GARRIGUES

Tax Newsletter

Spain

October 2025

Pillar 2: Approval of notification of filer, information return, and self-assessment forms for the global minimum tax

Forms 240, 241, and 242 must be submitted for the first time in relation to fiscal years beginning in 2024.

Order HAC/1198/2025 of October 21, 2025, published in the Official State Gazette (BOE) on October 29, 2025, approves the notification of filer, information, and self-assessment forms for the minimum global top-up tax (Pillar 2) and establishes the conditions and procedure for their submission. It therefore completes the rules on the tax in Spain. The order specifies the content of the tax and formal obligations set out in the regulations on the tax (publication dated April 4, 2025).

Our publication dated October 31, 2025 examines who is required to file each form, its content, and the filing deadlines.

1. Tax procedure

An automatic stay in the administrative jurisdiction must be assessed as relevant evidence in court (Supreme Court. Judgment of October 20, 2025)

An entity filed an appeal for judicial review. Enforcement of the assessment had been stayed in economic-administrative proceedings after a bank guarantee had been provided. The entity applied to the court for an extension of that stay, contending losses and no impact on public interest, but this was rejected by the National Appellate Court, which held that sufficient proof had not been provided of the contended losses. The Supreme Court concluded that an automatic stay ordered in administrative proceedings, where the tax debt has been secured by a guarantee, constitutes relevant evidence that must be assessed by the court. Although the judicial review court is not bound by the previous administrative decision, it must give adequate reasons for not keeping the stay, where no detriment to public interest has been proven and the debt is sufficiently secured.

Daily allowances can be attached without limit, as they are not salary or remuneration for the purposes of the Civil Procedure Law (TEAC. Decision of October 15, 2025)

TEAC confirmed AEAT's interpretation and set the following principle: insofar as they are compensation or a stipend that an employer pays to its employees to compensate them for expenses incurred due to their work (regardless of whether they are included on the recipient's pay statement), daily allowances are non-salary items under article 26.2 of the Workers' Statute, and therefore, are not wages, salary, remuneration, or equivalent items for the purposes of article 607 LEC. Consequently, they are fully attachable without limit.

Tax authorities can request submission of due diligence reports (TEAC. Decision of October 15, 2025)

TEAC concluded that a request for information issued by the tax authorities asking the purchaser of shares to submit due diligence reports issued in the context of the sale of those shares is lawful. According to TEAC, (i) the request was issued by a competent authority and met the essential principles requiring adequate support by reasons and tax relevance, insofar as the reports contain relevant information on various areas of the company, which is decisive for assessing whether the entity complies with its tax obligations; and, (ii) the requested data is not strictly private, but rather relates to financial matters.

The Spanish courts must monitor the recovery of state aid, even if it originates from EU decisions (Constitutional Court. Judgment of October 6, 2025)

In the context of proceedings for recovering a 45% tax asset for investments under Álava provincial legislation, an entity lodged an appeal for protection of constitutional rights, submitting that, despite the declaration of incompatibility of the tax regime as a whole with the common market, the aid met the incentive effect which, under EU law, precludes that incompatibility. The Basque Country High Court simply confirmed the obligation to repay the aid without examining this submission.

The Constitutional Court concluded, however, that the Spanish courts must review administrative measures for the recovery of individual aid, even if they arise from EU decisions, because this ensures access to the courts and judicial protection for the beneficiary. It emphasized that, although the European Commission has exclusive jurisdiction to hold state aid incompatible with the common market, it is up to the national courts to monitor the correct implementation of EU decisions and to assess, in each case, whether exceptional circumstances such as the "incentive effect" exist.

In this particular case, it declared that the right to effective judicial protection, in terms of access to the courts, had been breached, because the Basque Country High Court ignored the obligations imposed on it under the *pro actione* principle.

An enforcement surcharge is not compatible with late-payment interest charged on the stay of a tax measure (Supreme Court. Judgment of October 1, 2025)

The Catalan Tax Agency assessed late payment interest in relation to a gambling tax debt. The taxpayer applied for a stay of enforcement of the tax to an economic-administrative tribunal after the enforcement period had begun. The stay was granted without security, and subsequently, late-payment interest was assessed in respect of the entire duration of the stay. The regional tribunal set aside that assessment on the grounds that the interest was incompatible with the 5% enforcement surcharge that had previously been applied, and this interpretation was confirmed by the Catalan High Court.

The Supreme Court confirmed that the requirement to pay late-payment interest on a stay of enforcement of a measure (article 26.2.c of the General Taxation Law) is not compatible with the enforcement surcharge (articles 28.2 and 28.5) where, at the time of the stay, the debt was already in the enforcement period. Because they are both compensatory payments, applying them jointly violates principles of tax justice.

AEAT can use third parties' personal data in its tax assessments (Supreme Court. Judgment of September 29, 2025)

The Supreme Court has confirmed that AEAT can use the personal data of third parties other than the taxpayer without consent in management, audit, or collection procedures, as long as (i) the data is adequate, relevant, and necessary for determining the facts and for providing the reasons supporting the adopted decisions; and (ii) the inclusion of the data is proportionate to the legitimate aim sought (correct application of tax provisions). As a general rule, the processing of personal data must be proportionate and not exceed what is strictly necessary to fulfill its purpose; and must be carried out in the context of a procedure in which the protection of the fundamental rights and freedoms of data subjects and affected individuals has been ensured.

The one-month period for considering that the penalty decision has been issued and notified begins on the day following acceptance and ends on the same day of the expiration month as the day when acceptance was given (TEAC. Decision of September 24, 2025)

TEAC held that the one-month period for considering that a tacit decision to impose a tax penalty has been issued and notified, where the taxpayer has accepted the proposed penalty, begins on the date when acceptance was given (that day is excluded from the calculation) and ends on the same day of the expiration month as the day when acceptance was given or, if there is no equivalent day in that month, the last day of the month. The court clarified that the tacit penalty decision can only be considered issued and notified after the whole of that month has elapsed, i.e., on the day after the expiration date. Therefore, to avoid this tacit decision, it is sufficient for the tax authorities to make an attempt at notification or make an express decision available electronically within the month.

A decision holding null and void the judicial authorization for a hard drive to be copied renders the obtained information invalid (Murcia High Court. Judgment of July 9, 2025)

Tax auditors obtained judicial authorization to copy a taxpayer's device. That authorization was held null and void by the Supreme Court, however, after finding a breach of the right to privacy. For that reason, Murcia High Court concluded that the decision holding the authorization null and void removed legal protection of the administrative measure, and therefore disallowed the use of information obtained in this way as evidence; which rendered invalid the assessment issued with that information.

Failure to establish the scope of a procedure when it is initiated is a defect invalidating the assessment (La Rioja TEAR. Decision of March 18, 2025)

A limited verification procedure in relation to transfer and stamp tax was initiated following a request that did not specify the scope of the steps. The La Rioja Regional Tribunal pointed out that, under the principle established by the Supreme Court, specification of the nature and scope of a procedure from the outset is a substantive right for the taxpayer which enables them to exercise their right to an adequate defense and defines the scope of the verification. For that reason, the issued assessment was null and void.

An attachment order cannot be issued without first deciding on an appeal for reconsideration against the order initiating enforced collection proceedings (Valencia TEAR. Decision of February 27, 2025)

The Spanish Tax Agency (AEAT) issued a notice of attachment of bank accounts before a decision had been rendered on an appeal for reconsideration filed against the order initiating enforced collection proceedings. The Valencia Regional Tribunal pointed out, in line with the binding principle established by TEAC in its decision of October 15, 2024 (November 2024 newsletter), that the tax authorities must expressly deliver and notify the decision on the appeal for reconsideration before initiating any enforcement steps.

Principles have been issued on stays between the economic-administrative tribunals and AEAT

The decision of September 24, 2025, by the Office of the Head of the State Tax Agency (AEAT), published in the Official State Gazette (BOE) on October 6, 2025, establishes principles to be applied in steps relating to stays of enforcement of measures challenged by appeals and claims and to the relationship between the economic-administrative tribunals and AEAT. The decision keeps the same structure as the decision of December 21, 2005, to which it adds certain elements arising from amendments to the legislation, new case-law principles and administrative law interpretations, as well as adaptations to how the tax authorities act in response to new technologies at the service of citizens.

2. Corporate income tax and nonresident income tax

Expenses are not deductible if they relate to statute-barred fiscal years (Supreme Court. Judgment of October 7, 2025)

The Supreme Court has established that expenses recorded for accounting purposes in later fiscal years than the year they were incurred cannot alter the tax base for statute-barred fiscal years. The timing of recognition must observe the legal limits of the statute of limitations, and neither the principle of complete adjustment nor the principle of good administration mean that the tax debt can be modified in fiscal years for which the right to assess has expired.

The reversal of a positive tax adjustment in respect of a null and void swap must be attributed to the fiscal year in which the judicial decision holding it null and void becomes final (Supreme Court. Judgment of October 1, 2025)

The Supreme Court concluded that the tax effects of a subsequent judicial decision holding a swap null and void must be attributed to the fiscal year when that decision becomes final (or when the judgment is enforced through reciprocal restitution of the amounts involved in the swap, if both events do not take place in the same fiscal year).

Tax losses generated more than ten years before their offset must be evidenced by producing a self-assessment (Madrid High Court. Judgment of September 24, 2025)

Madrid High Court has confirmed that, on the basis of article 26.5 of the Corporate Income Tax Law and article 66 bis of the General Taxation Law, after ten years have elapsed since the generation of tax losses, it is up to the taxpayer to prove their existence by producing a self-assessment and the financial statements filed with the Commercial Registry.

Borrowing costs arising from subordinated financing benefiting other entities are not deductible (TEAC. Decision of September 24, 2025)

TEAC stated that borrowing costs arising from subordinated financing received by the parent company of a tax group are not deductible to the extent that they are not incurred exclusively for the Spanish entity's own needs and instead benefit other entities in the worldwide group that do not belong to the Spanish tax group.

A provision for severance costs is deductible in the fiscal year when it is recognized for accounting purposes, if the termination has already been communicated (DGT. Resolution V1733-25 of September 23, 2025)

A dismissal was communicated before the end of a fiscal year (and a provision was recorded at that time for the severance that would be payable if the dismissal were classified as unfair), although the administrative conciliation procedure took place at the beginning of the following fiscal year, which is when that severance was paid. The DGT considered that, under recognition and measurement base (NRV) 15 in the Spanish National Chart of Accounts (PGC), the provision was recorded correctly, as notification of the dismissal letter is conclusive proof that there is a present obligation for the company to make a future expenditure of funds. Therefore, it was deductible in the year the provision was recorded (subject to the limit under the rule on the deduction of severance payments for dismissal or termination).

Basque Country High Court rejects AEAT's principle regarding the limits on the offset of tax losses by a tax group (Basque Country High Court. Judgment of September 1, 2025)

Under the Corporate Income Tax Law, the total amount of tax losses that can be offset in a tax

group (both those generated before consolidation and those generated in the group) cannot exceed the tax group's own offset limit. The law further establishes that the pre-consolidation tax losses that can be offset by the group must meet the individual offset limit of the company that generated them.

In its notice on the application by the tax consolidation group of tax losses and deductions from previous years dated May 2023, AEAT added a new limit: the individual limit for offsetting pre-consolidation tax losses must be calculated by reference to the (proportional) part that the entity that generated the previous tax losses contributed to the formation of the group's tax loss (being offset). The Basque Country High Court rejected this principle and concluded that, under the applicable legislation, this limit is applicable only where the consolidation regime is forfeited or the tax group ceases to exist.

To deduct excess tax withheld outside Spain, it is necessary to have personal and material resources in the foreign country (TEAC. Decision of June 24, 2025)

TEAC examined whether a Spanish company that provided a loan to a subsidiary abroad can deduct as an expense the "excess" tax withheld outside Spain on the collected interest. At issue was whether that interest comes from an economic activity carried out abroad (a requirement referred to in article 31.2 of the Corporate Income Tax Law). TEAC concluded that the definition of "economic activity" must be interpreted according to article 5 of that law, which means that it will be necessary to have personal and material resources in the foreign country, which will not generally be the case if its only activity was providing a loan.

Limit on the effects of the Constitutional Court's judgment on RDL 3/2016 is not applicable to uphold appeals based on other grounds (TEAC. Decision of May 22, 2025)

The Constitutional Court judgment of January 18, 2024 declared that certain measures introduced into the Corporate Income Tax Law by Royal Decree-Law 3/2016 are unconstitutional. This judgment established a limit on timing effects, determining that requests for correction of self-assessments based on that judgment could not be made after it had been issued. TEAC clarified, however, that if the request is based on grounds other than those that gave rise to the declaration of unconstitutionality, the measures that were declared unconstitutional should not be applied in an administrative measure upholding the correction. However, if the request for correction is rejected, application of the measures declared unconstitutional does not have to be eliminated, as the limit on effects is applicable.

Beneficial owner status cannot be required for application of the internal exemption on interest paid to EU residents (Valencia High Court. Judgment of September 30, 2025)

The Nonresident Income Tax Law establishes an exemption on interest paid to EU resident entities. The letter of the law does not make this exemption subject to the recipient of the interest being its beneficial owner (within the meaning of the directive). However, the tax authorities denied the exemption in a case where the recipient entity was not the beneficial owner of the income. In response to this, the Valencia High Court pointed out that the Spanish domestic legislation introduced that exemption before the directive and that its legal regime differs substantially from that provided in the directive, therefore the letter of the domestic legislation must be observed, which does not contain the beneficial owner clause.

Publication of Multilateral Competent Authority Agreement on the Exchange of GloBE Information

The Multilateral Competent Authority Agreement on the Exchange of GloBE Information, applicable in Spain since July 4, 2025, was published in the Official State Gazette (BOE) on October 31, 2025. This agreement establishes that each competent authority will exchange on an automatic basis with all other competent authorities of jurisdictions with which it has an active exchange relationship the information included within the GloBE information return received from an ultimate parent entity or designated filing entity located in its jurisdiction, pursuant to the dissemination approach.

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

On October 10, 2025, the Council of the European Union confirmed without modification the EU list of non-cooperative countries and territories for tax purposes. The list contains the same eleven jurisdictions as before: (i) American Samoa, (ii) Anguilla, (iii) Fiji, (iv) Guam, (v) Palau, (vi) Panama, (vii) Russian Federation, (viii) Samoa, (ix) Trinidad and Tobago, (x) the US Virgin Islands, and (xi) Vanuatu.

3. Personal income tax

Formal registration for the special social security regime for self-employed workers (RETA) is not necessary to classify income obtained by professional members as income from an economic activity (Supreme Court. Judgment of October 8, 2025)

A doctor provided professional services to a company in which he owned a majority stake. On his personal income tax return, he classified his income as income from economic activities under article 27.1 of the Personal Income Tax Law (relating to professional members). The tax authorities classified it as employment income, however, as he was not formally registered for the RETA. The Supreme Court determined that, for the purpose of classifying the income obtained by a member as professional income under that article, the taxpayer only needs to be required to make contributions to the RETA, rather than having to be formally registered for that regime.

The actual severing of ties requirement cannot be sought to apply the multi-year income treatment to termination of the employment relationship by mutual agreement (Supreme Court. Judgment of October 7, 2025)

One month after termination of an employment relationship by mutual agreement, the worker was hired by the same company as an external consultant, providing services similar to those he performed as manager. Tax auditors rejected application of the reduction for clearly multi-year income, after considering that there had not been an actual severing of ties with the company, due to applying by analogy the provisions in article 1 of the Personal Income Tax Regulations, which makes the exemption for dismissal conditional on that severing of ties. The Supreme Court concluded, however, that this article cannot be extended beyond its specific scope (exemption for dismissal), and therefore cannot be applied to deny the reduction. This reduction is not a tax benefit, but rather a technical mechanism to reduce the progressiveness of the tax and therefore cannot be made conditional on requirements not provided in the law.

The reduction for starting a business must be applied to the net positive income figure adjusted in an audit (TEAC. Decision of September 24, 2025)

A 50% shareholder in a real estate intermediation firm was required to make an adjustment in relation to her personal income tax. Tax auditors took the view that she had provided intermediation services personally without receiving remuneration, which led to an adjustment for related-party transactions that increased her income from economic activities. The taxpayer requested application of the 20% reduction for starting a business, which was denied because, in the auditors' opinion, it could only be applied to the amounts of income originally reported. TEAC, however, concluded that the expression "income reported by the taxpayer" also includes income adjusted in an audit, under the complete adjustment principle.

Analysis of the exemption for workers abroad who are functionally linked to nonresident entities (DGT. Resolution V1692-25 of September 18, 2025)

The applicant has an employment relationship with a Spanish resident entity, although his job is functionally linked to a department belonging to a related nonresident entity. His salary is recharged to the latter. He travels abroad frequently to provide his services, and his activities do not benefit the Spanish entity employing him. The DGT found that the exemption for work performed abroad can be applied if a tax similar to personal income tax is applied in the country where the work is performed and that it is not a non-cooperative jurisdiction (a requirement that is considered to be met if there is a tax treaty with an information exchange clause).

Non EU residents can apply the wealth tax legislation of the autonomous community where they have the largest share of their assets (TEAC. Decision of September 24, 2025)

A tax resident outside the EU requested correction of his 2020 wealth tax self-assessment, submitting that he should have applied the legislation of the autonomous community where the largest share of his assets was located, which had a 100% tax credit in place. AEAT denied this request on the grounds that additional provision four of the Wealth Tax Law, as amended by Law 11/2021 of July 9, 2021, which allows this option for non EU residents, was not applicable in that fiscal year. TEAC upheld the claim and acknowledged that, although the new wording of that provision is not applicable retroactively, the same is not true for the principle applied by the Supreme Court that underpinned that reform, in direct application of EU law.

For wealth tax purposes, the acquisition value of real estate must include expenses and taxes inherent in the acquisition (TEAC. Decision of October 20, 2025)

TEAC confirmed that, for wealth tax purposes, the value of real estate must include the cost of investments and improvements on the real estate and the costs and taxes inherent in its acquisition paid by the purchaser (such as VAT or transfer and stamp tax and notary and registration fees).

How to determine the applicable kinship in cases of renunciation and vulgar substitution of an inheritance (Supreme Court. Judgment of October 15, 2025)

The Supreme Court examined which relationship must be considered for the purposes of applying the reduction for kinship where the appointed heir purely and simply renounces the inheritance without any consideration. According to the court, where a renunciation of that type triggers vulgar substitution (i.e., the testator designates a substitute in the event that the principal heir does not accept the inheritance), it is the substitute's (not the renouncing party's) relationship with the deceased that must be considered. Conversely, where no vulgar substitution exists in the will or a substitution is restricted to predecease or incapacity (excluding renunciation), the kinship of the renouncing party must be taken, provided that this person is entitled to a higher multiplier than the ultimate beneficiary would have had.

A request for an inheritance tax extension made outside the time limit does not toll the statute of limitations for the tax authorities' right to assess the tax (DGT. Resolution V1680-25 of September 18, 2025)

The DGT concluded that a request for an extension for assessment of inheritance tax submitted after the time limit (i.e., after the first five months following the death of the deceased) does not toll the stature of limitations for the tax authorities' right to assess the tax. This request is considered "rejected" and therefore has no effect on calculation of the statute of limitations, which runs from the day following the end of the statutory six-month period for filing the return. Requests for extension submitted within the time limit have the effect of postponing the start of the statute of limitations to the date on which the extension is granted or denied.

The existence of a civil lawsuit over an inheritance stays the collection of tax on self-assessed and deferred debts (Madrid TEAR. Decision of February 26, 2025)

The tax authorities rejected a stay of payment of a self-assessed and deferred inheritance tax debt, requested after the will was challenged in court. According to the tax authorities, if the self-assessment was submitted and the deferral granted before the civil lawsuit began, the stay under article 69 of the regulations on the tax does not apply. However, based on the case law of the Supreme Court, the Madrid TEAR held that the existence of a civil lawsuit over the inheritance, with a direct impact on the essential elements of the tax, stays the collection procedure, even if the debt arises from a self-assessment submitted and deferred before the start of the lawsuit.

4. Indirect taxes and customs duties

Utility costs at the business owner's home can be deducted in proportion to their use in the business activity (Supreme Court. Judgment of July 15, 2025)

A professional carried on his legal advisory activity at his home. The tax authorities questioned his deduction of input VAT on certain utility costs (electricity, water and gas) because their impact on his business activity had not been proven. The Supreme Court accepted their deduction, by reference to the proportion between the space used for his business activity and the total living space in the property.

The issuing of correction invoices to make a completely new VAT charge marks the beginning of the period for modifying the taxable amount in the event of non-payment (TEAC. Decision of July 15, 2025)

According to Article 89.4 of the VAT Law, any modification of the taxable amount due to non-payment must be made within the period provided in the legislation, which must be calculated from the date the tax becomes chargeable. In the examined case, the taxable person issued correction invoices (following an audit) and made a completely new equivalence surcharge. The invoices were not paid, so the taxable person modified the taxable amount. This modification was made within the period established in the legislation, but by considering that this period should be calculated not from the date the tax became chargeable, but from the time (after the audit) when VAT was charged on the correction invoices.

TEAC confirmed that this method of calculating the maximum period for modifying the taxable amount in a case with these characteristics is correct. The tribunal further clarified that in this case the modification would be allowable, even if the correction invoices to the customer had been issued outside the time limit, insofar as the customers were not entitled to deduct the equivalence surcharge, and therefore the delay did not affect the monitoring or neutrality of the tax.

Moreover, it rejected application of the proportionality rule (under which, in the case of partial payments, for the purposes of the modification, the completed payment must be considered proportional between the taxable amount and the tax) in this case where the original payments were attributed to the original invoices (price and VAT) and non-payment only related to the equivalence surcharge charged through the correction invoice.

The 10% reduced VAT rate is not applicable to finance leases with an option to purchase properties intended to be subleased (TEAC. Decision of June 19, 2025 in proceedings 00-7484-2022 and 00-09766-2022)

The VAT legislation establishes a 10% reduced rate for leases with an option to purchase buildings or parts of buildings intended exclusively for residential use. TEAC concluded, however, that this rate is not applicable where the lessee subleases the property. In these cases, finance lease payments are taxed at the 21% standard rate.

The distribution of dividends by supplying real estate is subject to transfer and stamp tax as a transfer of assets for consideration (DGT. Resolution V1721-25 of September 23, 2025)

A company decided to distribute dividends among its shareholders by supplying real estate located in the Madrid region. According to the DGT, due to being a second transfer of real estate, it must be exempt from VAT, and therefore, subject to transfer and stamp tax as a transfer of assets for consideration. The taxable persons are the shareholders who acquire the properties. There is no ad valorem stamp tax in this case, because it is incompatible with transfer tax.

Transfer of inheritance rights over trust properties is taxed as a transfer for consideration (DGT. Resolution V1602-25 of September 11, 2025)

The submitter is trustee under a trust on two properties acquired by inheritance. The trustees want to transfer their inheritance rights over these properties to him in exchange for financial compensation. The DGT concluded that the acquisition of these inheritance rights must be taxed as a transfer of real estate for consideration for transfer and stamp tax purposes, for which the taxable amount is the market value of those rights at the time of the transfer.

5. Local taxes

A local authority cannot modify registration for the tax on economic activities of its own initiative if the taxpayer is being taxed at the national rate (Supreme Court. Judgment of October 15, 2025)

According to the Supreme Court, the power granted by law to local authorities to assess the tax on economic activities does not include the option to modify registration for the tax of their own initiative where, in exercising the audit functions delegated to them by the central government, they find that the taxpayer is not correctly classified under the appropriate heading, if that taxpayer is being taxed at the national rate.

Net revenues figure for the purposes of the tax on economic activities exemption must include income from all the economic activities carried out by the taxpayer (TEAC. Decision of September 18, 2025)

TEAC concluded that, for the purposes of determining whether the tax on economic activities exemption provided for legal entities whose net revenues figure does not exceed one million euros is applicable, all economic activities carried out by the taxpayer must be taken into account, without any distinction between activities that are habitual or specific to the entity and circumstantial or one-off activities that may take place in a given fiscal year.

Calculation of net revenues for the tax on economic activities exemption at groups of companies must be made by adding together the revenues of all its entities, without eliminating intra-group transactions (TEAC. Decision of September 18, 2025)

TEAC stated that the net revenues figure for calculating the tax on economic activities exemption established for groups of companies must be arrived at by adding together the revenues of all the entities belonging to the group. According to the court, the legislation on the tax does not mention anywhere that the consolidated net revenues figure must be taken for the purposes of the threshold for this exemption, or that internal group transactions must be eliminated.

The non-monetary contribution of land to a company constitutes a "transfer" for the purposes of calculating the variable rate under heading 833.1 of the tax on economic activities (TEAC. Decision of September 18, 2025)

According to TEAC, the non-monetary contribution of plots of land in exchange for shares in a new company is comparable to a "transfer" of those plots, regardless of the contractual form or method of payment. Therefore, the transfer of those plots must be included to calculate the variable rate under heading 833.1 "Land development," which is determined by reference to the sold square meters of developed or subdivided land. The court added that the tax on economic activities legislation does not establish any specific tax benefits for these transactions, and the benefits provided for other taxes cannot be applied.

Modification of street categories and location multipliers for the tax on economic activities requires technical and objective reasons meeting economic capacity and proportionality principles (Extremadura High Court. Judgment of September 10, 2025)

Extremadura High Court held to be illegal the annex to a local council's tax on economic activities ordinance in relation to the modification of street categories and applicable location multipliers, by finding that the necessary technical examination or assessment (by way of a report or explanatory memorandum) of the characteristics and unique features of the roads affected by the modification

was not carried out. The court pointed out that these elements of the tax on economic activities must be determined based on reasoned and reasonable criteria related to the physical location of the premises and the principles of economic capacity and proportionality, so as to preclude any type of arbitrary opinions on the part of the authorities.

Interested parties can challenge in administrative and judicial proceedings the cadaster's decision not to initiate of its own initiative a procedure to correct discrepancies (Supreme Court. Judgment of October 8, 2025)

The Supreme Court concluded in this judgment that, where the cadaster authority considers that it is not necessary to initiate of its own initiative the cadastral procedure to correct discrepancies requested by an interested party, its decision must be sufficiently supported by reasons. This decision must be notified to the interested party and may be appealed in administrative and judicial proceedings. The court therefore shares the principle previously applied by TEAC in its decisions of April 28, 2025 (May 2025 newsletter).

Moreover, the court confirmed that interested parties can apply directly to the cadaster for a procedure to correct discrepancies where the description of the property in the cadaster is incorrect, without needing to make this request through the local authority where the property is located.

6. Special and environmental taxes and other taxes

Amendment of Regulation (EU) 2023/956 in relation to the simplification and strengthening of the Carbon Border Adjustment Mechanism

Under Regulation (EU) 2023/956 of the European Parliament and of the Council of May 10, 2023, published to address the relocation of production to countries with lower climate ambitions, only individuals who are authorized declarants and who purchase sufficient certificates to cover the emissions implicit in the imported goods may import certain products or services (cement, electricity, fertilizers, smelting, iron and steel, aluminum, and hydrogen) (publication dated June 20, 2023).

That regulation has been amended by Regulation (EU) 2025/2083 of the European Parliament and of the Council of 8 October 2025, published in the OJEU on October 17, 2025, with the aim of simplifying the financial and reporting obligations for small importers by introducing a new "de minimis exemption." This exemption is based on a single cumulative threshold for imports in all sectors (except electricity and hydrogen). Namely, where the cumulative net mass of the goods imported in a given calendar year does not go above 50 tonnes, the importer will be exempt from the obligations laid down in the regulation.

The reduced rate for natural gas used for professional purposes only applies if actual use is industrial (TEAC. Decision 00/07049/2024 of September 18, 2025)

The reduced tax rate for natural gas used for professional purposes is limited to natural gas supplies for consumption in industrial plants and facilities. According to TEAC, under the case law of the CJEU and the Supreme Court, energy products must be taxed according to their actual use, and application of the reduced rate cannot be denied simply due to procedural breaches (such as the lack of solemn declarations or of the registration of end consumers on an industrial register such as

the Integrated Industrial Register) if proof of industrial use of the gas is provided.

To determine whether an activity is industrial, the concept of "industry" in article 3 of Law 21/1992 of July 16 must be applied, rather than the tax on economic activities classification. Therefore, the reduced rate can be applied to supplies made to entities carrying on paper manufacturing, automobile component manufacturing, or waste recovery activities, but not to industrial laundry businesses.

Stretch plastic film for waste management is subject to the special tax on non-reusable plastic packaging (DGT. Resolution V1606-25 of September 11, 2025)

A manufacturer of stretch plastic film asked whether this product, used for waste management at an eco park, falls within the scope of the special tax on non-reusable plastic packaging. The DGT concluded that stretch plastic film is classed as a semi-finished product, and therefore its manufacture gives rise to the taxable event. Although there is an exemption for semi-finished products not to be used to obtain taxable packaging, it requires the purchaser to declare in advance that the product will not be used for packaging. In the described case, it appears that this condition is not met, as the film will be used to contain, protect, or handle waste, which are functions typical of packaging.

The import of gases with a GWP under 150 is not subject to the tax on fluorinated greenhouse gases (DGT. Resolution V1605-25 of September 11, 2025).

A person who is going to move to Spain asked whether, when importing their private vehicle, the fluorinated greenhouse gases contained in the refrigeration equipment are subject to the tax on fluorinated greenhouse gases. The DGT pointed out that the import of fluorinated gases contained in the refrigeration equipment of modes of transport with a global warming potential (GWP) equal to or below 150 is not subject to the tax. However, if the GWP is above 150, the import will be subject and not exempt.

More information:

Tax

GARRIGUES

Plaza de Colón, 2
28046 Madrid
T +34 91 514 52 00
info@garrigues.com

Follow us on:

Blog

garrigues.com