction” rules are not interchangeable, TEAC held recently that a sham transaction proceeding can be initiated in relation to a transaction meeting the requirements set out in the General Taxation Law (LGT) for a conflict.

In a [judgment dated July 2, 2020 \(appeal 1429/2018\)](#), the Supreme Court examined in detail the “classification,” “conflict in the application of tax provisions,” and “sham transactions” rules set out in articles 13, 15, and 16 of the General Taxation Law (LGT). As we summarized in our [publication dated September 28, 2020](#), according to the court (i) the **classification** rule allows the legal nature of the taxable event that actually occurred to be established, regardless of the form given by the parties, (ii) the **conflict in the application of tax provisions** rule requires avoidance of the taxable event through artificial transactions, if they have irrelevant legal or economic (but not tax) consequences; and, (iii) under the **sham transaction** rule, the taxable event is the one actually carried out by the parties. The main significance of this judgment is that the court concluded that these rules cannot be interchanged. One or the other must be applied (and the relevant procedure implemented) depending on the circumstances of each case.

By contrast, in its [decision of January 28, 2026](#), TEAC appears to allow a specific transaction to be classified as a sham even though, strictly speaking, the elements characteristic of a conflict in the application of tax provisions are present. The examined transaction involved an individual resident in the United Kingdom, who was a 60% shareholder in a Spanish resident entity (company A) and transferred their ownership interest in that company A to a second entity (company B) resident in Cyprus. Immediately after this transfer, company A distributed a dividend, on which no tax was withheld as allowed by applying the Cyprus-Spain tax treaty. Tax auditors took the view that the transfer of shares from company A to company B, resident in Cyprus, was carried out to secure application of a more favorable treaty and was therefore deemed to be a sham transaction.

TEAC pointed out that the sham transaction and conflict in the application of tax provisions rules are general anti-abuse clauses created by the legislature for the correct application of tax laws, although it added that, although they share the same purpose, they have different meanings and scopes, and therefore are not interchangeable, which requires the tax authorities to determine which anti-abuse rule should be applied in each case. Based on that analysis, it examined whether the existence of artificiality in legal transactions, together with the only purpose of obtaining lower taxation, preclude the existence

of a sham transaction because these elements characterize a conflict in the application of tax provisions. It concluded that a sham transaction may involve either the appearance of a non-existent transaction (absolute sham) or the presentation of a transaction other than that actually carried out (relative sham). Consequently, the existence of artificiality and an exclusively tax-related purpose do not, in the court's view, in themselves preclude the finding of a sham transaction. The determining factor is a potential discrepancy between the parties' actual intentions and their stated intentions, which must be assessed as a question of fact and for in each specific case, based on its circumstances.

In new reports published on conflicts in the application of tax provisions ([20](#), [20 bis](#), [20 ter](#), and [20 quater](#)) in February 2026, the Consultative Committee on Conflicts in the Application of Tax Provisions finds that transactions to purchase treasury shares (which are taxed as income subject to personal income tax for the shareholders, reduced by the applicable reduction coefficients), followed by a subsequent capital reduction, may amount to a conflict in the application of tax provisions. The committee said that the formal splitting of the transaction into two phases (first, the company's acquisition of its own shares, and then, the capital reduction with repayment of contributions) is an artificial "detour." In this context, the "usual or proper" transaction is a capital reduction with repayment of contributions, in which the obtained income must be classified as income from movable capital.



Tax procedure

To deny exemption for interest or dividends paid to nonresidents, the tax authorities must prove abuse

Central Economic-Administrative Tribunal. Decisions of [November 25, 2025](#), and [January 27, 2026](#)

The Nonresident Income Tax Law contains an exemption for interest (article 14.1.c) and another for dividends (article 14.1.h) paid to nonresidents. The tax authorities have been rejecting these exemptions where the recipient is not their beneficial owner.

In these decisions, TEAC points out that (under the principle established by the Supreme Court in a [judgment dated June 8, 2023](#)) the general principle of EU law prohibiting abusive practices always prevails, even if there is no express transposition into domestic law (as happens with interest in the Spanish legislation). However, the mere fact that the beneficial owner of the income is an entity located outside the EU does not in itself imply the existence of abuse and therefore is not sufficient on its own to deny the exemption. It underlined that the burden of proving the existence of abuse lies with the tax authorities and therefore in the absence of sufficient evidence to show the existence of an artificial structure or misuse of the rules, the exemption cannot be denied.

TEAC adopts the Supreme Court's principle and prohibits a "third shot" by the tax authorities

Central Economic-Administrative Tribunal. [Decision of January 23, 2026](#)

TEAC has adopted the Supreme Court's case law adopted in judgments dated [September 29](#)

([publication dated October 21, 2025](#), [November 17](#), and [December 11, 2025](#)), and concluded

that, where an assessment is set aside for any reason the tax authorities only have a second chance to issue a new administrative measure.

The "two shot" rule is not valid where assessments are issued to different taxpayers

Supreme Court. [Judgment of January 14, 2026](#)

A city council issued a tax assessment to a taxpayer and subsequently set it aside because the taxpayer was a different entity. This second entity appealed and obtained a favorable judgment. Later, the city council issued another assessment to the first taxpayer. The Supreme Court concluded that the tax authorities cannot issue a second assessment to the same taxpayer in respect of the same item where the first was set aside by a final and binding decision in the taxpayer's favor issued by the tax authorities themselves, which has not been declared harmful or null and void. According to the court, the "two shot" rule only applies within the same proceeding and with respect to the same taxpayer where the first assessment was set aside in an administrative or judicial procedure and did not become final. It does not, however, allow the correction of errors in separate proceedings and in relation to different taxpayers, nor does it allow the effects of a final favorable decision to be neutralized by taking action against third parties.

Tax authorities' access to bank data without a clear legal framework and without independent control violates the ECHR

European Court of Human Rights. [Judgment of January 08, 2026](#)

The European Court of Human Rights has concluded that access by the Italian tax authorities to taxpayers' banking data (including accounts, transactions, and financial transactions) violates article 8 of the European Convention on Human Rights (ECHR). Although the law allows such access, the court found that it grants overly broad discretion to the tax authorities by failing to specify the exact circumstances that must exist to justify this measure and by not requiring specific reasons. It noted further that authorization to access banking data generally comes from higher ranks within the tax authorities themselves, without the involvement of an independent or judicial body. Accordingly, it urged Italy to amend its legislation and administrative practice to establish clear criteria for accessing bank data and to ensure a genuine and effective system of judicial review.

The requirement for a cash bond to stay a refund of state aid is consistent with EU law

Supreme Court. [Judgment of December 22, 2025](#)

In proceedings for the recovery of state aid, the enforcement of an assessment can only be stayed by posting a cash bond with the General Depository Agency (article 264 of the LGT). The Supreme Court confirmed that, although this requirement is an exception to the general rules on tax stays, it does not violate the principles of

equivalence and effectiveness in relation to interim remedies. The court emphasized that the cash bond secures immediate and effective recovery of the unlawful aid, which is an essential element under CJEU case law. It added that this special regime is compatible with EU law and that any possibility of a stay could even have been excluded without contravening EU law.

Value used in a final inheritance and gift tax assessment must be observed when calculating the subsequent capital gain for personal income tax purposes

National Appellate Court. [Judgment of December 10, 2025](#)

The tax authorities denied the reduction under article 20.6 of the Inheritance Tax Law for a gift of bare ownership of shares from a daughter to her mother, on the grounds that the reduction is intended for gifts to a spouse, descendants, or adopted children. In the relevant inheritance tax assessment, this reduction was removed, and the tax was calculated on the value of the shares reported in the inheritance tax self-assessment, which was not disputed. In a subsequent review of the giver's personal income tax, the exemption provided for this type of transfer of shares in family businesses was denied, and a capital gain was attributed, calculated by reference to a value for the shares higher than the value accepted in the inheritance tax assessment. A penalty was also imposed.

The National Appellate Court pointed out that, because the regional government's inheritance tax assessment is final, all its elements are binding on the tax authorities, including the value of the given assets, even for the purposes of assessing another tax.

Corporate income tax and nonresident income tax

DGT continues to confirm valid economic grounds in the context of corporate restructuring transactions

Directorate General for Taxes. See below for the reference numbers of the most recent rulings

The DGT has issued new resolutions analyzing the validity of a variety of grounds for applying the tax neutrality regime. Below are some examples of the economic grounds considered valid by the DGT:

Spin-offs (total and partial). Resolutions [V2104-25](#), [V2311-25](#), [V2318-25](#), [V1909-25](#), [V1827-25](#), [V1954-25](#), [V1956-25](#), [V1966-25](#), [V1983-25](#), [V2052-25](#), [V2268-25](#), [V2281-25](#), [V2294-25](#), [V1904-25](#), [V1897-25](#), and [V2272-25](#)

- Define and isolate the risks inherent to each economic activity, protect assets not used in the business, and safeguard real estate assets against operational risks.
- Provide each business unit with financial independence and optimize the financial structure of each line of business.
- Simplify succession planning, prevent corporate conflicts between shareholders and heirs, facilitate administration of independent testamentary bequests, and plan for orderly succession in the family business.
- Optimize the cost structure and reorganize assets to enable separate management by the various branches of the family.
- Restructure lines of business to achieve more efficient management, obtain a view of the profitability of each business unit

separately, and adapt production capacity to market demand.

- Achieve independence in the management of each activity, legally separate activities with different natures, and determine with precision the individual profitability of each line of business.
- Centralize leadership and management in a new holding company, exercise effective control over subsidiaries, implement uniform commercial policies, and optimize the distribution of funds through dividends.

Merger by absorption. Resolutions [V1989-25](#), [V2274-25](#), [V2277-25](#), [V2283-25](#), and [V1955-25](#)

- Simplify the group's structure, streamline the organizational structure, and restructure older holding companies with no economic or functional justification.
- Pool activities in a single entity, and unify the group's financial, material, and human resources.
- Reduce structural costs and formal obligations arising from maintaining multiple companies, along with removing duplication in administrative management.
- Optimize unified management by avoiding functional duplication, achieve more effective management, and improve overall profitability.
- Combine assets to improve solvency and debt ratios, strengthen the group's financial position, and enhance its reputation in the eyes of third parties and financial institutions.
- Consolidate the group's corporate image, facilitate centralized treasury

management, and plan the business succession process.

Share exchanges. Resolutions [V1965-25](#), [V1966-25](#), [V1825-25](#), and [V1827-25](#)

- Centralize the running and management of investee companies, exercise effective control over these entities, and unify management criteria, to achieve greater organizational efficiency.
- Implement uniform commercial policies, optimize the distribution of funds through dividends, and centralize financial capacity to further the group's activities.
- Reorganize the assets of the family business, separate economic activities, and streamline the family group's ownership structure.
- Unify the family group's shareholder policy, facilitate generational succession, and enable the expansion of business activities.

Nonmonetary contributions. Resolutions [V2143-25](#), [V1895-25](#), [V1896-25](#), [V2151-25](#), and [V2154-25](#)

- Achieve more dynamic and independent management, professionalize business leadership, create a unified and stable decision-making center, and create separate strategies for each line of business.
- Isolate the risks inherent to the various economic activities, protect the family's assets by carving out the capital allocated to the business, and separate personal assets from business assets.
- Strengthen the ability to obtain external financing, improve the entity's financial solvency, create economies of scale and operational synergies, and limit the owner's personal liability.
- Simplify succession transfer, facilitate generational handover, ensure the continuity of business operations, and preserve the integrity of the family's assets.

- Facilitate the incorporation of new shareholders or investors and establish a suitable corporate structure for professionalized management of investments.

Limit on use of transferred losses also applies in downstream mergers

Supreme Court. [Judgment of January 15, 2026](#)

The Supreme Court has held that the limit under article 90.3 of the Revised Corporate Income Tax Law (article 84.2 of the current law) in relation to the offset of tax losses in relation to mergers applies to tax losses generated by the acquiring company in downstream mergers, where the losses were used by the former shareholders, even though the provision only relates to the use of losses of the transferring (absorbed) entity. According to the court, the right to offset tax losses is not a natural right, instead it is a benefit conditioned by the law and its limits. A notable condition is the prohibition on double use where the losses have already been absorbed or used by previous shareholders. The legal form of the restructuring (direct or downstream merger) cannot be used to circumvent the purpose of the rules to prevent double use.

Renovation work performed by the tenant as payment in kind is recognized as income over the term of the lease agreement

Directorate General for Taxes. Resolution [V2645-25 of December 23, 2025](#)

Based on a report by the ICAC, the DGT has concluded that, from an economic standpoint, renovations carried out by a tenant on the leased property are treated as an advance payment in kind of the price of the lease. The lessor must recognize an increase in value of fixed assets due to the renovation work performed and a liability in respect of deferred revenue, which must be written down and recognized as revenue as the lease payments become due and payable over the term of the agreement. The revenue must be included in the corporate income tax base for the fiscal year

in which it is recognized for accounting purposes.

An amendment to the bylaws creating classes of shares with different economic and voting rights is treated as a taxable share exchange

Directorate General for Taxes. Resolution [V2319-25 of December 1, 2025](#)

According to the DGT, the replacement of the original shares in an entity with others having different economic and noneconomic rights results in a capital gain/loss for each shareholder, which is treated as a share exchange for the purposes of article 17.4 of the Corporate Income Tax Law. Consequently, each shareholder must include in their taxable income the difference between the market value of the original shares and their tax basis, although the exemption for the avoidance of double taxation under article 21 of the law may apply in the hands of the shareholders. The tax basis of the newly acquired shares will be their market value.

Limit on offset of losses does not apply to income generated during the liquidation period in insolvency proceedings, even if formal dissolution occurs later

Directorate General for Taxes. Resolution [V2312-25 of November 27, 2025](#)

The DGT pointed out that the limit on the offset of losses does not apply in the period in which dissolution of the entity occurs. Reiterating the principle in Resolution V1255-23, it noted that, in line with the purpose of the rule, that limit does not apply either to income generated during the liquidation period in insolvency proceedings, even if formal dissolution occurs in a subsequent tax period due to circumstances beyond the entity's control.

A director or shareholder can meet the full-time employee requirement to apply the residential property leasing entity rules

Directorate General for Taxes. Resolution [V2227-25 of November 19, 2025](#)

The DGT pointed out that for property leasing to be regarded as an economic activity, the company must have at least one individual employed under an employment contract for full-time work. The type of employment contract is irrelevant for these purposes, provided that an employment contract exists as defined in the labor legislation and that it is for full-time work; it is irrelevant whether the person is a director or shareholder, provided that they receive an amount of remuneration separate from any amount they receive for their services as director. Therefore, under the special rules on entities engaged in residential property leasing, the activity requirement is deemed met even if the full-time employee is a shareholder or director.

The gain or loss on a transfer of real estate must be recognized in the fiscal year of the transaction if the risks and rewards are transferred, even if the transfer is formalized in a private document

Directorate General for Taxes. Resolution [V2116-25 of November 06, 2025](#)

According to the DGT, income obtained from the sale of real estate must be recognized, for corporate income tax purposes, in the fiscal year in which the risks and awards associated with the property are transferred, even if the sale is formalized in a private document and notarization is delayed for several fiscal years; the same applies to the tax on increase in urban land value, which becomes due and payable when the property is placed in the buyer's power and possession, in line with the theory of title and delivery set out in the Civil Code.

Accelerated depreciation allowance for electric vehicles only applies to new vehicles

Directorate General for Taxes. Resolution [V1791-25 of October 9, 2025](#)

An entity whose business is related to electric vehicles, including a website for the sale of used electric cars, is considering purchasing a used vehicle. The DGT pointed out that the accelerated depreciation rules applicable to this type of asset require the investment to be in new assets, which within the traditional meaning of the term refers to assets that are used or brought into operation for the first time, even if they are acquired from another company, provided that this other company has not used them. Therefore, the purchase of a used electric vehicle does not qualify for the accelerated depreciation incentive, although it may be eligible for the depreciation established for tangible fixed assets acquired second hand as defined in article 4.3 of the Corporate Income Tax Regulations.

Distinction between private and public sector pensions for nonresident income tax purposes does not relate to the entity paying them, but rather to whether the job was in the private or public sector

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

In accordance with the OECD Model Tax Convention for the avoidance of double taxation, private pensions are taxed in the recipient's country of residence. Conversely, public sector pensions are generally taxed in the payer's country, unless the recipient is a national and resident of the other country, in which case the taxing power lies with the country of residence.

TEAC concluded that, determining whether a pension is public or private, depends on the nature of the employment relationship to which the pension relates, that is, whether the job giving rise to the pension was performed for a

private entity or a public body. In the examined case, because the pension stems from work performed at the Spanish Embassy in Germany, TEAC classified it as a public sector pension. Consequently, it is taxed in the payer's country of residence (Spain) and it is subject to nonresident income tax.

Group trusts exempt from taxation in the U.S. under Rev. Ruling 81-100 can only invoke the benefits of the DTA if they meet the requirements of the LOB clause

Central Economic-Administrative Tribunal Decisions [00213/2023](#) and [07665/2022](#) of September 24, 2025

In our [December 2025–January 2026 newsletter](#), we discussed various decisions in which TEAC examined refund requests for withholding taxes filed by U.S. group trusts exempt from taxation in the U.S. under Rev. Ruling 81-100 and rejected them, stating that, to apply the benefits of the DTA between Spain and the U.S., it must be substantiated that more than half of its beneficiaries, members, or participants are entitled to the treaty's benefits (article 17.1.d). These decisions, however, referred to periods prior to the entry into force of the new protocol to the treaty (i.e., before November 27, 2019).

In new decisions, TEAC has kept the same conclusion for periods in which that protocol is already in force, although with some minor additions arising from the different wording of the limitation of benefits (LOB) clause under article 17 of the treaty. The tribunal concluded that to apply the benefits of the currently valid DTA in cases where an organization is tax-exempt, it needs to be substantiated (i) that the pension funds on whose behalf the group trust receives the income are eligible for the DTA; and (ii) that at least half the members or participants of the pension funds are individuals resident in either contracting state.

Update to the list of non-cooperative countries and territories for tax purposes

On February 17, 2026, the Council of the EU updated [the list of non-cooperative countries and territories for tax purposes](#). Turks and Caicos Islands and Viet Nam have been added while Fiji, Samoa, and Trinidad and Tobago have been removed.



Personal income tax

A mandatory transfer of plots to the local council in a land readjustment process does not give rise to a capital gain subject to personal income tax

Aragon High Court. [Judgment of January 14, 2026](#)

Under a land readjustment process individuals were required to transfer various plots of land for no consideration to the local council for which they would receive new plots arising from the readjustment. The tax authorities considered that this transaction gave rise to a capital gain subject to personal income tax. The Aragon High Court pointed out, however, that, under the urban planning rules, land readjustment is a real subrogation, meaning that the plots arising from the readjustment replace those contributed for all purposes, without any interruption to ownership. This circumstance precludes the existence of a change to assets for personal income tax purposes.

Exempt meal vouchers are not considered exempt income with progression

Directorate General for Taxes. Resolution [V2542-25 of December 18, 2025](#)

The DGT has concluded that meal vouchers meeting the regulatory requirements are treated as exempt income in kind, up to a daily limit of €11, although they are not classed as exempt income with progression, because the rules governing the exemption do not require the income to be counted to calculate the tax rate applicable to other income for the tax period.

A Spanish national working remotely may be eligible for the inbound expatriate regime, even if they do not hold a visa for international remote work

Directorate General for Taxes. Resolution [V2460-25 of December 11, 2025](#)

To apply the inbound expatriate regime, the reason for relocation to Spain must meet the tests provided in the legislation, including, among others, that the relocation must take place as a result of an employment contract. This requirement is considered to be met, among other cases, where the remote work is performed using exclusively certain types of technology, provided that the individual has a visa for international remote work. The DGT has noted, however, that a worker with dual Spanish and U.S. nationality who works for an American company with a remote working arrangement can apply the regime, even though they cannot apply for the visa, because they are a Spanish national. In these cases, the only requirements for the regime are (i) there must be an employment relationship with the employer, (ii) the work activities can be performed remotely through the exclusive use of computer, remote, and telecommunications technology, (iii) tax residence in Spain must be obtained as a result of the relocation and the individual must not have been resident in Spain in the preceding five tax periods; and (iv) no income must be received that could be deemed to have been obtained through a permanent establishment.

Provisions for bad debts with a maturity date over 6 months are deductible for personal income tax purposes, even if no collection efforts are made

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

Balearic Islands High Court pointed out that income from economic activities is determined for personal income tax purpose under the corporate income tax rules. Therefore, provisions for bad debts are generally deductible where the debt is over six months past due; and the taxpayer cannot be required to comply with any further requirement not set out in the rules, such as that a step must have been taken to collect the invoices. The burden of proving the taxpayer's actual intention not to collect the debt lies with the tax authorities.

Retained downpayments following failure of a sale must be recognized as a capital gain at the time of receipt, regardless of the existence of subsequent claims or litigation

National Appellate Court. [Judgment of November 18, 2025](#)

Following a breach of undertakings given in a number of sale agreements, the earnest money payments made by the purchaser under those agreements were retained. The seller did not report these earnest money payments as a capital gain on their personal income tax return because the purchaser contested the right to retain those amounts. The National Appellate Court concluded, however, that amounts received in respect of an earnest money payment are classed as a capital gain that must be reported in the tax period in which they are received, because at that point a real and quantifiable increase in assets occurs. The existence of subsequent litigation or claims does not alter this conclusion.

Amounts received in provisional enforcement of a judgment are not taxable until the decision becomes final

Directorate General for Taxes. Resolution [V2096-25 of November 6, 2025](#)

The submitter obtained a judgment from the Labor Court awarding him an amount of indemnification for lost earnings and another for a violation of fundamental rights arising from termination of his employment relationship. The company lodged an appeal against the judgment with the regional high court, although the taxpayer requested provisional enforcement of 50% of the amount. The DGT noted that a pending judicial decision means that any amounts received through provisional enforcement need not be reported until the judgment becomes final.

Dividends transferred to anyone other than the owner of the shares are subject to personal income tax for the owner and inheritance tax for the beneficiary

Directorate General for Taxes. Resolution [V2089-25 of November 5, 2025](#)

The submitter owns a majority stake in a limited liability company, although that company's bylaws stipulate that dividends must be distributed equally among the shareholders regardless of their ownership interests. The DGT noted that, where the amounts distributed to a shareholder are based on the generosity of other shareholders (i.e., where they do not relate to consideration for the supply of goods or services), the dividends must be attributed for personal income tax purposes to the owner of the shares, regardless of whether that shareholder subsequently transfers them for no consideration to another shareholder or uses them for any other purpose. Furthermore, the gift of the dividends to another shareholder would be classed as a taxable event for inheritance and gift tax purposes, in addition to the previous personal income tax liability for the transferor.

Nontransferable points granted to employees are not treated as income in kind until they are exchanged for goods or services

Directorate General for Taxes. Resolution [V1990-25 of October 21, 2025](#)

An entity implemented an incentive system in which it awards points to its employees based on the achievement of certain objectives, which can be redeemed for products and services showcased in a virtual catalog. After the points have been redeemed, the entity delivers the products or services to its employees. The DGT concluded that the simple fact of awarding non-transferable points does not give rise to an amount of earned income, instead the supply of goods or services obtained by redeeming the points gives rise to income in kind, which must be reported at their fair market value. These amounts of income are considered to arise when the points are redeemed; therefore, the multi-year income rules do not apply to them.

The per diem allowance system for mobile workplaces only applies where the workplace is relocated, not the employee

Directorate General for Taxes. Resolution [V1969-25 of October 17, 2025](#)

The personal income tax regulations contain exemption rules for per diem allowances, which determine a special case where the workplace is mobile or itinerant. The DGT has consistently applied the principle that the main difference between the general rules and the rules for mobile or itinerant workplaces lies in the fact that the general rules require the employee to travel outside the place where the workplace is located, as well as outside the employee's usual place of residence, whereas the rules for mobile or itinerant workplaces only require travel outside the usual place of residence.

In this new resolution, the DGT reiterated that the special rules apply only where the workplace itself is mobile, regardless of the mobile or itinerant nature of the activities.

Per diem allowances and indemnity payments that are not classed as salary are fully attachable

Directorate General for Taxes. Resolution [V1814-25 of October 13, 2025](#)

The submitted issue concerned whether the per diem allowances and non-salary indemnity payments received by an employee as part of their compensation are subject to the attachment limits established in article 607 of the Civil Procedure Law or whether they may be attached in full. The DGT pointed out that article 607 of the Civil Procedure Law stipulates the non-attachable amounts of wages, salaries, and pensions and the limits for their attachment, although it does not provide a definition of salary or specify which amounts are included; therefore, labor law must be applied. Under article 26 of the Workers' Statute, the following are not classed as salary: amounts received as indemnity payments or for the reimbursement of expenses incurred as a result of the work activity, social security benefits and allowances and indemnity payments in respect of transfers, suspensions or dismissals. Therefore, the attachment limits in article 607 of the Civil Procedure Law do not apply to payments relating to these items, which are therefore attachable without any limit. If employees receive amounts relating to different items on their paychecks, a distinction must be made between them when carrying out the attachment.

Renting out accommodation to students can benefit from the 60% reduction, even if the contract is for a term shorter than a year

Catalan TEAR. [Decision of October 03, 2025](#)

The Catalan TEAR has confirmed that renting out accommodation to university students can benefit from the 60% reduction under article 23.2 of the Personal Income Tax Law, on the basis that the primary purpose of the rented property is to meet the permanent housing needs of those students, regardless of the term of the rental agreement.

A full-time employee can engage in other activities outside their working hours without affecting the wealth tax exemption

Directorate General for Taxes. Resolution [V1815-25 of October 13, 2025](#)

For a company engaged in property leasing to be able to apply the family business exemption, it must have a full-time employee. In the case submitted for resolution, the worker is employed full-time but also provides services as director of a family business at weekends. The DGT concluded that these circumstances do not stop the worker fulfilling the requirements set out in the law. In other words, if there is an individual employed under an employment contract for full-time work and the minimum ownership and remunerated management functions requirements are met, the exemption may be applied. What matters, the DGT pointed out, is not so much the name of the position as whether the position involves functions relating to the administration, management, running, coordination and operating of the organization concerned.

Owners of interests in a foreign partnership without legal personality are subject to wealth tax on the underlying assets

Directorate General for Taxes. Resolution [V1824-25 of October 13, 2025](#)

The submitters, who are minors, will start to be tax resident in Spain in 2026 along with their mother. They have bare ownership of a Belgian partnership in which their father has a lifetime usufruct interest. The partnership does not have legal personality and owns a Belgian operating company in the real estate sector. The submitters' father provides management functions at the Belgian company, for which he receives remuneration, which is his primary source of income. It is planned for the company to hire their mother under a full-time employment contract to perform management functions at the company, for which she will receive remuneration that will be her sole source of income.

The DGT noted that, because the partnership does not have legal personality, it cannot be the owner of assets; therefore, legal ownership of the shares in the Belgian operating company is held directly by the submitters. Consequently, they must include their bare ownership interest in those shares on their tax returns, measured by reference to the valuation rules for wealth tax purposes. Regarding application of the family business exemption, the DGT noted that the management functions requirement is deemed to be met by the father, regardless of his tax residence. It would also be met if their mother were to perform these functions and receive the required remuneration, even if she does not hold a stake in the entity.

Property leasing is treated as an economic activity if it is managed using human and material resources centralized within the group

Supreme Court. Judgments of [February 17](#) and [February 19](#), 2026

Article 20.6 of the Inheritance and Gift Tax Law allows a 95% reduction to be applied in relation to "inter vivos" transfers of shares in family businesses, provided they are exempt from wealth tax, which requires, among other conditions, that the entity must carry on an economic activity. In the case of companies having property leasing as their corporate purpose, there must be at least one full-time employee.

The Supreme Court concluded that this requirement is deemed met where the investee company belongs to a group (article 42 of the Commercial Code) and it is substantiated that the leasing activity is organized with human and material resources effectively used for a group economic activity, even if they are centralized at other group companies. The court emphasized that the decisive factor is the substance of the organization of resources and the economic unit within the group, provided that the leasing company's activity functionally forms part of the group's activity.

The provisional transfer of inherited assets prior to the deed of acceptance does not give rise to gifts or excess distributions

Directorate General for Taxes. Resolution [V1967-25 of October 16, 2025](#)

The submitter's mother passed away, leaving money in a bank account and a property. The heirs opened a joint account into which they transferred the money and subsequently shared out the balance among them. They now wish to formalize the deed of inheritance so that one heir is awarded the property and part of the cash, and the other heir receives only cash. Since the first heir provisionally transferred an amount that was not ultimately allocated to them, that heir will return this amount to the joint account for it to be transferred to the other heir. It was asked whether these transfers are considered gifts and whether excess distributions exist.

The DGT stated that acceptance of the inheritance and its effects is valid retroactively from the time of the decedent's death, under article 989 of the Civil Code. Any transfers made by the heirs between the time of death and acceptance of the undistributed estate would have been made on a provisional basis. Therefore, the final distribution that will be recorded in a public deed will be deemed to have been made without any excess distribution and will not give rise to any other taxable events for inheritance and gift tax purposes.

Approval of the trading values in the fourth quarter of 2025 for traded securities

[Order HFP/132/2026 of February 24, 2026](#), published in the Official State Gazette (BOE) on February 27, 2026, approves the list of securities traded at trading venues, with their average trading value for the fourth quarter of 2025, for the purposes of (i) the 2025 wealth tax return and (ii) the annual information return on securities, insurance and income (Form 189).



Indirect taxes and customs duties

VAT on invoices received before filing the return is deductible

EU General Court. [Judgment of February 11, 2026](#)

The dispute concerned whether the Polish legislation (which required the invoice to have been received within the tax period in order to deduct input VAT for that same period) was compatible with the VAT Directive and with the principles of fiscal neutrality and proportionality.

The General Court made a distinction between substantive and formal requirements for the right to deduct VAT and noted that being in possession of the invoice cannot be a condition for the right arising, only for exercising it. It underlined that prohibiting the deduction where the taxable person holds the invoice when the return is filed (even if it was received after the period in which the tax was incurred) constitutes an undue time-related burden that violates the principle of VAT neutrality. It therefore ruled that articles 167, 168(a), and 178(a) of the VAT Directive, together with the principles of VAT neutrality and proportionality, preclude a national legislation that prevents the taxable person from exercising the right to deduct input VAT on the tax return for the period in which the substantive requirements are met, solely because they did not receive the invoice during that period, when in fact they received it before filing the return.

EIGs can provide “general” services without losing the exemption, provided that the services are necessary for the exempt activity

Court of Justice of the European Union. [Judgment of January 22, 2026](#)

The judgment examines whether the VAT exemption applies to independent groups of

individuals providing cleaning services to healthcare and educational institutions. The CJEU concluded that the European directive precludes any national legislation that imposes exclusivity requirements not set out in EU law. In this context, it determined that general services such as cleaning may be considered “directly necessary” for exempt activities where they are routine or essential (especially in sectors with strict hygiene requirements) and rejects the notion that a distortion of competition can be automatically presumed simply because the service may also be used in taxable activities.

Customs relief for low-value consignments is abolished, and a transitional €3 flat-rate duty per item is introduced

[Commission Regulation \(EU\) No. 2026/382 of 11 February 2026](#)

The Council of the EU has adopted Regulation (EU) 2026/382 of 11 February 2026, amending Regulation (EC) No 1186/2009 on customs relief, in order to eliminate, starting on July 1, 2026, the relief from import duties for goods imported into the EU with an intrinsic value not exceeding €150. This elimination responds to the sharp increase in e-commerce and the identification of abuses (in particular, undervaluing and artificially splitting consignments) in a context where the digitalization of customs no longer justifies maintaining this exemption for administrative reasons.

As a transitional measure, the regulation establishes that, between July 1, 2026, and July 1, 2028, a flat-rate customs duty will apply amounting to €3 per item contained in consignments with a total intrinsic value not exceeding €150. This simplified treatment will

apply to imports benefiting from the VAT exemption linked to the Import One-Stop Shop (IOSS) scheme and to goods in postal consignments. For all other operators, the Common Customs Tariff will continue to apply.

The regulation also includes periodical evaluation mechanisms to identify potential diversions of trade flows and to assess whether the Union's future customs IT infrastructure will allow this transitional regime to be replaced in the planned time frame.


Constitutionality of using “reference value” as the taxable amount for real estate transfers is upheld

Constitutional Court. [Judgment of February 12, 2026](#)

The Constitutional Court has confirmed that the reference value from the Cadaster is compatible with the ability-to-pay principle, from the standpoint that it taxes a source of financial capacity through an adequate measurement of the taxable wealth, and a reasonable connection exists between the taxable event and the taxable amount. Among other issues, the court emphasized the method (i) is based on the reality of the real estate market, (ii) is

customized using modules, coefficients, and cadastral characteristics specific to the property, and (iii) is expressly limited by market value. It added further that (iv) it allows for challenges and corrections in the administrative jurisdiction without requiring the taxpayer to go through judicial proceedings. Lastly, (v) it held to be justified the legislature's decision to replace the old and contentious “actual value” with an objective mechanism that simplifies management, increases legal certainty, and reduces the scope for disputes without sacrificing the ability-to-pay principle.

In the same vein, in its resolution [V1890-25, dated October 14, 2025](#), the DGT reiterated that in real estate transfers, the taxable amount for transfer tax under the transfers for a consideration heading is the reference value under the cadastral rules as of the date the tax becomes due and payable, unless the reported value, the agreed price, or both are higher, in which case the higher of these amounts must be taken. If it is considered that the reference value exceeds the sale price and is detrimental to the taxpayer's legitimate interests, a request for correction of the self-assessment can be made by challenging that value; however, this challenge does not exempt the taxpayer from completing the self-assessment based on the reference value.



Local taxes

Tax authorities must refund tax on economic activities for the period in which businesses were required to shut down due to Covid-19, even if the assessment is final

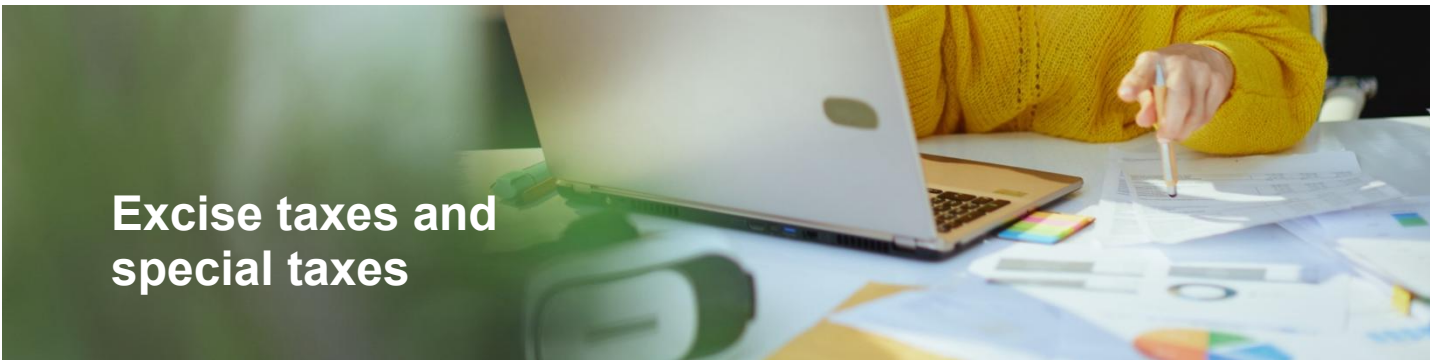
Supreme Court. Judgments of [January 21](#) and [January 26](#), 2026

The Supreme Court has concluded that the principle adopted in its judgments of May 30, 2023 ([May 2023 newsletter](#)) determining that the tax on economic activities liability should be reduced for the period in which businesses were required to shut down as a result of the state of emergency during the Covid-19 pandemic also allows a tax assessment for this tax to be set aside even if it was not appealed within the prescribed time limit. Therefore, regardless of whether the assessment has become final, the amount paid by the taxpayer must be refunded proportionately to the amount of time for which operations were shut down in 2020.

The value of machinery that is not associated with the urban planning permit, even if it is associated with the business and operating permit, does not form part of the taxable amount for the purposes of the tax on construction, installation projects and works

Directorate General for Taxes. Resolutions [V2440-25, of December 11](#) and [V2488-25, of December 15](#), 2025

A taxpayer is going to carry out renovations at a sports center which will involve changing technical infrastructure, furniture, and machinery, for which he obtained the relevant building or planning permit. Applying the case law of the Supreme Court, the DGT concluded that, for a specific item of machinery or infrastructure to be included in the taxable amount for the tax on construction, installation projects and works, it must be part of the project unit in question or be necessary for it to be completed; and it must serve to provide the construction, infrastructure, or project with essential services for its habitability or use. Furthermore, since the tax on construction, installation projects and works is only required for projects subject to a planning permit, the value of machinery or other items of infrastructure that are not associated with that permit should not form part of the taxable amount, even if they are associated with the operating permit.



Excise taxes and special taxes

Certificates expressing the amount of recycled plastic in packaging as a percentage are accepted

Directorate General for Taxes. Resolution [V2326-25 of December 02, 2025](#)

The taxable amount for the excise tax on non-reusable plastic packaging can be reduced by reference to the amount of recycled plastic contained in the products subject to the tax, which must be certified by an approved certification entity under the UNE-EN 15343:2008 standard "Plastics. Recycled Plastics - Plastics recycling traceability and assessment of conformity and recycled content" or any standards replacing them.

The DGT had previously found that these certificates must state the amount of recycled plastic in kilograms, because expressing it as a percentage was not sufficient. However, this resolution makes clear that there is still no reliable analytical technology for directly determining the recycled plastic content in a product that would allow for verification of the amount of recycled plastic in kilograms; therefore, that UNE-EN standard determines the recycled plastic content through the traceability of virgin and recycled materials, by expressing it as a percentage by mass. For that reason, the DGT has now concluded that certificates expressing the amount of recycled plastic contained in a product in percentage terms, provided that the quantity expressed in kilograms can be determined based on that percentage, must be accepted for the purposes of determining the taxable amount.

For the purposes of the excise tax on non-reusable plastic packaging, the reuse of packaging must be substantiated objectively, potential use is not sufficient

Directorate General for Taxes. Resolution [V2049-25 of November 04, 2025](#)

A company manufactures plastic bags, which are used by its customer to separate industrial components during the manufacturing process of a product and are reused at least 15 times through an externally provided recovery system.

The DGT pointed out that, for the purposes of the excise tax on non-reusable plastic packaging, plastic bags are classed as packaging, because they are designed to hold, protect, handle, distribute, and present goods; and established that to determine whether they are reusable, it must be considered whether they have been conceived, designed, and sold to undergo multiple cycles or processes over their life cycle, or to be refilled or reused for the same purpose for which they were designed. In other words, their reusable nature does not depend on the user's intentions or behavior, but rather on the objective design of the packaging. This condition may be substantiated using any legally admissible means of evidence, and it is up to the tax enforcement authorities to assess the sufficiency and validity of that evidence.

Analysis of the treatment of certain transactions involving virgin plastic packaging for the purposes of the excise tax on non-reusable plastic packaging

Directorate General for Taxes. Resolution [V2050-25 of November 04, 2025](#)

According to the DGT, virgin plastic packaging acquired through intra-Community acquisitions is non-reusable packaging falling within the scope of the excise tax on non-reusable plastic packaging, for which the purchaser is the taxable person and has the obligation to comply with the requirements under article 82 of Law 7/2022 (including self-assessment on Form 592 and registration on the territorial tax register), unless the total weight of non-recycled plastic does not exceed 5 kilograms per month. Additionally, an inventory ledger must be kept according to the established electronic format, which does not have to be filed in periods with no tax liability.

In relation to exported packaging, the exemption under article 75.d) of the law applies if the packaged good is sent outside the area where the tax applies before the time limit for filing the self-assessment. Otherwise, the reduction of due and payable amounts of the tax applies under article 80.1.a) of the law.

Lastly, the law does not provide any tax benefit for packaging that is collected by an authorized waste management operator after use.

The restoration of a mining pit with inert construction and demolition waste is not effectively subject to the tax on the disposal of waste

Directorate General for Taxes. Resolution [V2238-25 of November 24, 2025](#)

The DGT analyzed liability for the tax on the disposal of waste for a company engaged in the treatment and disposal of non-hazardous waste, which restores a mining pit by depositing inert waste from construction and demolition activities. It looked at two different scenarios:

- i. If the disposal site is not authorized as a landfill and the operation meets the requirements of article 13 of Royal Decree 105/2008 (prior declaration by the regional environmental authority, administrative authorization for the waste manager for recovery, and effective substitution of natural resources), the activity is classified as a recovery operation and is excluded from the taxable event, nor does it registration on the regional register.
- ii. If the operation is authorized as disposal in a landfill, the taxable event is deemed to have occurred, although the exemption under article 89(e) of Law 7/2022 may apply, provided that the waste is inert and suitable for restoration, conditioning, or backfilling works carried out at the same landfill for construction purposes, which can be substantiated through the basic characterization of the waste and authorization of the restoration plan. In the latter case, even if all operations are exempt, there is still an obligation to file quarterly self-assessments (Form 593) and to register with the territorial tax register.

The taxable amount for the special tax on certain means of transportation on used vehicles not included in the valuation tables is determined by reference to their market value

Directorate General for Taxes. Resolution [V2157-25 of November 13, 2025](#)

An individual is going to register an imported vehicle for the first time in Spain. Because of its age, the vehicle no longer appears on the valuation tables for used vehicles approved by the Ministry of Finance for the purposes of stamp and transfer tax and inheritance and gift tax. The DGT stated that, for used vehicles, the taxable amount for the special tax on certain means of transportation consists of their market value on the date the tax becomes due and payable. While taxpayers can use the valuation tables approved by the Ministry where the specific model appears on them, if the vehicle does not appear on those tables, the taxable amount must be calculated based on its market

value. The Law on excise and special taxes does not define “market value,” although by applying other tax laws, such as the VAT Law and the Corporate Income Tax Law, it may be defined as the value that would be agreed between independent parties on an arm’s length basis.

Correction self-assessment is introduced for the tax on fluorinated greenhouse gases

[Order HAC/56/2026 of January 22, 2026](#), published in the Official State Gazette (BOE) on February 5, 2026, introduces on Form 587 a self-assessment correction mechanism for the

tax on fluorinated greenhouse gases in tax periods beginning on or after July 1, 2026. Therefore, self-assessments for periods earlier than the third quarter of 2026 cannot be corrected using this system. This new correction system is established as the general procedure, except where the reason for the reported correction is a potential violation by the rule applied in the previous self-assessment of the provisions of another higher-ranking instrument — whether constitutional or under EU law, or an international treaty or agreement. In such cases, the correction can be made by filing a correction self-assessment or through the traditional procedure for requesting correction of self-assessments.



Other news

Tax measures approved in response to damage caused by adverse weather events

[Royal Decree-Law 5/2026, of February 17, 2026](#), published in the Official State Gazette (BOE) on February 19, 2026, adopts urgent measures in response to the damage caused by various adverse weather events in Andalucía and Extremadura. It determines the following tax benefits:

- a. Exemptions from 2026 real estate tax and tax on economic activities in the event of damage to real estate; and an exemption from 2026 real estate tax for rural properties used for agriculture or livestock, provided that the net income from agricultural activities in 2026 is at least 20% lower compared with the average for the previous three years in areas with natural or specific limitations, and 30% lower in other areas. Amounts already paid for these taxes in 2026 may be refunded.
- b. In relation to personal income tax, a reduction is provided in 2026 in the net income indexes referred to in [Order HAC/1425/2025 of December 9, 2025](#), in relation to agricultural operations and activities carried out in the affected area. Moreover, effective January 1, 2026, it amends the tax credit for earned income by raising the income limit to €20,048.45 (previously it was €18,276), provided that the taxpayer does not obtain income, excluding exempt income, other than earned income, exceeding €6,500.
- c. A direct support system is established for business owners and self-employed individuals whose economic activity has been affected in Andalucía and Extremadura. These types of support will be exempt from personal income tax and corporate income tax.
- d. Fees will be waived for issuing national ID cards, for processing removal from registration of damaged vehicles or for issuing duplicates of destroyed or lost vehicle registration certificates or driver's licenses; and the cadastral registration fee will be waived for issuing certificates relating to properties located in the municipalities listed in the annex to this order.

Repeal of the new royal decree-law on tax, commercial, and labor measures

[Royal Decree-Law 2/2026, of February 3, 2026](#), published in the Official State Gazette (BOE) on February 4, 2026, adopts urgent measures to address social vulnerability, in tax matters and relating to the resources of regional and local financing systems. Most of tax measures it contained replicated those already introduced by [Royal Decree-Law 16/2025](#) (not ratified, as indicated in the [Decision of January 27, 2026](#)). For further details, see our [publication dated February 4, 2026](#).

However, this royal decree has not been ratified either (see [publication dated March 2, 2026](#)).

Further information:
Tax

GARRIGUES

Follow us on:

in   **Blog**

Plaza de Colón, 2 - 28046 Madrid
T +34 91 514 52 00

info@garrigues.com

garrigues.com

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