Tax Newsletter

Spain

GARRIGUES

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1. Judgments

1.1 Corporate income tax. – How to price shareholder-to-company services where the professional company does not meet the requirements to apply the pricing presumption allowed for this type of entities

Murcia High Court. Judgment of May 9, 2024

Under the Corporate Income Tax Law, it is presumed that the arm's length price for shareholder-to-company services at professional companies matches the price agreed by the parties where certain requirements are met (including that the shareholder's fees must account for more than 85% – 75% in 2015 and thereafter – of earnings for the year before deduction of those fees).

Tax auditors reviewed the relationship between an entity, providing medical services to a hospital, and its shareholder. In the proceeding it was proved that those non-transferable services were actually provided by its shareholder and that the conditions for applying the presumption mentioned above were not met, among other reasons because the fees received by the shareholder were far below the percentages mentioned. The tax auditors nevertheless adjusted the price of the services, based precisely on 85%/75% of operating income, excluding the fees already received by the shareholder, due to regarding that this was consistent with the comparable "uncontrolled price method".

Murcia High Court concluded that the pricing performed by the tax auditors cannot under any circumstances be regarded as performed under the comparable uncontrolled price method, but rather under the described presumption, despite concluding in the same proceeding that the requirements for this presumption had not been met. In the chamber's view, because the service the company provided to the independent third party is that provided by the shareholder to the company, the comparable uncontrolled price method requires the natural comparable to be used, in other words the services provided by the company to third parties (taking into account the expenses needed to provide the service).

1.2 Corporate income tax. - Correction of accounting errors has retroactive effects, even if it affects years being reviewed

Castilla-La Mancha High Court. Judgment of March 25, 2024

In its corporate income tax self-assessments for fiscal years 2008 through 2012 a company applied the accelerated depreciation rules for companies of a reduced size under the Revised Corporate Income Tax Law for new assets (making the relevant negative adjustments to determine the tax base), although it did so (mistakenly) in respect of used assets, for which the law allows higher deductible depreciation percentages. While the review of the tax for fiscal years 2008 through 2011 was still in progress, it took the following steps:

(a) It changed its accounting records for fiscal years 2008 through 2011 to increase the book depreciation expense for those used assets up to the limit provided in the tables in the regulations for this type of assets and asked the auditors to allow that greater expense to be deducted in those periods.

(b) It also changed its accounting records for 2011 and requested correction of its self-assessment for that fiscal year, to deduct the depreciation expense for used assets at the amount appearing in the new corrected accounting records. This request was upheld.

Castilla-La Mancha High Court concluded that the change to the accounting records in relation to the audited fiscal years (2008 through 2011) was made to correct an error, and therefore the right to deduct the new book expense must be recognized (in an amount matching the tax depreciation of the used assets as provided in the corporate income tax law). This is consistent with the fact that the tax authorities themselves had allowed the correction of the self-assessment for fiscal year 2012.

1.3 Corporate income tax / Penalty proceeding – A reasonable interpretation of tax provisions cannot be relied on where a penalty is imposed for not supporting deducted expenses

Supreme Court. Judgment of October 29, 2024

The Supreme Court held that the lack of proof of the right to deduct an expense for corporate income tax purposes does not always cause the taxpayer's conduct to be classed as culpable, nor does it cause the opposite classification either. To impose a penalty, the tax authorities need to provide evidence and reasons, in each case, for the existence of fault, so as to undermine the presumption of innocence.

The court underlined, however, that the ground for exemption based on a reasonable interpretation of the law cannot be relied upon where, as in the examined case, the determining reason for exercising sanction power is not founded on applying a legal provision that must be interpreted as to its meaning, purpose, validity or applicability, but rather on the lack of proof of a necessary fact for the right to deduct the expense concerned.

1.4 Personal income tax. - Notification to a spouse in relation to a return filed jointly is valid and enforceable against both spouses

Andalucía High Court. Judgment of November 29, 2023

Tax auditors reviewed a personal income tax self-assessment filed jointly by a married couple. In the review, the auditors (who only had the chance to exchange comments with the husband) analyzed and discussed their capital losses on the sale of separate property. The assessment decision was notified on the website to the wife (a registered lawyer practicing at a collective law firm), who opened the notification. Later a second notification was sent to the taxpayer/husband by post. The subsequent economic-administrative claim was filed on the assumption that the valid notification was that made by post, and it was not admitted by the regional tribunal due to being outside the time limit.

Andalucía High Court concluded that, due to the self-assessment being filed jointly, notifications made to either spouse are valid and enforceable against both. Added to this, the wife as a practicing lawyer was required to interact electronically with the tax authorities, so the notification supplied electronically to her is valid, even though she had not been expressly notified of her inclusion at the enabled electronic address. The court recalled that Law 39/2015 of October 1, 2015, on common administrative procedure, no longer requires notification of inclusion at an electronic address, and article 14.2.c) states that anyone practicing a professional activity must interact electronically with the tax authorities for which

membership of a professional association is required, an obligation that applies to both the collective firm where the lawyer worked and the lawyer herself for procedures belonging to her professional activities.

Therefore, the time limit for bringing the claim should have started to run from the first notification, and failure to admit the claim is valid.

1.5 Personal income tax. – A capital gain obtained due to reappraisal of an expropriated property must be recognized in the year the decision determining the increase in just compensation becomes final

Supreme Court. **Judgment of November 7, 2024**

A taxpayer inherited a property in 1985. Later, in 2000 after an expropriation procedure, a document certifying payment and occupancy of the property was drawn up and, a few years later, in 2005, an amount of just compensation was determined (which was appealed). A reappraisal of the property was applied for in 2008 after that just compensation had not been paid within the two-year legal period running from the 2005 decision. The new amount of just compensation was also challenged by the taxpayer and increased in a decision by Valencia High Court in 2012 in addition to being confirmed by the Supreme Court in 2015.

The Supreme Court concluded that the capital gain arising from the reappraisal of expropriated property is not caused by a separate, independent and subsequent increase in value to that caused by the expropriation. A reappraisal consists of appraising that gain again and determining a new amount of just compensation. Therefore, if the only increase in value is that caused by the expropriation, the applicable personal income rules at the time of that expropriation must be applied. In any event, the gain obtained from the reappraisal must be recognized temporarily in the year when the - administrative or judicial - decision determining the amount of just compensation becomes final (provided that decision contains a final and inalterable determination of the amount of just compensation).

1.6 Personal income tax. – The transfer of all the shares in an entity is not a case of shareholder withdrawal

Supreme Court. **Judgments of October 24** **and** **October 30, 2024**

Article 37.1.b) of the Personal Income Tax Law contains a general rule on how to determine the transfer price (and therefore, the capital gain) in transfers for valuable consideration of shares not traded on organized markets. It determines that unless there is proof that the paid amount is the sum that would have been agreed between independent parties on an arm's length basis, the transfer price cannot be lower than the higher of the (i) equity figure per the balance sheet for the latest fiscal year-end before the tax accrual date and (ii) the result of capitalizing at 20 percent the average earnings figure for the three fiscal years ended before that accrual date. And article 37.1.e) contains a special rule for cases of shareholder withdrawal. In these cases, the capital gain amounts to the difference between the liquidation dividend or the market value of the received assets and the acquisition value of the shares.

The Supreme Court concluded that this special rule only applies where the shareholder exercises their right of withdrawal from the entity, which requires a process that ends with execution of the deed recording the capital reduction or acquisition of the shares by the company. In other words, the shareholder selling all their shares to a third party is not a case of shareholder withdrawal, so the general rule applies.

1.7 Wealth Tax / Personal income tax. – The Supreme Court recognizes that a principal residence is a productive good, even if it does not create income in the assessment period

Supreme Court. Judgment of November 11, 2024

The Wealth Tax Law sets out a tax limit, whereby the sum of the gross tax liability figures for this tax and personal income tax cannot go above 60% of the sum of the taxable income figures for personal income tax purposes. The portion of wealth tax relating to "non-productive goods" is not used in the calculation of that limit.

The Supreme Court concluded that the principal residence must be included in calculation of the limit, because it is a productive asset which by nature is able to create income for personal income tax purposes, even if it does not do so in the assessment period. In other words, the doctrine contained in its judgment dated March 16, 2011 (appeal 212/2007), whereby - in relation to works of art - the creation of income for personal income tax purposes at the time of the assessment was used as a parameter, is not transferable, or directly applicable, to the principal residence.

1.8 Wealth tax. – The tax authorities cannot reject with no basis the pricing of securities traded abroad as if they had not been traded, due to being a principle expressed by the DGT and AEAT in resolutions and practical manuals

Andalucía, and Ceuta and Melilla High Courts. Judgment of October 9, 2024

The Wealth Tax Law determines that shares traded on organized markets must be priced at their average trading price for the fourth quarter of the year (article 15). A list of traded securities is published every year, showing that average price. Furthermore (article 16), other (non-traded) securities are priced at their carrying amount on the latest approved balance sheet, if it has been audited and the auditors gave a favorable opinion; otherwise, at the higher of their nominal value, their carrying amount on the latest approved balance sheet and the result of capitalizing at 20 percent the average earnings for the last three year-ends before the accrual date.

The DGT in various resolutions and the AEAT in its practical manuals had been interpreting, until 2021, that this second pricing method is applicable for securities traded outside Spain. In relation to the information return on assets abroad (Form 720), however, the DGT determined (in resolution V3511-19) that the maker of the return is free to choose to report these securities according to either article of the Wealth Tax Law. On that basis, in the case underlying this judgment, the tax authorities concluded that the taxpayer should have reported their securities listed abroad (on the wealth tax returns for fiscal years 2015 through 2019) at their listed value.

Andalucía High Court concluded that, although the tax authorities' interpretation might be consistent with the letter of article 15 (which the court said it did not enter into examining), the taxpayer's position had to be upheld, consisting of applying the provisions in article 16, because it was based on the DGT's resolutions and AEAT's published manuals, and applying any other value would entail a change of principle for which the tax authorities had not provided the required reasoned explanation.

1.9 VAT. - The amount owed by the customer to the contractor following early termination of a contract for services is subject to VAT

Court of Justice of the European Union. Judgment of November 28, 2024. Case C-622/23

A customer unjustifiably terminated a contract, and the contractor, who had already started the works and was prepared to complete them, claimed payment of the agreed price.

According to the CJEU, the amount to be paid by the customer is not an amount of fixed compensation, but rather the remuneration for a supply of services for consideration, within the meaning of the VAT Directive, and is therefore subject to VAT. According to the court, the consideration for the amount to be paid by the recipient of the supply of services consists of the recipient's right to benefit from the fulfillment, by the supplier, of the obligations under the services contract, even if the recipient no longer wishes to avail itself of that right for a reason attributable to it. Moreover, the economic and commercial realities of the transaction must be taken into account and it held that the amount due reflects not only the contractually agreed remuneration for the services in question, but also provides the supplier of services with a minimum remuneration.

1.10 VAT. - Treatment of intermediary services in electric vehicle charging

Court of Justice of the European Union. Judgment of October 17, 2024. Case C-60/23

The examined case concerned a German company providing access to a charging station network managed by various operators, and invoicing users for items including the cost of the electricity they have acquired to charge their vehicles.

In line with its earlier conclusion in a judgment delivered on April 20, 2023 (case C-282/22), the CJEU reiterated that the supply of electricity for charging an electric vehicle is a supply of goods for VAT purposes, because it enables the user to dispose of the electricity in the same way as if it were the owner. Furthermore, where the intermediary acts in its own name but on behalf of the user under a commission contract, the electricity is deemed to have been supplied, first, by the network operator to the intermediary company and, secondly, by that company to the end user, even if it is the end user that chooses the quantity, time and place of that charging.

1.11 Inheritance and gift tax. – To apply the reduction for the gifting of a family business, the performance of management functions must take place when the gift is made

Supreme Court. Judgments of October 31, 2024 and November 13, 2024

The Inheritance and Gift Tax Law provides for a 95% reduction in the taxable amount for gifts of shares in a family business to individuals with a certain degree of kinship. Among other requirements, the recipient of the gift must perform management functions at the company, for which they receive 50% of their aggregate business or professional income.

The Supreme Court clarified that the point when the performance of remunerated functions by the recipient must be determined to benefit from the reduction is when the gift takes place, without taking the rest of the year into account. In short, the court held that the doctrine contained in its judgment dated December 16, 2013 (appeal 28/2010), on the transfer upon death of shares, is applicable to gifts.

1.12 Tax audit procedure. – The tax residence of an entity in Spain can be rejected without using the concepts of classification or conflict in the application of tax provisions

Supreme Court. Judgment of October 28, 2024

The court examined the case of a U.S. holding company with subsidiaries in Spain, which stated, in a public document, the relocation of its place of effective management to Spain, giving rise to it being registered as tax resident in Spain and becoming the parent company of a tax group in this country. The entity created tax losses for offset on its joint return arising from borrowing costs that it had with group entities based outside Spain. The tax auditors took the view that the entity was not tax resident in Spain nor therefore a taxable person for Spanish corporate income tax purposes, so it could not be parent company of the tax group, which meant the group did not exist and the regime could not be applied (nor therefore could those tax losses be offset at group entities).

The issue submitted to the Supreme Court was whether a rejection of tax residence in Spain must be done under the procedure for declaring a conflict in the application of tax provisions as set out in article 15 of the General Taxation Law (LGT) or whether it may be done by exercising the power to classify under article 13 of the same law, in a case where a tax treaty exists. The court concluded that the debate over the power to classify vs conflict in the application of a tax provision is misplaced, because the matter hinges on where effective management of an entity lies. In other words, all that is needed is a "preliminary legal classification" task, consisting of confirming the facts required for applying the rule on tax residence.

1.13 Tax audit procedure. - The tax authorities cannot take the view that services are nonexistent and invoices are invalid if in a procedure carried out against the recipient of those invoices they accepted them as enforceable and valid

National Appellate Court. Judgment of July 29, 2024

Auditors adjusted VAT for various periods, taking the view that the invoices issued by the taxable person were false and did not relate to services actually provided. In a proceeding at the National Appeal Court, however, the taxable person provided evidence that, in a procedure carried out on the customer for those services and recipient of the invoices at issue, for the same item and years, the tax authorities had accepted the validity of those invoices. For that reason, the National Appellate Court concluded that the tax authorities' adjustment was not valid.

2. Decisions

2.1 VAT. - The principle of availability outside working hours is not sufficient to determine presumed actual use of the vehicle for VAT purposes

Central Economic-Administrative Tribunal. Decision of September 27, 2024, 00/09152/2021

TEAC examined the rules for deduction of input VAT on leases of vehicles to be provided for free to employees, in a case where the auditors found that employees used the vehicles for business and private use. According to the auditors, in these cases VAT could be deducted based on a principle of availability of the vehicle for business use, determined by reference to working hours under the collective labor agreement (the same principle as that used by the authorities in audits, to calculate the amount of income in kind to be attributed to employees for personal income tax purposes). According to the court, this principle is not adequate for VAT purposes:

(a) It recalled firstly that the deduction of input VAT in relation to the vehicles must be based on the presumed business use under article 95.3.2 of the Personal Income Tax Law (50% business or professional use - 100% in certain cases -), and it lies with the tax authorities to prove any other use.

(b) That presumed use cannot be rebutted (the DGT affirmed in its resolution V1374-24, dated June 10, 2024) solely on the basis of the number of working hours under the applicable collective labor agreement. This information can be used as an indication, but it is not sufficient to prove the actual degree of use. In short, to evidence a degree of use of vehicles for an economic activity the tax authorities must rely on alternative principles to that arising from the legal presumption.

2.2 Management procedure / Corporate income tax. - A refund arising from a request for correction of a self-assessment to increase tax credits due to not having applied all those available is a refund that arose from the legislation on the tax

Central Economic-Administrative Tribunal. Decision of November 19, 2024

An entity filed its corporate income tax self-assessment containing the deduction of research and development credits up to 25% of the gross tax liability and showing an overpayment of tax which was reimbursed by the tax authorities within the time limit. It later requested correction of its self-assessment, submitting that the maximum limit for deduction was 50% of the gross tax liability, which gave rise to a higher refund. It asked the tax authorities to pay that amount (as a refund of incorrectly paid tax) together with late-payment interest.

TEAC applied the doctrine determined by the Supreme Court in its judgment dated January 28, 2021 (appeal 3010/2018) (February 2021 newsletter) and noted that, to classify a refund as incorrectly paid tax, (i) there must be an illegal component in the origin of the payment that has caused a loss to the taxpayer, and (ii) the refund must not be obvious. Applying this principle to the examined case, it affirmed, regarding the first requirement, that no illegal component is visible in a self-assessment where a taxpayer does not apply the tax credits they own up to the allowed maximum limit; and, on the second requirement, that the refund made did not require any prior recognition by the tax authorities, and therefore that refund

cannot be classed as “not obvious”. Therefore, it concluded that this was not a refund of incorrectly paid tax, instead a refund arising from the legislation on the tax, and in this case late-payment interest only falls due if it is not paid within six months from when it is requested.

2.3 Tax audit procedure. – If the grounds for classifying an assessment as provisional are not evidenced it will be classed as final

Central Economic-Administrative Tribunal. Decision of October 21, 2024

According to the General Taxation Law, final assessments are those arising from a tax audit in which all elements of the tax obligation have been examined, together with any others given final status by the tax rules. Whereas provisional assessments include any arising from a tax management or tax audit procedure that did not involve a review of the taxpayer's overall position, and the reasons for classifying them as provisional must be provided. The consequence of the distinction is that, where an assessment is provisional, the tax authorities can issue a subsequent assessment on the same tax and fiscal year in certain circumstances, something they cannot do in the case of a final assessment.

TEAC cited the principle determined by the Supreme Court in its judgment dated February 24, 2016 (appeal 948/2014 and 3819/2013) and concluded that the absence in the case file of documents evidencing the existence of any of the legal grounds for classifying the assessment as provisional does not cause it to be set aside, but rather to be classed as final.

2.4 Tax collection procedure. - An order initiating enforced collection proceedings or an attachment order does not have to be issued if the prior collection decision was appealed and an express decision has not been notified

Central Economic-Administrative Tribunal. Decisions of October 15, 2024 (3690/2023) and (6635/2023)

It was examined whether the tax authorities can issue an order initiating enforced collection proceedings or an attachment order if the prior tax collection decision (the tax assessment or order initiating enforced collection proceedings, respectively) has been appealed (in an appeal for reconsideration) by the interested party without requesting a stay and no decision has been delivered even though the time period for deciding the lodged appeal has run. TEAC disallowed this and stated further that the duty to decide the appeal is not exhausted on delivering the decision, but rather requires it to be notified to the taxpayer; although that notification is considered to be made after a single attempt or after the decision has been supplied electronically, because the exercise of tax authorities’ powers cannot be made subject to circumstances outside their control, such as actually achieving notification.

2.5 Tax collection procedure. - Tax collection procedures carried out on the main debtor or another liable person only toll the statute of limitations for claiming payment of the debt from persons who have already been declared liable

Central Economic-Administrative Tribunal. Decision of October 15, 2024

TEAC examined various issues related to the tolling of the statute of limitations in cases involving liability for tax and determined the following principles:

(i) It concluded first that the doctrine set by the Supreme Court in its judgment dated October 14, 2022 (appeal 6321/2020) (November 2022 newsletter) concerning persons jointly and severally liable must also include cases of secondary liability, which means that any tax collection steps carried out against the main debtor or another liable person only toll the statute of limitations for claiming payment of the debt from parties who have already been declared liable, and therefore do not have a tolling effect with respect to parties whose liability has not been formally declared.

(ii) Secondly, drawing on its decision dated September 18, 2024 (R.G. 9744/2022) (October 2024 newsletter), it explained that, with two separate statutes of limitations having been defined in relation to liability for the tax (the statute of limitations for the right to enforce liability and determine the enforced debt, and the other, the statute of limitations for claiming payment of the debt after it has been enforced), any steps taken against the main debtor or other person liable directed at enforcing liability do not toll either the statute of limitations for the right to claim payment from other parties that have been declared liable, or the statute of limitations for the right to enforce liability against parties who have not yet been declared liable.

3. Resolutions

3.1 Corporate income tax. - Examination of the assets qualifying for use of the reserve for investments in the Balearic Islands

Directorate General for Taxes. Resolutions V2003-24 and V2046-24 of September 18 and 25, 2024

Effective for taxable periods commencing between January 1, 2023 and December 31, 2028, an option was introduced to reduce the tax base in respect of amounts recorded in a reserve for investments in the Balearic Islands, where the reserve is invested in certain assets. According to the DGT, (i) expenses incurred on restoring and enhancing a fixed asset qualify for that investment, as long as those expenses meet the requirements to be capitalized for accounting purposes; and (ii) an expense that does not qualify is the purchase of a property to be used solely and exclusively to be provided to employees to meet their accommodation needs while their employment contracts are in force.

Lastly, it affirmed that, because this incentive takes the form of a reduction to the tax base rather than a deduction in tax liability, it cannot be treated as a "deduction" (*bonificación*) for the purposes of calculating the minimum net tax liability.

3.2 Corporate income tax. - Interest earned on a participation loan is not subject to withholdings if the requirements under article 21 of the Corporate Income Tax Law are met

Directorate General for Taxes. Resolution V1956-24 of September 17, 2024

An entity received a participation loan to restore and maintain its equity equation. The loan was provided by another company in the same business group (both are resident in Spain and are not part of a tax group). The issue submitted for resolution was whether corporate income tax has to be withheld from the interest payment on the participation loan. The DGT recalled that article 21.2. 2 of the Corporate Income Tax Law provides that amounts of income earned on these loans are classed as exempt dividends, where the loans are entered into

between entities in the same business group and do not give rise to a deductible expense for the payer. If these requirements are met, they will not be subject to withholdings.

3.3 Corporate income tax. – The DGT adopts the Supreme Court's principle on the right to deduct directors' compensation

Directorate General for Taxes. Resolution V1927-24 of September 6, 2024

In this resolution the DGT adopted a recent supreme court precedent in relation to the right to deduct directors' compensation. In other words, it acknowledged that (i) applying the contractual relationship absorption doctrine (*teoría del vínculo)* cannot give rise to adverse tax consequences, and more specifically that (ii) that right to deduct cannot be denied on the basis that a breach of corporate law on income of this type has taken place. The DGT underlined that, as the court has stressed, the concept of expense precluded by law cannot be taken to include simply any breach of the law, but rather means bribery and other similar types of conduct. In short, expenses relating to the income received by the chief executive officer of an entity are deductible where they have been recorded in the accounts and recognized on an accrual basis, and have adequate supporting documents.

3.4 Corporate income tax. - The retirement of an account receivable from the Treasury is deductible on an accrual basis

Directorate General for Taxes. Resolution V1923-24 of September 3, 2024

Royal Decree-Law 6/2022 provided for a special and temporary reduction to the end price of certain energy and additive products. Under this decree-law, when they supplied these products gas stations applied a discount to the retail sale price equal to the amount of the reduction and later applied for a refund from the competent authority. According to resolution 4 in issue 129 of the Spanish Accounting and Audit Institute Gazette, the right to the deduction had to be recorded as an account receivable from the Treasury (without the discount having an impact on net sales).

A gas station filed the monthly refund application outside the time limit, and it was not accepted by AEAT. The DGT concluded that failure to accept the application must cause the definitive retirement of the account receivable from the Treasury, giving rise to a loss that is deductible when it is incurred, even if it relates to an account receivable from the Treasury.

3.5 Personal income tax. – If interest on a loan to the employer is not earned at the market rate, the excess is earned income

Directorate General for Taxes. Resolution V2019-24 of September 23, 2024

A company offers a long-term investment plan to certain executives which involves them investing their annual bonus in a loan to the company, in exchange for interest which is earned if certain growth targets are attained within a given timeframe. If the specified growth targets are not attained, the executive can forfeit up to 30% of the invested amounts.

The DGT explained that the annual bonus is an amount of earned income which must be recognized in the taxable period it is payable. If the bonus is quantified in the fiscal year following the year to which it relates, it will be payable in the fiscal year it is quantifiable.

Interest is generally classed as income from movable capital obtained from the transfer of own capital to third parties. However, if the received amount exceeds the interest that would have been agreed between independent parties on an arm's length basis, the difference is classed as an amount of earned income, because that amount depends on the degree of attainment of the specified growth targets, and therefore on the executives' contribution to those targets and on the services they provide.

3.6 Personal income tax. – The availability of vehicles provided to employees must be analyzed in each individual case, and the reference to the collective labor agreement is not valid in every case

Directorate General for Taxes. Resolution V1982-24 of September 17, 2024

A company provides employees with company vehicles which are used for both business and private use. The DGT recalled that their availability for private use is determined by reference to non-working hours. For these purposes, it may be reasonable, in some cases to use the proportion that the working hours set out in the collective labor agreement bear to the total number of hours in a year, although this proportion cannot be used as a general principle in every scenario. There will be cases where the characteristics and nature of the company's business, of the employee's job and other circumstances mean the vehicle is available for a different length of time.

4. Legislation

4.1 Implementation of the objective assessment method for personal income tax purposes and the simplified special VAT scheme for 2025

Order HAC/1347/2024 of November 28, 2024, published in the Official State Gazette on November 30, 2024, implements for 2025 the objective assessment method for personal income tax purposes and the simplified special VAT scheme. Among other changes, it has added a 25% reduction (approved by Royal Decree-Law 7/2024 of November 11, 2024) to the personal income tax objective assessment regime and to the special simplified VAT scheme for 2024, where activities are carried out in municipalities affected by the DANA storm on October 28 and November 4, 2024.

4.2 An array of tax measures to mitigate the effects of the DANA have been published

Urgent measures in response to the damage caused by the DANA have been adopted in Royal Decree-Law 6/2024 of November 5, 2024, Royal Decree-Law 7/2024 of November 11, 2024, and Royal Decree-Law 8/2024 of November 28, 2024, published in the Official State Gazette on November 6, November 12 and November 29.

We provided a summary of these decree-laws and other autonomous community legislation published for the same reason in a publication dated November 29, 2024, including the adopted tax measures.

4.3 The Governing Council's circular on the criteria for authorizing registration and the right to stay on the Official Register of Entities in the Canary Islands Special Zone (ZEC) has been published

One of the restrictions provided by the authorization for registration of an entity in the Canary Islands Special Zone is that the new entity or branch must not perform any activity that it had carried out before its registration in the ZEC.

The decision of November 8, 2024, published in the Official State Gazette on November 19, 2024, published Circular 1/2024, of October 29, 2024 by the Governing Council, on the criteria for authorization for registration and the right to stay on the Official Register of Entities in the Canary Islands Special Zone (ZEC). This circular sets out the cases in which it will be regarded that there has been continuity in the performance of an economic activity and the cases where, to the contrary, it will not be considered that the entity has carried out the economic activity previously. It further specifies that it will be considered that entities do not contribute to economic and social development in the Canary Islands due to going against the aim of the ZEC (in which case their registration will not be authorized) where they were created for no other reason than to relocate or transfer by any means an activity carried on previously in the Canary Islands by a person, related or otherwise, to an entity in the ZEC.

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Hermosilla, 3

28001 Madrid, Spain.

T +34 91 514 52 00 - **F** +34 91 399 24 08