GARRIGUES

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Cross-border remote work and international taxation: the OECD updates its Model Tax Convention

The update introduces new guidelines on when remote work can create a permanent establishment for the employer and adjusts articles 5, 9, 25, and 26 of the Model Convention, among other changes.

On November 18, 2025, the OECD Council approved an update to its Model Tax Convention (MTC) and the Commentaries, aimed at adapting international tax rules to the remote work era and clarifying various technical issues. This is the first significant revision of the Model Convention since 2017 and was prompted by the rise of cross-border remote work and the need to bring greater certainty to tax authorities and taxpayers alike. The key components of this "update" and its practical impact are summarized below.

a. **Remote work and the risk of "micro-permanent establishments"**

The cornerstone of the update is a clarification of the criteria to be considered for an employee's domicile in another country to be classed (or not) as a permanent establishment (PE) of the company. Although the wording of article 5 of the Model Convention has not been updated, its Commentary has been reorganized and expanded to include a new framework applicable to remote work. These amendments relate exclusively, in all cases, to the fixed place of business test in article 5, without changing the rules and commentaries on dependent agents.

As a general principle, it is established that working from a domicile abroad does not automatically create a PE, although this conclusion will depend on a case-by-case analysis. However, the OECD now establishes two specific guidelines:

1. Time threshold. If the employee works remotely for less than 50% of their total working time in any 12-month period, it is presumed that there is no fixed "place of business" for the employer at that domicile. The aim of this threshold is to provide legal certainty and prevent the proliferation of "micro-PEs" due to sporadic remote working.

2. "Commercial reason" for presence. If the employee goes over the 50% threshold, their physical presence in the state where they are domiciled must be due to a real commercial reason in order for a PE to be considered to exist. Therefore, there will be no PE where remote work in another state is sporadic or incidental in terms of business activity.

The OECD includes five illustrative examples covering typical scenarios (short stays, recurring work below 50%, cases involving frequent interaction with clients, among others), to help define when a PE exists and when it does not.

b. **Other major changes**

Enhancements have been made to several provisions to reflect recent technical consensus and strengthen consistency in application of the conventions:

- An alternative clause has been added in the Commentary to article 5 for states wishing to tax natural resource exploration and exploitation activities more easily.

- Article 9 ("associated enterprises") and its comments have been adjusted to clarify its scope and application. It is emphasized that the profits of associated enterprises should only be adjusted where their transactions are not under arm's length conditions, and that the deduction of expenses (interest, and so on) remains a matter for each country's domestic law, although subject to the non-discrimination clause in the event of diverging treatment.

- The commentaries to articles 7 ("business profits"), 9, and 24 ("non-discrimination") have been aligned with recent OECD guidance (e.g., on financial transactions or on the Amount B framework for simplifying transfer pricing), ensuring consistency with dispute resolution mechanisms.

- Lastly, article 25 ("mutual agreement procedure") incorporates a new paragraph 6 to avoid overlaps between tax treaties and other international agreements. Furthermore, the comments on article 26 ("exchange of information") have been updated to expand and clarify the use of exchanged tax information.

c. **Reservations made by Spain**

Several reservations have been added to this update. In particular, Spain reserves (i) the right not to include in its agreements paragraph 3 of article 1 of the Model Convention (a provision designed to ensure that the agreement does not restrict certain internal taxing powers over residents, except in relation to specific benefits of the convention itself) and (ii) the power to amend article 1(2) to specify in which cases it recognizes the tax transparency of entities incorporated in third countries. Lastly, (iii) it has also made a reservation to article 2(1), to ensure that agreements signed by Spain do not cover local or regional taxes.

1. Tax procedure

Tax authorities must investigate the existence of parties with joint and several liability before enforcing secondary liability (Supreme Court. Judgment of November 5, 2025)

The Supreme Court has clarified its principle on the enforcement of secondary tax liability under article 43.1.a) of the General Taxation Law (LGT). It concluded that where the person who is to be declared secondarily liable provides information identifying a possible party with joint and several liability and that information provides clear and reasonable evidence of their existence, the tax authorities are required to investigate and verify that evidence before declaring secondary liability. Furthermore, if they conclude that there are no parties with joint and several liability, they must give reasons for their conclusion.

A stay by the tax authorities on the grounds of a preliminary criminal issue awaiting a decision requires identical facts and fiscal years (Supreme Court. Judgment of October 22, 2025)

The Supreme Court concluded that a stay of administrative proceedings on the grounds of a preliminary criminal issue awaiting a decision only applies where the facts investigated in criminal proceedings are identical to the facts adjusted by the tax authorities. It clarified in this connection that, even if the taxpayer's conduct follows a pattern or behavior similar to that examined in criminal proceedings, the facts will be held not to be identical if they relate to different fiscal years.

Enforcement of secondary liability in relation to intermediary companies requires justification and proof of effective control and fraudulent intent (Supreme Court. Judgment of October 20, 2025)

Article 43.1.h) LGT allows secondary liability to be enforced on persons or entities controlled by the main debtor where they are used abusively or fraudulently to evade the payment of tax debts. The Supreme Court concluded that, for this type of liability to be enforced, neither the existence of family ties nor a transfer of assets between related companies for consideration are sufficient by themselves. The tax authorities must substantiate and prove in precise detail the taxpayer's effective control over the entity declared liable, as well as an abusive or fraudulent use of the company for the sole purpose of harming the debt owed to the public treasury.

Tax authorities can use the documents obtained in a proceeding to adjust tax obligations and/or different periods (Central Economic-Administrative Tribunal. Decision of October 20, 2025)

TEAC has stated that any data, reports, documents, and background information lawfully obtained by the tax authorities in the course of a tax audit can be used by the acting auditors themselves to adjust tax obligations relating to any fiscal years or items subsequently included in the scope of the audit, without having to collect that information again or obtain further authorization, provided that the original information was collected validly and with observance of the taxpayer's rights.

Enforcement on directors of secondary liability for outstanding tax debts when operations cease requires proof of absence of the due standard of care in the fulfillment of tax obligations (Central Economic-Administrative Tribunal. Decisions of September 16 and April 8, 2025)

TEAC has held that, to hold directors secondarily liable for the company's outstanding tax debts when it ceases operating (article 43.1.b LGT), the tax authorities must provide clear proof of absence of the due standard of care in the fulfillment of tax obligations. The existence of the debt is not

sufficient; it needs to be evidenced that the person liable did not take adequate measures to avoid non-payment, especially if sufficient security was provided for the debt.

Inaction by the tax authorities does not prevent the statute of limitations from applying to taxpayers' rights to request and obtain a refund of incorrectly made payments (DGT. Resolution V1566-25 of September 3, 2025)

The DGT has adopted a debatable view to conclude that the tax authorities' inaction in response to a request for a refund of incorrectly made payments does not prevent the right to obtain that refund from expiring.

On this same point, the Supreme Court issued a decision on October 15, 2025, admitting for consideration an appeal as to whether, in the absence of an express decision by the tax authorities on a request for correction and a refund of incorrectly made payments, the statute of limitations for the taxpayer's right to obtain a refund starts to run (i) from the submission date of the original request or, on the contrary, (ii) the period does not start running until the tax authorities issue and notify an express administrative decision in relation to the refund request made or have full and complete knowledge of the ground for bringing the action and, therefore, of the incorrect nature of the payment.

Tax authorities must exercise utmost diligence and care to ensure and verify the taxpayer's actual receipt and ability to access electronic notifications (Catalan High Court. Judgment of September 17, 2025)

The tax authorities issued several requests for the submission of an annual information return (form 184) to a pass-through entity, which were not met, and therefore initiated disciplinary proceedings and subsequent attachment proceedings. The notices were sent to the enabled electronic address, and the entity did not read them. In previous years, the same type of request had been sent by post and had been met promptly. When the entity became aware of the attachment of its account, it filed an economic-administrative claim, which was not admitted due to being outside the time limit.

Based on article 24.2 of the Constitution and the Supreme Court's case law on the principles of good administration and effective administrative protection, the Catalan High Court concluded that, in a case with the examined features, the economic-administrative claim cannot be considered to be filed outside the time limit, because the interested party had no real possibility of knowing about the proceedings. Finding otherwise would violate the party's right of defense.

The existence of a sham transaction requires proof that the services are intrinsically linked to the individual and cannot lawfully be channeled through an entity (Catalan High Court. Judgment of June 30, 2025)

Tax auditors classified the invoicing of services by a holding company to an investee company (in the form of management *fees*) as a relative sham, after finding that these services were not provided by the entity but directly by the individual who was its shareholder and director, because, according to the tax authorities, they were non-transferable, due to being linked to the director's exclusive skills and abilities.

The Catalan High Court rejected this conclusion because the tax authorities did not prove which personal knowledge, skills, or abilities meant that the services could not be provided through the holding company. According to the court, the company is a mixed holding company, with real and proven activity, so the direct participation of the shareholder in the provision of services does not eliminate the substance of the company or automatically make it an artificial or empty structure.

Tax authorities cannot reject data on a self-assessment without proving, after the relevant verification procedures, why it considers them to be incorrect (Valencia High Court of Justice. Judgment of June 11, 2025)

The tax authorities corrected a taxpayer's personal income tax self-assessment and attributed certain amounts of income reported by the taxpayer himself on form 130 (prepayments under the direct assessment method) and form 390 (annual VAT summary). These amounts did not appear in the revenue and expense records or in the information reported by third parties (form 190). The Valencia High Court concluded that, although the tax authorities can check and correct self-assessments, they cannot simply reject the reported data or automatically replace it with the data recorded on ancillary returns (such as form 130 or form 390), especially if the main self-assessment is supported by the taxpayer's records and third-party information.

According to the court, a presumption of truth applies to self-assessments, so, under the Supreme Court's principles, the tax authorities must provide sufficient and reasoned evidence to support their doubts about the reported information before requesting additional evidence from the taxpayer.

A statute bar on action to declare liability for a penalty applies also to claims related to its reductions (Central Economic-Administrative Tribunal. Decision of March 13, 2025)

TEAC concluded that, after action for declaring liability for a penalty has become statute-barred, it is not possible to seek liability for the amount of the early payment reduction associated with that penalty, insofar as the statute of limitations for the penalty applies to claims relating to its reductions.

2. Corporate income tax and non-resident income tax

The DGT rules again on the validity of valid economic reasons for applying the tax neutrality regime (DGT - various resolutions cited below)

The DGT has issued new resolutions in which, based on the case law of the Supreme Court and the CJEU, it takes the view that valid economic reasons are not a *sine qua non* requirement for application of the tax neutrality regime. It has nevertheless specified which reasons it considers valid for these purposes in relation to the following transactions:

a. **Mergers by absorption — short-form and reverse —** (resolutions V1548-25, V1552-25, V1554-25, V1625-25, and V1754-25)**:** (i) simplify and streamline the corporate structure, (ii) centralize management and improve governance, (iii) ensure the absorbing entity's liquidity and improve its credit rating, (iv) reduce administrative and tax costs, (v) enhance solvency and financial optimization; (vi) eliminate inactive companies and duplications, and (vii) facilitate business succession and negotiations with financial institutions.

b. **Total and partial spin-offs** (resolutions V1556-25, V1581-25, V1582-25, V1654-25, and V1672-25): (i) separate activities to compartmentalize risks, (ii) encourage specialization in management and clarification of responsibilities, (iii) compartmentalize risks and enhance financing, (iv) streamline activities and their structure; (v) optimize assets, and (vi) differentiate business image.

c. **Non-monetary contributions of lines of business** (resolutions V1577-25, V1604-25 , and V1741-25)**:** (i) facilitate access to public support, (ii) create holding companies to centralize ownership interests, (iii) streamline activities and separate risks; (iv) enhance the financial structure, (v) allocate clear responsibilities, and, lastly, (vi) create a holding company to conduct leadership, management, administration, control, and support in relation to investee companies, as well as to distribute financial resources, through an adequate organization of material and human resources.

d. **Share exchanges** (resolution V1655-25): (i) streamline the group's corporate asset structure, (ii) optimize financial resources, (iii) enhance and centralize decision-making; and (iv) elect the tax consolidation regime.

A provision for future layoffs in the context of an asset sale is not deductible (National Appellate Court. Judgment of November 3, 2025)

The tax authorities denied the right to deduct a provision recorded to cover severance payments for staff transferred to another entity under an asset sale agreement. The company submitted that this was not a provision for risks and expenses, but rather a contingent component of the sale price, which was negative and had to be considered at the time of the transfer. The National Appellate Court concluded, however, that the provision did not relate to a known or enforceable obligation, but rather to a forecast to cover future and uncertain contingencies, without any matching revenues, which made it non-deductible. It added that the fact that the provision had been reversed in subsequent years as a tax revenue did not alter its non-deductible nature in the year in which it was incorrectly recorded.

Income obtained from the dissolution and liquidation of an entity is included in the fiscal year that the transaction is recorded in a deed (National Appellate Court. Judgment of October 30, 2025)

The National Appellate Court has concluded that income obtained from the dissolution and liquidation of an entity must be reported for corporate income tax purposes in the fiscal year

that the transaction is recorded in a deed, which is when the decision takes effect vis-à-vis third parties, including the tax authorities. This conclusion does not change if the decision was adopted by the board in an earlier fiscal year or the transaction was recorded in a subsequent fiscal year.

Application of the capitalization reserve benefit requires the increase in equity to be maintained throughout the period established in the law (TEAC. Decision of October 20, 2025)

Article 25 of the Corporate Income Tax Law requires, among other conditions, that, to apply the capitalization reserve benefit, the increase in equity must be maintained over a three-year period (five years in the examined period). According to TEAC, this requirement means that the increase must be maintained in each and every one of the years established by the law, not only at the end of that period.

The acquisition of own shares in a withdrawal of shareholders does not affect the capitalization reserve (Castilla y León High Court. Judgment of October 17, 2025)

The tax authorities denied the reduction for capitalization reserves and added an adjustment in respect of the forfeiture of tax benefits, after concluding that the acquisition of own shares represented a decrease in equity. The Castilla y León High Court overturned the assessment because it considered that capital reductions and transactions with own shares should not be included to determine the increase in equity or to analyze compliance with the requirement to maintain that increase, in the same way as shareholder contributions are not taken into account. The purpose of the incentive is to strengthen self-financing, not to penalize adjustments to equity arising from legal rights of withdrawal.

If an EIG is domiciled in the Canary Islands, the tax credit for filmmaking investments can be applied at the increased percentage established in that territory, even if the investor is not domiciled in the islands (National Appellate Court. Judgment of October 30, 2025)

The tax authorities eliminated the tax credits for filmmaking investments applied by an entity, because the EIG in which it invested did not meet the condition of being a producer. It concluded further that the 38% increased tax credit under the Canary Islands tax regime would only be applicable if the investor company domiciled in the Canary Islands, which was not the case.

In response, the National Appellate Court recalled that if the EIG meets the necessary requirements to qualify for the tax credit for investments in film productions and is based in the Canary Islands, the investor can apply the increased tax credit percentage under article 94 of Law 20/1991 of June 7, 1991, amending tax elements of the Canary Islands Tax and Economic Regime. According to the court, this rule does not require the investors to be domiciled in the Canary Islands, only the EIG, and it pointed out that the purpose of the Canary Islands regime is to encourage investment in the islands not to establish special rights associated with the region.

TEAC recognizes the right to a refund of withholdings for lossmaking nonresidents (Central Economic-Administrative Tribunal. Decision of October 20, 2025)

TEAC concluded that preventing the refund of withholding taxes paid on royalties to nonresident companies in a lossmaking position violates the free movement of capital. This change in criteria is made in light of the ruling of the National Appellate Court in its judgment of July 28, 2025 (September 2025 newsletter), which in turn accepts the conclusions of the CJEU in its judgment dated December 19, 2024 in case C 601/23 (December 2024 - January 2025 newsletter). It also specified that, in the examined case, the comparability analysis must relate to tax groups and not to individual companies, and that the right to a refund is kept even if the nonresident entity is part of a consolidated group, provided that the total tax liability of that group was not sufficient to absorb the foreign tax credit.

3. Personal income tax

Termination of a contract on the grounds of a breach renders the initial capital gain invalid in land swaps for future construction (Supreme Court. Judgment of October 27, 2025)

The Supreme Court has concluded that the termination of a land swap agreement for future construction, made by the parties under article 1124 of the Civil Code, has retroactive (i.e., *ex tunc*) effects. Therefore, the effect of that termination is to render invalid all obligations and legal effects arising from the agreement, including any change to net assets that generated a capital gain for personal income tax purposes. In short, this does not give rise to two changes to net assets (one due to the swap and the other due to the termination), but rather the termination of the contract removes the capital gain that was initially recognized, because the contract does not have any legal effect from the outset.

The portion of the sale price of the principal residence used to pay off a mortgage can be included in the basis for the tax credit for investment in the principal residence (Central Economic-Administrative Tribunal. Decision of October 20, 2025)

Transitional Provision 18 of the Personal Income Tax Law allows the tax credit for investment in the principal residence to continue to be applied by any taxpayers who (i) acquired their principal residence (or paid amounts for the construction, extension, renovation, or completion of work on their principal residence for reasons relating to disability) before January 1, 2013, and (ii) had applied the tax credit for this item before 2013.

In relation to application of this deduction, TEAC (Central Economic-Administrative Tribunal) rendered a decision on a point of law and concluded that, where taxpayers sell their principal residence and pay off the outstanding principal of the mortgage on it using part of the price obtained in the transfer, they can include in the tax credit basis the amount of the price used to repay that loan.

Several apparently contradictory rulings have been issued in relation to the concept of "net taxable income taxed abroad" for the purposes of the international double taxation personal income tax credit (Central Economic-Administrative Tribunal, in a decision dated October 20, 2025; and Madrid High Court, in a judgment of September 30, 2025)

The international double taxation tax credit under article 80.1 b) of the Personal Income Tax Law allows the tax liability to be reduced by the lesser of (i) the amount of tax actually paid abroad and (ii) the result of applying the effective average tax rate to the portion of taxable income taxed abroad.

TEAC has analyzed whether the concept of "taxable income taxed abroad" should be taken as (i) the total amount on which tax has been paid abroad (foreign net taxable income) or, alternatively, as (ii) the Spanish net taxable income that has been taxed abroad. TEAC concluded that the tax credit basis must be calculated by reference to the literal wording of article 80, i.e., by including the portion of net taxable income that has been taxed abroad, determined in accordance with the domestic personal income tax legislation.

Also, the Madrid High Court examined the case of a taxpayer who obtained real estate capital gains in the United Kingdom and Ireland and applied the tax credit in respect of the foreign tax. The Spanish Tax Agency (AEAT) considered that the net taxable income taxed abroad should be reduced by the depreciation expenses stipulated by Spanish law, even though this concept does not exist in the tax systems of the United Kingdom and Ireland. The court concluded, however, that the inclusion of depreciation as a deductible expense for calculating the net taxable income abroad violates article 80.1.b) of the Personal Income Tax Law and the double taxation agreements signed with the United Kingdom and Ireland. According to the

court, the tax credit must be calculated on the income obtained abroad in accordance with the legislation of those countries, without introducing adjustments specific to the Spanish system for expenses that are not recognized in the countries of origin.

Nonresidents can apply the combined income-wealth limit (Supreme Court. Judgments of October 29 and November 3, 2025)

The Supreme Court has confirmed that nonresidents who are liable for wealth tax in Spain are entitled to apply the so-called "combined income-wealth limit" set out in article 31.1 of the law on the tax, according to which the sum of the total wealth tax liability and personal income tax liabilities cannot exceed 60% of the sum of the amounts of taxable income for personal income tax purposes.

According to the court, excluding nonresidents from this limit violates the principle of free movement of capital enshrined in EU law. The court pointed out in this connection that the purpose of the joint limit is to avoid the possible confiscatory effects of wealth tax, so there is no objective justification for excluding nonresidents.

Disposal of funds in joint accounts implies tacit and irrevocable acceptance of the inheritance (TEAC. Decision of October 30, 2025)

The appellant, the sole testamentary heir, disposed of funds belonging exclusively to the deceased and deposited in accounts held by both parties, by way of transfers made on the day following the date of death. Almost four years later, after an audit had been initiated in relation to inheritance tax, he formally renounced the inheritance in a public deed. TEAC concluded that disposal of the funds presupposes a "necessary intention to accept" and is also an act that "would not have been allowable without heir status" because the appellant has not provided sufficient proof of separate ownership of the disposed funds. According to the court, it cannot be concluded that disposal of the money was simply an act of management, administration, or custody, because the funds passed from the deceased's assets to the appellant's assets, and constituted a true act of disposal. The consequence of this withdrawal is tacit acceptance of the inheritance, a decision that is irrevocable, and therefore the subsequent renunciation has no effect vis-à-vis the tax authorities.

The reduction for transfer of a family business does not apply to inheritance agreements with *inter vivos* transfers (Madrid TEAR. Decision of March 27, 2025)

The Madrid regional government issued an inheritance tax assessment after rejecting application of the family business reduction to an inheritance agreement executed in the Basque Country, whereby parents transferred a number of assets to their son during their lifetime. The court concluded that the reduction set out in both article 21 of Legislative Decree 1/2010 of the Madrid regional government and article 20.2.c) of the central government law is applicable to acquisitions upon death, not to *inter vivos* transfers under an inheritance agreement, and therefore confirmed the assessment.

Financial investments qualify as being used in the business for applying family business benefits if they perform essential functions for the business (Castilla-La Mancha TEAR. Decision of February 25, 2025)

The tax authorities denied application of the reduction for the transfer upon death of a family business to the total value of the shares bequeathed by the deceased to his son, due to considering that the ownership interests in other entities included in the assets were not used in the economic activity. The Castilla-La Mancha TEAR, by contrast, applied the Supreme Court's principle to conclude that assets representing ownership interests can qualify as being used in the business if it is proven that they are needed for the activities of the business, which can occur if they are necessary to cover capitalization or liquidity needs, or the need to access to credit.

The revocation of a gift for a reason other than those set out in the Civil Code constitutes a new taxable gift (Madrid TEAR. Decision of March 27, 2025)

The claimant gave 50% of a property to his spouse, recorded the gift in a public deed and filed an inheritance and gift tax self-assessment. A few months later, both parties executed a new deed rendering the original gift null and void and applied for the self-assessment to be set aside. The Madrid TEAR confirmed that the initial gift was completed at the time of its acceptance (article 623 of the Civil Code) and that revocation by agreement between the parties is not among the legal grounds for revocation as set out in articles 644 through 653 of the Civil Code (subsequent offspring, breach of

conditions by the recipient, and ingratitude on the part of the recipient). Therefore, it must be considered that the second deed constituted a new gift, which was also taxable.

The personal income tax credit for a principal and actual residence on the island of La Palma has been extended to 2025

Royal Decree-Law 13/2025, of November 25, adopting urgent additional measures for the economic and social recovery of the island of La Palma following the damage caused by volcanic eruptions was published in the Official State Gazette (BOE) on November 26, 2025.

For personal income tax purposes, application of the tax credit for taxpayers having their principal and actual residence on the island of La Palma has been extended to 2025.

The Agreement between the EU and Switzerland on the automatic exchange of financial account information has been amended

Council Decision (EU) 2025/2325 of 10 October 2025, on the signing, on behalf of the Union, and provisional application of the Amending Protocol to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance was published in the Official Journal of the European Union on November 20, 2025.

The Amending Protocol to the Agreement reflects changes to the Common Reporting Standard (CRS) to include new digital financial products, such as specific electronic money products and central bank digital currencies, while introducing more detailed reporting requirements and enhanced due diligence procedures. It also introduces provisions on mutual assistance in the collection of direct and indirect taxes and updates references to the contracting parties' data protection legislation.

To ensure that the changes to the CRS apply from January 1, 2026, in line with and reciprocally to global standards and EU law, the amendments set out in the Amending Protocol relating to certain articles and annexes of the agreement and declarations are being applied provisionally.

4. Indirect taxes and customs duties

The requirement for the VAT exemption on supplies of goods to travelers to be implemented through the refund procedure is not a material requirement to apply that exemption (Supreme Court. Judgment of October 31, 2025)

The Supreme Court has held that the provision in the legislation determining that the exemption set out in the scheme for travelers must be implemented through the refund mechanism is not a material requirement for the right to exemption, but rather a procedural mechanism designed by the national legislature for monitoring purposes.

Consequently, it is not compatible with the principles of neutrality and proportionality of VAT to deny the exemption solely on the ground of failure to comply with the refund procedure, where it has been proven that the goods have left EU territory, that the recipients are travelers residing outside the EU, and that there is no risk of fraud or unjust enrichment on the part of the taxable person.

Commission fees for advance payments under a factoring agreement are non-exempt taxable transactions (CJEU. Judgment of October 23, 2025, in case C-232/24)

The case concerned whether, in relation to the assignment of receivables under a factoring agreement, in which the customer is relieved of the collection of receivables and the related risk of non-payment, the factoring commission and arrangement fee paid by the customer should be regarded as remuneration for a service falling within the scope of the VAT Directive and, where applicable, whether those fees constitute consideration for a single and indivisible debt collection service (subject to and not exempt from VAT) or whether, on the contrary, they should be understood to remunerate, at least in part, a VAT-exempt service relating to the granting of credit.

The CJEU confirmed that those fees are subject to VAT and concluded that the fees constitute consideration for a single and indivisible service consisting of debt collection, which is not exempt from VAT.

Analysis of the place of supply of services relating to the organization of conferences and events (TEAC. Decision of May 13, 2025)

Services relating to the organization of events, such as conferences, lectures, and similar events, are taxed at the place where the recipient is located, where the recipient is another business. TEAC found further that where accommodation or catering services can be regarded as ancillary to the organization of the event itself, they will not be taxed separately from the organization service, and therefore the same place of supply rule will apply.

By contrast, where it cannot be concluded that those ancillary services exist and the case involves third-party services provided on their own behalf, the special regime for travel agencies will apply, whereby the services will be taxed where the organizer is established (and the organizer will not be entitled to deduct the input VAT). In TEAC's view, this would be the case, among others, for:

a. Isolated services that cannot be classified as event or conference organization.

b. Cases in which the service includes attendance at the conference or event (not its organization for a third party, sponsor) together with the associated accommodation or meals.

c. Cases in which the main purpose of the organized meeting or event is not business, commercial, or scientific, but rather for other predominant purposes, such as attendance at sporting, cultural, or (more generally) private events.

5. Local taxes

The cadaster inspection procedure is subject to the maximum length requirement and the consequences of non-compliance set out in the LGT (Supreme Court. Judgment of October 31, 2025)

According to the Supreme Court, the cadaster inspection procedure for real estate is subject to the maximum length requirement under the LGT for audits. Therefore, the general time limit for these procedures is 18 months, not the shorter 6-month period provided in the cadaster rules for other procedures (such as the compliance procedure set out in additional provision three of the revised Real Estate Cadaster Law). Failure to comply with this time limit does not make the procedure become statute-barred, as provided by the LGT itself.

The fee for private use of local authority public property is incompatible with the fee paid for the administrative concession for the public water supply service (Supreme Court. Judgment of October 24, 2025)

The Supreme Court has held that the fee charged to a company for the use of local authority public property to provide water supply services in a municipality was incompatible with the fee that the same entity paid for the administrative concession for the provision of that service, because the latter fee already included payment for use of that local authority public property.

The 1.5% fee charged to electricity suppliers is compliant with EU law (Supreme Court. Judgments of October 20 and October 23, 2025)

The Supreme Court has concluded that the municipal fee for special use of public property for cables and conduits on public highways by electricity suppliers (which do not own the distribution networks they use to carry out their activity), amounting to 1.5% of the gross revenues from the annual turnover of these companies in the municipality, is compliant with EU law.

Installed capacity must be distributed proportionally among activities conducted simultaneously on the same premises (Andalucía High Court. Judgment of September 24, 2025)

According to the Andalucía High Court, the "installed capacity" tax element used to calculate the tax on economic activities liability for different activities conducted simultaneously at the same facility must be distributed in proportion to the final sum relating to each of these activities.

6. Excise taxes and environmental and other taxes

The Catalan tax on carbon dioxide emissions from vehicles is constitutional (Catalan High Court. Judgment 3570/2025, of October 20, 2025)

The Catalan High Court has concluded that the Catalan tax on carbon dioxide emissions from vehicles is constitutional.

According to the court, (i) it is an environmental tax, and the taxable event is validly configured around the potential to emit CO_2, inherent in the ownership of a vehicle capable of being driven and therefore does not violate the ability-to-pay principle. Furthermore, (ii) the taxable amount is determined objectively by the official emissions certified by the manufacturer, which ensures legal certainty and equal treatment among taxpayers. Moreover, (iii) it applies exclusively to owners with tax residence in Catalonia or linked to the region by establishment, which is in line with the provisions on regional powers set out in the Constitution and the Charter of Autonomy, and therefore no discrimination is apparent. Added to this, (iv) as the tax does not aim to redistribute income but to encourage environmentally responsible behavior, it observes the principle of progressivity. Lastly, (v) the tax complies with the principle that certain matters are the exclusive preserve of legislation by statute only.

Constitutional Court endorses use of the decree-law to modify the tax rate of the Catalan tax on facilities having an impact on the environment (Constitutional Court. Judgment of October 7, 2025)

The Catalan High Court requested a ruling on unconstitutionality in relation to article 2 of Decree-Law 4/2022, of April 5, 2022, by the Catalan Generalitat regional government, which increased the rates for the tax on facilities with an environmental impact. The Constitutional Court rejected its unconstitutionality because it considered that (i) the enabling condition requiring an "extraordinary and urgent need" was met, in view of the context of the energy crisis resulting from the war in Ukraine and the need to accelerate the green transition; and because (ii) the increase in the tax on conventional energy sources and the allocation of the additional revenue to green transition measures are a concrete and immediately effective response, in accordance with constitutional doctrine on the use of decree-laws. Furthermore, (iii) the court rejected the claim that the material limit under article 86.1 of the Constitution has been violated, because this is a tax levied by the Catalan Generalitat regional government which does not constitute a basic pillar of the Spanish tax system as a whole nor does it affect direct taxation, and therefore does not substantially alter the position of taxpayers based on their ability to pay.

Registration tax must be calculated by reference to CO2 emissions calculated under the methodology in force on the chargeable date (Valencia TEAR. Decision Resolution of February 18, 2025)

On the registration tax, the Valencia TEAR concluded that the tax authorities cannot verify or modify the value if it coincides with that obtained from official tables, even if there is an invoice with a higher amount. The only case where the tax authorities can adjust the reported value by applying the market value, without applying the verification methods under article 57 LGT, is if it does not match the value on the tables (due to an error or because another vehicle model has been reported).

In relation to CO_2 emissions, the court confirmed that those listed in box V.7 of the technical data sheet, relating to the cycle in force at the time the tax becomes chargeable (WLTP), must be taken into account, and not those of the NEDC cycle that appear in the technical data sheet as observations, even if the methodology relating to the original date of manufacture/approval of the vehicle is not that in force on the chargeable date.

Further information:

Tax

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