

GARRIGUES

Tax Newsletter

March 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 news).



Key legislation

A review of the main tax measures introduced by the royal decree-law in response to the crisis in the Middle East



Following the repeal of the two previous royal decree-laws, the government pushes forward with tax measures aimed at lowering energy costs and other personal income and corporate income tax measures relating, among others, to the use of energy from renewable sources.

On March 21, 2026, the Official State Gazette (BOE) published [Royal Decree-Law 7/2026, of March 20, 2026](#), approving the Comprehensive Plan to Respond to the Crisis in the Middle East, which entered into force on March 22, 2026 and has been approved by the lower house of the Spanish parliament. The legislation contains tax measures, some of which were introduced in royal decree-laws [2/2026, of February 3, 2026](#) and [16/2025, of December 23, 2025](#), which were not ultimately approved.

In our [publication of March 23, 2026](#) (which, in turn, refers to the prior publications that covered the repealed royal decree-laws, as regards the provisions contained in all of them), we summarized all of these tax measures, including most notably the following:

- a. Measures relating to **personal income tax (tax credits)** and to **corporate income tax (accelerated depreciation)**, as applicable, to promote improvements in the energy efficiency of residential properties, the acquisition of plug-in electric and fuel-cell vehicles and charging points, and the installation of renewable self-consumption systems.
- b. A **temporary reduction** in the VAT rate (to 10%) applicable to (i) certain supplies of electricity; (ii) supplies, imports and intra-Community acquisitions of natural gas, briquettes, biomass pellets and firewood; and (iii) supplies of gasoline, diesel and biofuels intended for use as fuel; as well as a reduction in the **rate of the tax on oil and gas** applicable to diesel, unleaded gasoline, fuel oil, LPG, natural gas, kerosene for uses other than as fuel, biodiesel and bioethanol, and a reduction in the **electricity tax rate**.

In principle, this reduction in rates applies from March 22 to June 30, 2026, unless in April 2026 the change in the CPI for each category of goods (electricity, gas and fuels in the case of VAT; fuels in the case of the tax on oil and gas; and electricity in the case of the electricity tax) does not exceed the CPI for the same month in the previous year by more than 15%, in which case it will cease to apply in June 2026.

Several **reductions in the tax base of the tax on the value of electricity output** and in the amount of its prepayments are also established with effect for all of fiscal year 2026.

- c. A **transfer and stamp tax exemption** for transfers of energy savings under the Energy Saving Certificate System; and several changes in the area of local taxes, allowing, among others, tax ordinances to regulate **reductions in the real estate tax (IBI) and in the tax on construction, installation projects and works (ICIO)** for the installation of systems for the thermal or electrical use of ambient energy.

Furthermore, also with effect in the tax sphere (e.g., in the tax group regime), the new legislation re-establishes the accounting moratorium relating to the ground for winding-up due to losses regulated in article 363.1.e) of the Revised Capital Companies Law, which allows companies not to compute (for these purposes) losses from 2020 and 2021 until the close of the fiscal year that commences in 2026; and requires that the directors or shareholders call or request the holding of a shareholders' meeting (within two months following the close) to approve the winding-up in the event that, excluding such losses from 2020 and 2021, the result for fiscal years 2022, 2023, 2024, 2025 or 2026 consists of losses that reduce the net worth below one half of the share capital.

Lastly, it should be borne in mind that the State Tax Agency has posted on its website the [Note on the effects, in the tax sphere, of Royal Decree-Law 16/2025, of December 23, 2025 and of Royal Decree-Law 2/2026, of February 3, 2026](#).

According to the State Tax Agency, the date on which the **2025 personal income tax** fell due, the changes introduced by Royal Decree-Law 16/2025 were in force and fully effective from a legal standpoint. Therefore, the measures of this law apply in 2025 in relation to: (i) the imputation of income from real property, (ii) the extension of the tax credits for work to increase energy efficiency in residential properties regulated in sections 1 and 2 of additional provision fifty of the Personal Income Tax Law; (iii) the period for waiving and revoking the personal income tax objective assessment method (waivers and revocations submitted during the term of Royal Decree-Law 16/2025 and Royal Decree-Law 2/2026 being valid), and (iv) the exemptions for personal injury in forest fires and the aid approved by the Valencia Autonomous Community Government in Decree 172/2024, of November 26, 2024 and in Decree 176/2024, of December 3, 2024. **Regarding fiscal year 2026**, the limits for applying the objective assessment method in force in fiscal years 2016 to 2024 remain in place.

As relates to **2026 VAT**, the limits for applying the simplified and special VAT schemes for agriculture, livestock and fishing in force in fiscal years 2016 to 2024 are maintained.



Tax procedure

The document for obtaining consent for entry into a domicile during an inspection must give notice of the possibility of consent not being granted or being revoked at any time

Supreme Court. Judgments of [March 12](#) and [17, 2026](#)

The Supreme Court has confirmed that, for the consent of the owner or legal representative of a company to entry into the constitutionally protected domicile to be considered freely given on an informed basis, the document delivered to such person must expressly state that consent may be denied or even revoked at any time. If this requirement is not satisfied, any decisions issued in reliance upon evidence obtained as a result of the entry will be considered invalid, unless the authorities evidence by other means that consent was given freely, on an informed basis and in accordance with constitutional requirements.

The TEAC assumes that before enforcing secondary liability, the authorities must analyze the indications pointing to the possible existence of secondarily liable parties

Central Economic-Administrative Tribunal. Decisions of [December 12, 2025](#) and [January 29, 2026](#)

The TEAC adopted the principle determined by the Supreme Court in its [judgment of November 5, 2025](#) ([November 2025 newsletter](#)) according to which, where there are clear and relevant indications pointing to the possible existence of

secondarily liable parties, the authorities must investigate and verify such indications before enforcing secondary liability and must state the reasons for their decision if they ultimately disregard such indications.

Challenging collection management decisions does not toll the statute of limitations for declaring secondary liability

Central Economic-Administrative Tribunal. [Decision of January 29, 2026](#)

Article 67.2 of the General Taxation Law indicates that the statute of limitations period for declaring secondary liability starts running with the notification of the last collection step against the principal debtor or any secondarily liable party. On this basis, the TEAC clarified that this period is only tolled by steps aimed at collecting the debt, such as orders initiating enforced collection proceedings, attachments, offsets or the enforcement of guarantees. In contrast, appeals and claims do not toll it, as they are review rather than collection steps, unless there is a stay that prevents insolvency from being declared. In that case, the calculation of the period shifts to the moment when the debtor is declared unable to meet its debt obligations.

An application for a deferred payment after a previous denial does not have the effect of a stay and permits the enforcement period to commence

Central Economic-Administrative Tribunal. Decisions of [January 29, 2026](#) and [November 13, 2025](#)

The TEAC concluded that, according to the current wording of article 161.2 of the General Taxation Law (in force since July 11, 2021), the

submission of an application for deferred or split payment or offset within the new payment period that has opened after a previous application for deferred payment was denied does not prevent the enforcement period from commencing and does not have the effect of a stay, provided that both applications refer to the same debt.

Enforced collection orders cannot be used only to claim the enforcement surcharge

Central Economic-Administrative Tribunal. Decisions of January 29, 2026 [8915/2022](#) and [9597/2022](#)

Applying the principle determined by the Supreme Court in its [judgment of July 13, 2023 \(July - September 2023 newsletter\)](#), the TEAC concluded that enforced collection orders can only be used to trigger the enforced collection of outstanding debts and cannot be used only to claim the 5% enforcement surcharge where the debt was paid in full previously. The surcharge must be claimed using an assessment rather than an enforced collection order.

The TEAC clarifies its position on the accrual of interest on assessments issued after proceedings have been rolled back due to formal defects

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

Article 150.7 of the General Taxation Law (as worded since October 12, 2015) establishes that, where proceedings are ordered to be rolled back due to formal defects, late-payment interest will accrue from the date that would have corresponded to the invalidated assessment through to the date of the new assessment. The TEAC clarified that this accrual must be adjusted according to two rules: (i) during the period in which the invalidated assessment was stayed by means of a bond, the applicable interest is not late-payment interest, but rather statutory interest (article 26.6 of the General Taxation Law); and, moreover, (ii) interest will not be claimed for the period in which the TEAC exceeded the statutory period of one year to resolve the

economic-administrative (articles 26.4 and 240.2 of the General Taxation Law).

The Supreme Court sets out the criteria for assessing expert reports provided by the parties

Supreme Court. [Judgment of January 26, 2026](#)

The Supreme Court has set out certain criteria which, in accordance with the rules of healthy criticism, should guide the courts in assessing expert reports provided by the parties. Among others, (i) the qualifications and objectivity of the experts, (ii) the method used by the expert and its acceptance by the scientific or professional community to which the expert's specialized knowledge relates, (iii) the manner in which the subject matter of the expert report was examined and the spatial and temporal conditions under which it was conducted and (iv) the internal consistency of the report. According to the court, in any case, it is not a closed list and the court should bear in mind that the evidence taken in the proceeding should be assessed both separately and jointly with the other evidentiary activity that has been conducted.

Although it is a judgment given by the Civil Chamber of the Supreme Court, the criteria contained in it apply in the judicial review jurisdiction, in which the Civil Procedure Law applies secondarily.

Assessment of insolvency as accidental is not binding on the tax authorities for the purposes of declaring directors as secondarily liable

Central Economic-Administrative Tribunal. [Decision of December 12, 2025](#)

The TEAC asserted that a commercial court's assessment of an insolvency as accidental does not condition or preclude declaring the directors as secondarily liable for not having taken the necessary steps to fulfill the tax obligations, having consented to the breach thereof or having adopted resolutions that made the infringements possible (article 43.1.a) of the General Taxation Law), given that such assessment is entirely independent of the fault

required for the enforcement of secondary liability provided for in such article.

Publication of the Annual Tax and Customs Control Plan

On March 12, 2026, the Official State Gazette (BOE) published the [Decision of March 11, 2026](#) by the Directorate-General of the State Tax Agency, approving the general guidelines in the 2026 Annual Tax and Customs Control Plan, including the following key highlights:

- **Regarding information and assistance**, new virtual tools will be developed, such as the virtual assistant for nonresident income tax or the information tools for the registration tax and for exports. For the 2025 personal income tax filing season, the “Renta DIRECTA” (DIRECT Income Tax) option is maintained, incorporating payment via Bizum and electronic cards in the State Tax Agency’s app.
- **In the area of prevention**, the filing of corrective self-assessments for the main taxes (i.e. excise and environmental taxes) is strengthened and the system is adapted to the changes in the European custom duties relief legislation. In 2026 the State Tax Agency will have monthly information on holders of bank accounts, as well as on income obtained by traders and professionals who are members of the collection management system through any type of card (POS) and through payments associated with mobile phone numbers.

Furthermore, as part of the forthcoming transposition of DAC8, information will be available on new financial products in the area of the automatic exchange of financial account information.

- **In the area of investigation and control of tax and customs fraud**, priority is given, among others, to oversight of business entities with high levels of revenue, individuals with significant wealth, the improper use of corporate structures, and supervision of fast-growing sectors of economic activity, such as e-commerce in all its forms, the real estate and construction sector, new business

models and social media, and the use of neobanks for the concealment of income.

As regards tax groups, attention will be paid to entities reporting an unusually low net revenue figure that does not align with commercial logic, as well as to transactions carried out between the entities comprising the group. In addition, focus will be placed on economic interest groupings (EIGs) where they are used for the abusive purpose of fraudulently channeling tax credits or other tax reliefs.

In the nonresident taxation area, it is worth noting the changes in the management and control of applications for refunds of withholdings on dividends received by non-established entities without a permanent establishment (FASTER Directive).

- **Regarding fraud control in the collection phase**, notable changes include the development of applications for selecting debtors grouped by type of conduct, improvements in the attachment procedure or proactive monitoring and preventive oversight of collection risks associated with tax and smuggling offenses.

Change to the procedure for validation by means of a CRN code of guarantees submitted to the tax authorities

On March 7, 2026, the Official State Gazette (BOE) published the [decision of February 26, 2026](#), of the Directorate-General of the State Tax Agency, amending the decision of February 28, 2006 establishing the general conditions and procedure for validation by means of a Complete Reference Number (CRN) code of guarantees furnished by credit institutions and mutual guarantee societies and submitted by the interested parties to the tax authorities.

This amendment stems from the obligation introduced by [Law 7/2024, of December 20, 2024](#) (summarized in the [publication of December 22, 2024](#)), which requires certain depositors or owners of tax warehouses to establish and maintain a guarantee ensuring payment of VAT relating to taxable and non-exempt supplies of fuel, once the tax warehouse system has been abandoned.

Corporate income tax and nonresident income tax

The Supreme Court endorses the constitutionality of the prepayment system, but declares the first prepayment of 2018 to be incorrectly made

Supreme Court. Judgments of February [5](#) and [20](#), 2026

The Supreme Court has confirmed that changes introduced in the prepayment calculation rules by General State Budget Law 6/2018, of July 3, 2018, and by Law 8/2018, of November 5, 2018, do not infringe article 134.7 of the Constitution. According to the Constitutional Court's judgment 175/2025 (summarized in our [December 2025 - January 2026 newsletter](#)), prepayments do not form part of the essential elements of the tax, but rather constitute an autonomous prepayment obligation. Consequently, the budget law can change them without giving rise to a new tax or altering the structure of the corporate income tax.

However, the court declared that the first prepayment of 2018 was incorrectly made, because it was made while Royal Decree-Law 2/2016 was in force, a law subsequently declared unconstitutional by the Constitutional Court judgment 78/2020. Furthermore, the retroactive effect provided for in Law 6/2018 cannot extend to payments already made.

The novation of the payment schedule of a sale and purchase affects the timing of recognition of income in installment sales

DGT. Resolution [V0146-26](#), of January 27, 2026

A real estate developer transferred a plot with a partially deferred payment and, in recognizing the income for corporate income tax purposes, applied the installment sale regime. The DGT clarified that, if the sale agreement is novated after the transfer, changing the due dates of the payments before they fall due, the calculations should be readjusted in order to recognize the income correctly in accordance with the new payment schedule.

An annuity recognized in the bylaws in favor of a former director is a deductible expense

DGT. Resolution [V0122-26](#), of January 27, 2026

An entity amended its bylaws to recognize an annuity in favor of individuals who had held the position of director for a certain period of time or had reached retirement age or had absolute disability status. The former sole director, who held 50% of the share capital, received this benefit from the moment he had been recognized as having absolute disability status.

The DGT considered that an annuity covers contingencies analogous to those of pension plans, so the expense will be deductible in the tax periods in which the benefit is paid. For the beneficiary, it will be salary income for personal income tax purposes, given that it is received as a result of a previous relationship as a director;

and the reduction for multi-year income will not apply, given that it is paid as a periodic benefit.

The gain from the contingent price in a share transfer will be exempt if the exemption requirements are met on the transfer date

DGT. Resolution [V0062-26](#), of January 15, 2026

In 2019 an entity engaged in real estate investment and development transferred its shares in a shopping center developer SPV for a fixed price (payable in the transfer period) and a contingent price, which was conditional on certain requirements the fulfillment of which, if applicable, would be delayed for more than a year.

The DGT held that, if the contingent price cannot be determined with the best possible estimate at the time of the transfer (because it depends on uncertain future events), the gain relating to such price will be included in the taxable income of the tax period in which such future events occur. In any case, if on the transfer date all of the requirements to apply the exemption set out in article 21 of the Corporate Income Tax Law (at least 5% holding, owned uninterruptedly for at least a year and entity not regarded as an asset-holding company) were met, the gain from the contingent price will qualify for the exemption (with the corresponding 5% reduction for management expenses).

The payment to a company to assume the severance pay obligations towards transferred workers is deductible

DGT. Resolution [V0040-26](#), of January 13, 2026

The DGT concluded that the payment that is made by one entity (A) to another entity (B), as consideration for the assumption by the latter (B) of the severance pay obligations towards certain workers transferred by the former (A) is deductible for corporate income tax purposes, provided that the general deductibility

requirements are met (recorded in the accounts, recognized on an accrual basis, and having supporting documents). This severance pay should be billed with the relevant VAT, given that it is a supply of services consisting of assuming an obligation to adopt a certain conduct (subrogation to the employment contracts and assumption of certain costs) in exchange for consideration. The VAT borne will be deductible in accordance with the deductibility rules applicable to the transferring entity's business activity.

The contingent payment linked to lease income is an addition to the acquisition cost of the building and is depreciated prospectively

DGT. Resolution [V0046-26](#), of January 13, 2026

An entity acquires a building of housing units for lease. The price is subject, in part, to future variables that may give rise to an upward adjustment linked to the volume of gross lease income over a given marketing period; and to another upward adjustment depending on indicators such as occupation percentage and service costs.

Addressing the accounting treatment of the transaction, the DGT concluded that the contingent payment linked to the volume of lease income during the marketing period is an addition to the acquisition cost of the building rather than a period expense. Subsequent changes in the estimate of the contingent consideration will be accounted for prospectively by adjusting the carrying amount of the related asset and liability, with a corresponding impact on future depreciation charges. With respect to the consideration linked to other indicators, the DGT concluded by simply asserting that the relevant accounting treatment should be followed.

Damages received for government liability after the municipal capital gains tax is set aside are recognized when the judgment becomes final

DGT. Resolution [V0006-26](#), of January 8, 2026

Relying on a report by the Spanish Accounting and Audit Institute (ICAC), the DGT held that the damages received by an entity for government liability (relating to a municipal

capital gain paid on the transfer of a property) constitute exceptional income that accrues in the year in which the judgment recognizing entitlement to receive it becomes final, regardless of the payment date. However, if the period between the accrual (when the judgment becomes final) and the due date of the last or only payment installment exceeds one year, the entity may apply the special rule for installment transactions and recognize the income in the tax base for the tax period in which the payment becomes due. The late-payment interest follows the same treatment.



Pensions recognized due to a disability judgment must be recognized in the year in which the ruling becomes final

Supreme Court. [Judgment of February 17, 2026](#)

The Supreme Court analyzed the timing of recognition for personal income tax purposes of pensions paid in compliance with a final judgment recognizing a disability and concluded that, where the receipt of the pension depends on a court ruling, the special rule contained in article 14.2.a) of the Personal Income Tax Law will apply. Accordingly, any unpaid amounts must be recognized in the year in which the judgment becomes final. The court reasoned that, although an employment disability declaration proceeding does not, strictly speaking, address the appropriateness or the amount of all or part of the pension, there is a dispute over recognition of disability status, a necessary condition for the benefit to accrue. Therefore, the entitlement does not take effect as of the date on which the qualifying event occurs, unlike in the case of retirement pensions based on reaching the legal retirement age.

Lastly, the court recalled that, where income from several years is recognized in a single year, if the rest of the requirements set out in article 18.2 of the Personal Income Tax Law are met, the 30% reduction provided for income generated in a period exceeding two years may be applied.

When distributing share premium, equity is not reduced by the difference in value resulting from applying the special tax neutrality regime

DGT. Resolution [V0024-26](#), of January 09, 2026

An individual contributed several shares acquired by inheritance to a company, applying the special tax neutrality regime to the transaction. The shares received were valued for tax purposes at the acquisition cost of the shares delivered. The company receiving the contributions is considering distributing the share premium reserve generated on these transactions. It is asked whether, for the purposes of calculating the tax on the distribution in accordance with article 25.1.e) of the Personal Income Tax Law, the difference between the value for tax purposes of the shares and the value that they would have had absent the application of the special regime can be excluded from the value of the equity.

The DGT rejected this possibility. The above-mentioned article only permits reducing equity by previously distributed profits originating from reserves included in such equity and by legally restricted reserves generated after the acquisition, with no provision being made for the reduction sought. Permitting such a reduction would be tantamount to using an acquisition cost other than the one legally established by the special regime. The DGT recalled that the special tax regime seeks to render the transaction tax neutral, which implies a deferral of taxation (not an exemption), so that subsequent transactions such as a share premium distribution can trigger the taxation of the deferred gain. As for the acquisition cost of the shares, since the shares originally

contributed were acquired by inheritance, it will be the amount resulting from applying the inheritance and gift tax rules, without exceeding the market value.

The sale of energy-saving allowances by an owners' association gives rise to a capital gain

DGT. Resolution [V0026-26](#), of January 9, 2026

An owners' association carries out energy-efficiency improvement works and considers transferring, through an Energy Saving Certificate Agreement, the allowances corresponding to the energy savings obtained to an obligated or delegated entity, in exchange for consideration.

On the assumption that the transfer is performed outside the scope of any economic activity, the DGT concluded that the consideration received constitutes a capital gain, which will be quantified as the difference between the acquisition cost and the transfer value and included in the savings component of taxable income. The acquisition cost will consist of any expenses incurred by the owners' association to obtain energy-saving allowances; however, it shall not include amounts paid for the energy-efficiency measures themselves, nor the expenses and taxes associated with such measures, which, if they constitute improvements, may be included in the acquisition cost of the property. The capital gain obtained is not subject to tax withholdings.

Finally, the DGT recalled that an owners' association is not a taxpayer for personal income tax purposes, but rather a pass-through entity. Therefore, the gain will be allocated to each joint owner in accordance with applicable rules or agreements, or equally among them if no such rules or agreements exist.

In the case of a holographic will, inheritance and gift tax falls due on the date of death

Supreme Court. Judgments of [January 27, January 30](#) and [February 2](#), 2026

The Supreme Court concluded that, where the appointment of an heir is set out in a holographic will, inheritance and gift tax falls due on the date of the deceased's death, rather than at the time of the notarization of the will. Such notarization is an act of noncontentious jurisdiction that does not involve the existence of a dispute and therefore neither stays nor alters the filing deadlines nor the due date of the tax. Only if the notarization were to become contentious in nature could a stay be considered in accordance with article 69 of the Inheritance and Gift Tax Regulations.

Consequently, from the date of death the general six-month period for filing the return or self-assessment begins to run, as does the four-year statute of limitations for the tax authorities' right to assess the tax.

Indemnities provided for under the Democratic Memory Law are declared exempt

On March 4, 2026, the Official State Gazette (BOE) published [Royal Decree-Law 6/2026, of March 3, 2026](#), amending Democratic Memory Law 20/2022, of October 19, 2022, on recognition for individuals who died or suffered disabling injuries as a result of their activities in defense of and in support of democracy. In the tax sphere, it is established that, with effect from March 5, 2026, the aid provided for in this law will be exempt from personal income tax.

Approval of the 2025 personal income tax and wealth tax return forms

The March 27, 2026 edition of the Official State Gazette (BOE) published [Order HAC/277/2026, of March 25, 2026](#), approving the personal income tax and wealth tax return forms for 2025.

The filing periods (including confirmation of the personal income tax draft return) begin on April 8 and will end on June 30, 2026, both dates inclusive; however, tax debts can only be paid by direct debit until and including June 25, 2026. However, if only the second installment is paid by direct debit, this direct debit can be made until June 30, 2026.

The order introduces several new features. Among other points, it is noteworthy that, in the context of corrective self-assessments, it is now possible to request that the previous self-assessment be deemed not to have been filed on the grounds that there was no obligation to file a personal income tax return.

Alongside the usual assistance channels (telephone assistance, in-person assistance, and the videoconference service for small municipalities), this year the “Renta Directa”

(Direct Income Tax) service is being offered for taxpayers who do not need to make any changes to the draft return.

In addition, payment methods by credit or debit card under secure-commerce conditions, as well as instant bank transfers through secure e-commerce platforms (for example, Bizum), are maintained.

Lastly, the wealth tax return form is adapted to the recent judgments of the [Supreme Court of October 29, 2025](#) and of [November 3, 2025](#) (summarized in our [November 2025 newsletter](#)), which establish that habitual residence in Spain or abroad does not justify differential treatment between residents and nonresidents in relation to the application of the income-wealth cap, the application of which may not be denied to nonresidents.



Indirect taxes and customs duties

The validity of the limit on the deduction contained in article 96. One of the VAT Law is confirmed

Court of Justice of the EU. [Judgment of March 12, 2026 \(case C-515/24\)](#)

Article 96 of the VAT Law excludes the right to deduct input VAT incurred on the purchase of tickets for sporting events and other complementary items offered to customers. The CJEU concluded that this provision is not contrary to the Directive. According to the Court, national legislation that enters into force simultaneously with a Member State's accession to the European Union may lawfully exclude the right to deduct VAT incurred on the acquisition of such goods and services (tickets for sporting events and recreational services intended to show appreciation for customers, salaried employees or third parties), without it being necessary for that exclusion to have been materially in force prior to accession, provided that it does not extend the scope of the exclusions in a manner contrary to the objectives of the Directive.

The right of the taxpayer that made the charge to recover Canary Islands general indirect tax incorrectly paid for transactions subject to VAT is recognized

Supreme Court. Judgments of [February 2](#) and [February 9, 2026](#)

Some travel agencies had charged and paid over Canary Islands general indirect tax (IGIC) for services that were initially deemed supplied in the Canary Islands, but which were

subsequently deemed subject to VAT by the inspectors of the State Tax Agency. The inspectors made the relevant adjustment, but the VAT could not be subsequently passed on to the end customers. This raised the question of which party is entitled to obtain the pertinent refund of incorrectly paid tax where two incompatible taxes like VAT and IGIC are involved.

The Supreme Court concluded that the case law that established that the party that has been charged is the only party entitled to a refund of the incorrectly charged tax does not apply in these cases. In other words, in a procedure for the refund of incorrectly paid tax, the taxpayer who, having incorrectly charged IGIC to end customers on certain transactions, simultaneously pays over the VAT owed on those same transactions, without charging the VAT, in an amount exceeding the amounts of IGIC, effectively bearing the tax burden of those transactions, is entitled to obtain the refund.

A reduction in leasehold rent due to a *rebus sic stantibus* clause requires correcting the VAT charged

DGT. [Resolution V0199-26](#), of January 30, 2026

The party requesting the resolution was a lessor of a commercial unit whose lessee requested a retroactive reduction in the rent due the application of a *rebus sic stantibus* clause during the COVID restrictions period. During that period, the requesting party did not reduce the rent and charged and paid over the relevant VAT. In 2024, a final judgment was issued ordering the requesting party to pay the partial reduction in the rent, plus interest. According to the DGT, since the price has been altered by a final court decision, it is necessary to modify the

taxable amount in accordance with article 80.Two of the VAT Law and to correct the VAT charged.

Furthermore, if according to the accounting regulations a provision should have been recorded for other liabilities prior to 2024, the expense would have been deductible for corporate income tax purposes in the year in which it accrued for accounting purposes. If, on the contrary, the expense should be accounted for (according to the accounting regulations) in 2024, when the judgment is final, it will be deductible in that year.

VAT must be considered included in the price that has been agreed on without mentioning the tax, where it can no longer be charged

TEAC. [Decision of January 20, 2026](#)

The TEAC examined a case in which the parties had considered that the transaction was not subject to VAT and had agreed on a price without mentioning this tax. Subsequently, the tax authorities concluded that the transaction was subject to VAT, but the supplier could no longer charge the tax to the customer, because no invoice had been issued and more than a year had passed since the chargeable event.

Although, as a general rule, the taxable amount is determined on the basis of the agreed consideration excluding VAT, the TEAC clarified that, where the parties have set a price without reference to the tax and the supplier can no longer charge it to the customer, such price must be deemed to include VAT.

In addition, the TEAC referred to its recent case law on vehicles made available to employees free of charge, recalling that the application of the presumption of 50% use for the deduction of input VAT can only be rebutted by sufficient proof of a different use, and determining the percentage of professional use based on the availability of the vehicles outside working hours as set forth in the collective labor agreement is not sufficient for these purposes.

The nondirector secretary's remuneration is income from economic activity subject to VAT

DGT. Resolution [V0017-26](#), of January 8, 2026

An individual who provides financial services as an independent professional was appointed as nondirector secretary of the managing body of a client company, agreeing on remuneration for such task. According to the DGT, if it is a case of a provision of services (i.e., the service is provided independently, without the employment relationship hallmarks of dependence and being in the employ of another), the transaction will be subject to VAT and the requesting taxpayer should charge the tax and comply with the billing requirements.

The DGT also confirmed that, since the nondirector secretary is not a director or a member of the board of directors, article 17.2.e) of the Personal Income Tax Law, which classifies directors' remuneration as salary income, does not apply. Therefore, if the activity is not pursued in the context of an employment relationship, but rather as part of the requesting taxpayer's professional activity (the company being a client rather than an employer), the remuneration will be classified as income from economic activities of a professional nature, which will be subject to the withholding rate established for this type of income.

It is unconstitutional to limit the reduced stamp tax rate to mutual guarantee societies domiciled in Galicia

Constitutional Court. [Judgment of February 25, 2026](#)

The Constitutional Court declared as unconstitutional the indent of article 15.Six of the revised legal provisions of the Autonomous Community of Galicia regarding taxes devolved by the State (approved by Legislative Decree 1/2011 of July 28, 2011) which limited the application of the reduced 0.1% rate under the stamp tax (AJD) heading of the transfer and stamp tax (ITPyAJD) to mutual guarantee societies domiciled in Galicia. The Court concluded that this restriction infringes the

principles of equality and the prohibition of territorial discrimination, since entities domiciled in Galicia and those established in other autonomous communities carry out the same activity and are in a comparable situation when creating security rights over assets located in Galicia.

The Court rejected the argument that the measure can be justified by the need to support

the Galician business fabric or to incentivize the establishment of these entities in Galicia, as there is no objective link between the registered office and the financing activity they carry out, which can be performed remotely or through branches in Galicia. Residence therefore operates as the sole differentiating factor, creating a tax privilege for local operators that is contrary to the Constitution and to the Organic Law on the Financing of the Autonomous Communities (LOFCA).



Local taxes

The 2025 Ordinance regulating the Fee for the provision of the waste management service in Madrid is declared null and void

According to the Madrid High Court of Justice, the Madrid City Council failed to comply with its obligation to publish the full technical and economic report relating to the ordinance during the public consultation procedure. For further details, see our [publication dated March 24, 2026](#).

The certificate of final completion is the document that evidences the completion of construction work for cadastral purposes

National Appellate Court. [Judgment of January 20, 2026](#)

The National Appellate Court concluded that, for cadastral purposes, the way to evidence the completion of the construction work on a property is the corresponding certificate of final completion. And, in this regard, the fact that the first occupancy permit for the property has not yet been granted has no effect, since the purpose of such permit is not to determine the completion of the work but rather to verify that, once completed, it complies with the building permit originally granted.

Further information:
Tax

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