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TAX NEWSLETTER

Latest developments and legal trends - Legislation of interest

Judgment - Decisions - Resolution Requests

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1. Parent-subsidiary Directive disallows the parent company being taxed directly or indirectly on distributions by its subsidiary

The Court of Justice of the European Union (CJEU) rules that making the deduction in respect of dividends as a priority over other deductions that have a time limit is contrary to the subsidiary-parent directive.

Belgian law contains a deduction system for dividends received by a parent company from its subsidiary based on including the amount received in the tax base and subsequently deducting up to 95% of the dividend. In other words, the parent company theoretically is only taxed directly on 5% of the distributed dividend.

Any income that cannot be deducted in one year may be carried forward to subsequent years without a time limit, although this deduction must be made as a priority in relation to any other national deductions, including deductions that have a time limit. In practice, this priority rule in relation to the surplus deduction may reduce or extinguish the tax base. And, in these cases, the taxpayer would be deprived of all or part of other tax credits. This means that the dividend is indirectly being taxed at above 5%.

For that reason, the CJEU was asked to rule whether a law such as the one described is precluded by the parent-subsidiary directive.

In a judgment rendered on December 19, 2019, in case C-389/18, the CJEU concluded that:

(a) The combination (i) of the described tax scheme applicable to the dividends received from a subsidiary, and (ii) the order of deductions, together with (iii) the time limit on the ability to use other deductions, may mean that the receipt of dividends may make the parent company lose other tax credits allowed in the national legislation.

(b) In these circumstances, the receipt of dividends is not neutral for the parent company, even if the dividends have not been taxed directly.

The court therefore concluded that the legislation is not compatible with the principle of neutrality set out in the parent-subsidiary directive.

2. Judgments

2.1 Personal income tax.- Reduction for renting home may be claimed on unreported income

Madrid High Court. Judgment of May 29, 2019

The Personal Income Tax Law allows a reduction to income obtained from renting a permanent residence to individuals under 30.

In the examined case, the landlord had not reported net income correctly. In a subsequent adjustment, the tax authorities failed to include the reduction in respect of renting a residence to the greater amount of income to be included in taxable income, because they considered that the reduction could only be claimed on income reported in the voluntary period.

Madrid High Court, however, allowed the reduction to be claimed on income not reported by taxpayers and later adjusted by the tax authorities.

2.2 VAT.- Advertising services are used in Spain if it from there that the advertising material is broadcast

Supreme Court. Judgments of December 16 and December 17 2019

The general place of supply rule is where the customer belongs, so if the customer is not established in the VAT area, the transaction is not subject to VAT.

The law contains a "closing rule", however, determining that some services that are not supplied in the European Union under that general rule are regarded as being supplied in the VAT area if their effective use or enjoyment takes place in that area.

These two judgments each examined cases involving entities established in the VAT area that provided advertising, consulting and marketing services to Gibraltar companies conducting online gaming businesses. Under the general place of supply rule, these services are not regarded as being supplied in the VAT area, or in the European Union either, but the tax authorities found that the "closing rule" applied in relation to effective use of the services.

The entities argued that their services should not be subject to VAT in Spain (or at least not in full). Their reasoning was that:

(a) The Gibraltar companies conducted their businesses with players who could be anywhere in the world and the global sports sponsorship agreements were concluded to strengthen the brand internationally and promote their services among players everywhere.

(b) Therefore, the advertising, consulting and marketing services could only be regarded as being used in Spain (at the most) in the proportion that the annual revenues obtained by the Gibraltar companies from players resident in Spain bear to their total revenues.

The Supreme Court found in favor of the authorities' interpretation, however, because, from the evidence produced, it appears that the advertising, marketing and consulting services were confined to the Spanish market. It recalled in relation to this case the interpretation guidelines contained in the CJEU's judgment in the Athesia Druck Srl case (C-1/08), under which effective enjoyment is regarded as occurring in the place from which the advertising material is broadcast.

The Supreme Court pointed out that partial application of the measure is not explicitly recognized by the directive and added that, in any event, in the examined case there was no room for partial application because, as mentioned, the services provided by the company itself were confined to the Spanish market.

It also pointed out that, if a distribution rule were allowed, there would only be room for it if the percentage attributable to Spain were not measured by reference to the total revenues of the Gibraltar company that was the recipient of the advertising services, instead by reference to the effective use of the specific services supplied by the Spanish company, which did not occur in this case. This effective use would be measured by reference to the percentage of players attracted in Spain as a result of the advertising activities, compared with the percentage of players attracted globally, as a result of those same activities.

2.3 Tax on increase in urban land value.- Enforced collection of an assessment that is null and void as a matter of law may be appealed even though the assessment has become final

Pontevedra Judicial Review Court no 1. Judgment of October 15, 2019

Enforced collection was ordered in relation to a final assessment of the tax on increase in urban land value. The taxable person challenged the order initiating enforced collection proceedings by arguing that the assessment was null and void as a matter of law because no increase in the value of the building had taken place between the dates of its purchase and sale (which was proven during the proceeding). This ground for challenge does not appear among those defined in the law for appealing against orders initiating enforced collection proceedings.

Pontevedra Judicial Review Court no 1 upheld the appeal and concluded that the fact of the assessment being null and void as a matter of law means that the order initiating enforced collection proceedings may be appealed on grounds other than those expressly defined in the law. Since that null and void status had been proven, precisely because it has been substantiated that there had been no increase in value of the land, the tax does not have to be paid and therefore the enforced collection surcharge in respect of failure to pay that tax does not have to be paid either.

2.4 Tax proceedings.- The tax authorities must serve reasonable notice of decisions that are to be enforced

Supreme Court. Judgment of December 18, 2019

Under article 150.5 of the General Taxation Law, where an economic-administrative decision orders audit work to be rolled back, the new audit work must end in the length of time remaining from the point to which the work was rolled back until the end of the maximum audit period, subject to a lower limit of six months.

In the case examined in this judgment, the Central Economic-Administrative Tribunal (TEAC) had settled an administrative appeal that set aside a decision by the Regional Economic-Administrative Tribunal (TEAR) for Valencia and ordered the audit work to be rolled back. Although the decision was notified to the interested parties in the administrative appeal (the taxpayer and the director of the audit department) with only one day's difference, shortly after the decision was issued, the TEAR for Valencia failed to forward it for enforcement to the director of AEAT's audit department until almost seven months later. That director then declared that he did not have jurisdiction, so the TEAR had to forward the decision to the body with jurisdiction for its enforcement (the regional audit suboffice), which enforced the ruling a month later.

So, by reference to the date when the decision was originally notified to the taxpayer and to the director of the audit department, that six month period was not met, which was the applicable term in this case.

The taxpayer considered that, after that six month period had run, they had exceeded the maximum length of the audit and the right to make an assessment had expired; and therefore argued that the calculation of the six month period cannot depend arbitrarily on whether the authorities fail in their duties of good governance and give late notice of the decisions to be enforced.

In this judgment, the Supreme Court concluded that:

(a) The principle of good governance must prevail in the authorities' actions.

(b) Various rights emanate from this principle for citizens, notably their rights to effective stewardship by government authorities and to the obtaining of an administrative decision within a reasonable period.

It nevertheless did not uphold the appellant's arguments, because after examining the particular circumstances of the case it concluded that there had not been an unreasonable and disproportionate delay in forwarding the case file, because the TEAR had been diligent about sending the decision to the competent body after the first recipient had declared it did not have jurisdiction, and besides, no intent was found in the delay, beyond a simple error the first time it was forwarded.

2.5 Audit procedure.- Auditors are allowed to review statute-barred transactions to conclude on their effects in non-statute barred periods before amendment of General Taxation Law

National Appellate Court. Judgment of October 23, 2019

In a tax audit an adjustment was made to the amortization of an amount of goodwill that had arisen in a merger performed in a statute-barred year (2006) when the new wording of the General Taxation Law introduced by Law 34/2015, of September 21, 2015 had not come into force. The appellant argued that the adjustment was incorrect because the authorities did not then have the power to examine a merger carried out in a statute-barred year to adjust the assessment for a non-statute barred year.

The National Appellate Court concluded in its judgment, referring to the Supreme Court's case law (among others, in its judgment of February 5, 2015 in cassation appeal 4075/2013), that the auditors did have that power (at least, following the 2003 reform of the General Taxation Law, which came into force on July 1, 2014).

Interestingly the judgment had one dissenting vote cast by senior judge Jesús María Calderón, who considered that this interpretation was not consistent with the law for periods before the entry into force of that amendment of the General Taxation Law. The senior judge concluded that the tax law before that amendment only stated that the taxpayer had to prove the existence of tax losses generated in prior years by showing the relevant accounting records and supporting documents, and this mandate directed at the person with tax obligations did not allow the authorities to examine the legal transaction that gave rise to those entries let alone the legal correctness of that transaction.

3. Decisions

3.1 Corporate income tax.- Notification of election of the neutrality regime by the Spanish-resident shareholder is mandatory where transferor and transferee companies are nonresident (in periods when the Revised Corporate Income Tax Law -TRLIS- was in force)

Central Economic-Administrative Tribunal Decision of December 3, 2019

The person with tax obligations (Spanish-resident individual) performed a share exchange in which they contributed shares in a French company to another French-resident company in exchange for shares in this company. On their personal income tax return they failed to tick the box relating to notification of election of the special regime for mergers, spin-offs, asset contributions and share exchanges (neutrality regime). They nevertheless did not report any capital gain on the described share exchange either, because they considered that the regime was applicable.

The tax authorities disallowed the neutrality regime, among other reasons, as a result of this failure to notify election of the neutrality regime.

TEAC recalled that, as a general rule, failure to notify election of the special regime is simply a formality that does not prevent the regime from being taken if the substantive requirements for claiming it are met. If, however, neither the transferor company or the transferee company are resident in Spain, notification by the Spanish-resident shareholder is an essential requirement, such that failure to make it is in itself enough to prevent the claiming of that regime.

It must be recalled that this decision refers to a period when the Revised Corporate Income Tax Law (TRLIS) was in force, and under that law the tax neutrality regime could be claimed following its election; in the current Law 27/2014 (LIS) the regime applies automatically, and it is necessary to elect not to claim it, if this is the case.

3.2 Rules characterizing tax legislation.- Though the tax authorities cannot hold a simulated agreement null and void for civil or commercial law purposes, they can for tax purposes

Central Economic-Administrative Tribunal Decision of December 17, 2019

The director of a company that had ceased operating was held secondarily liable for a debt assessed for the company. This assessment was based on the fact that a transaction performed by the company was simulated (a sham) because it had been performed to obtain VAT refunds incorrectly; for that reason, the auditors took the view that the agreement documenting that transaction was null and void.

In an administrative appeal to a higher administrative body by the director of the collection department, she pleaded, among other arguments, that the agreement had to be held null and void in a court judgment not by the tax authorities, which do not have jurisdiction to do this.

Against this, TEAC argued that:

(a) It is true that the tax authorities do not have the power to render an agreement null and void for civil or commercial law purposes, because this power is reserved for the courts.

(b) This conclusion, however, is not an impediment to the tax authorities being able to render an agreement null and void for tax purposes only.

(c) If this is so, the rendering of the agreement null and void must take effect for all parties involved in the agreement (under the principle of complete adjustment).

The court added that the finding of simulation will give rise to the agreement being absolutely null and void ab initio for tax purposes, due to the inexistence of cause, both in cases of absolute simulation and in cases of relative simulation.

3.3 Collection procedure.- Successor is only liable for tax debts generated at conducting the business

Murcia Regional Economic-Administrative Tribunal. Decision of July 31, 2019

A personal income taxpayer contributed their lottery business to a company in which the taxpayer was the sole shareholder. In the tax authorities' eyes, this gave rise to a capital gain/loss in respect of the difference between the market value and the cost price of the business. Because it was not reported, an assessment was issued increasing the taxpayer's taxable income by the amount of the gain calculated by the auditors.

The tax authorities shifted liability for the personal income tax debt to the company that had acquired the business, as a result of the joint and several liability regime in article 42.1.c) of the General Taxation Law, whereby parties acquiring operations or economic activities are subrogated in respect of the tax obligations incurred by their former owner and arising from conducting those activities. This liability may be avoided or restricted by requesting a certificate containing the tax debts, penalties and liabilities arising from the conduct of the economic activities by the transferor.

Against this, the TEAR for Murcia concluded that:

(a) The successor to an economic activity (the transferee of the business) may only be held liable for the tax debts arising from the conduct of that activity by the transferor.

(b) The personal income tax debt arising from the contribution of the business to the company held liable does not originate from conducting the activity, instead from the transfer of the business. In fact, if the transferee had requested the certificate mentioned above from the authorities, the debt arising from that transfer would never have appeared on that certificate.

The DGT has therefore reiterated the TEAC's conclusions in a decision of June 25, 2015.

3.4 Enforcement procedure.- The maximum period for requesting enforcement of an administrative decision is 5 years

Central Economic-Administrative Tribunal Decision of December 5, 2019

A company received and paid a number of assessments from Ceuta port authority in respect of charges. The law determining those charges was later held to be unconstitutional. It therefore applied for the relevant refund, which was granted. After the decision upholding its petition had not been enforced in longer than four years, the company filed a written request for a refund of the amounts it had paid. Ceuta port authority concluded that the company's right to request a refund of incorrect payments had become statute-barred.

TEAC concluded in this decision that it is not lawful to characterize the petition of the appellant company as a refund of incorrect payments, but the request for enforcement of a final and favorable decision (the decision by the General Secretary for Transport), which is clearly distinct and qualitatively more intense as regards the strength of the right held by the beneficiary of this final decision.

Reiterating the interpretation contained in its decision of July 15, 2019, TEAC added that the tax legislation does not set out a specific time period for exercising the right to request enforcement of an administrative decision with tax content. Where there is a gap in the law of this type, general provisions of public law and articles of general law must be applied, which in this case allow a 5 year period for bringing all types of personal action that do not have a stipulated statute of limitations. Before Law 42/2015, which came into force on October 7, 2015, this period was 15 years.

3.5 Special application for judicial review of final decisions.- An enforcement decision is a material document for the purposes of a special application for judicial review of final decisions if it includes new facts

Central Economic-Administrative Tribunal Decision of December 13, 2019

In an assessment by the tax authorities they failed to recognize eligibility for the personal and family allowance on the personal income tax return in respect of a specific degree of disability, which was confirmed by the TEAR for Galicia. In the subsequent application for judicial review, Galicia High Court partially set aside the TEAR's decision, and recognized entitlement to this allowance. In enforcement of the judgment, on top of the allowance recognized by the High Court, the tax authorities also included a further amount in respect of healthcare costs.

Alongside the assessment, the taxpayer had received a penalty decision that he had not challenged within the allowed period and therefore became final . Following the enforcement decision for the High Court's judgment, the taxpayer applied for a refund of the penalty and later lodged a special application for judicial review of final decisions against the penalty decision. This application was filed after three months had run from the enforcement decision.

The tax legislation provides that the term for lodging a special application for judicial review of final decisions is three months from when the person with tax obligations learned of the existence of a document that has material value in the proceeding.

TEAC concluded in this decision on the definition "material value" in relation to a document and on how that period must be calculated. And in doing so, it affirmed that:

(a) The enforcement decision for the High Court's judgment is a document with material value that justifies the filing of a special application for judicial review of final decisions, insofar as in this decision the tax debt is quantified and it contains facts or factual elements that are not contemplated in the enforced judgment and which may be material for examining the challenged penalties.

(b) Although in this case the application was filed more than three months after the enforcement decision, it cannot be held that the term for filing the application was not met because within those three months the taxable person had requested a refund of the penalty, and therefore the tax authorities should have considered that the request for a refund was in fact a special application for judicial review of final decisions.

3.6 Requests for preliminary rulings.- TEAC not allowed to submit requests for preliminary rulings to the CJEU

Court of Justice of the European Union Judgment of January 21, 2010 in case C-274/14

The CJEU has refused to accept TEAC's authority to submit requests for preliminary rulings. Its decision was based on the fact that TEAC cannot be considered a court or tribunal because it fails to meet the independence criterion. It affirmed that:

(a) The president and members of TEAC are not protected against external pressure, applied directly or indirectly besides which the appointment and separation of functions of the members of the courts do not present the necessary guarantees. All of this may cast doubt as to its independence.

(b) That the impartiality requirement is not met. In other words, TEAC cannot be regarded to act as a third party with respect to the authority that adopted the decision that is being appealed to it. The organic and functional links between TEAC and the Ministry of Economy and Finance must be taken into account for these purposes.

The CJEU acknowledged that in the *Gabalfrisa* case (judgment of March 21, 2000 in cases C-110/98 a C-147/98) it held that economic-administrative tribunals did have the independence necessary to be regarded as courts or tribunals, but it accepted that this precedent has to be re-examined in light of its more recent cast law.

The CJEU recalled before closing that, in any event, even though they do not constitute courts or tribunals, economic-administrative tribunals do have an obligation to ensure that EU law is applied when adopting their decisions and disapply, if necessary, national provisions which appear contrary to EU law.

3.7 Personal income tax.- Tax credit for investments in newly or recently created companies is claimable for capital increases through debt-for-equity swaps

Cantabria Regional Economic-Administrative Tribunal. Decision of January 29, 2019

The Personal Income Tax Law allows taxpayers to deduct 20% of "the amounts paid" in the tax period in respect of subscribing to shares in newly or recently created companies.

In the examined case, the tax authorities disallowed the taxpayer's right to claim that tax credit in relation to a capital increase through a debt-for-equity swap, because the interpretation of the Directorate General for Taxes (DGT), as stated in binding resolution V3269-16, of July 13, 2016, was that the swapped debts cannot be regarded as “amounts paid” in respect of subscribing to shares.

The TEAR for Cantabria, by contrast, held that the expression “amounts paid” employed by the Personal Income Tax Law includes debt-for-equity swaps and allowed the tax credit to be claimed in relation to transactions of this type.

4. Resolutions by the Directorate General for Taxes

4.1 Corporate income tax.- DGT examines various important issues in relation to offsetting tax losses

Directorate General for Taxes. Resolution V3284-19 of November 28, 2019

All the shares in a company with tax loss carryforwards generated until 2012 were transferred to a shareholder that had not invested in the company before the transfer. The issue submitted for resolution concerned the regime for the offset of those tax losses in or after 2015 as a result of that change of control.

The DGT concluded that, since the transfer took place before the Corporate Income Tax Law (LIS) came into force, the offset was subject to the regime restricting the offset of tax loss carryforwards in article 25.2 of the previous law (TRLIS), applicable until fiscal years that began on or after January 1 2015.

With respect to proof of the existence and accuracy of the tax loss carryforwards sought to be offset, there are two separate periods:

(a) The first is the ten-year period running from the filing time limit for the tax period in which the tax loss was generated. In this period, the proof needed by the tax authorities is not constrained by any provisions, therefore the general provisions on means of proof contained in the General Taxation Law apply.

(b) The second runs from the end of that 10-year period, and for this period the tax authorities may only see the return for the tax period in which the tax losses were generated and the accounting records correctly filed with the commercial registry.

The DGT added that, the general rules on proof in the General Taxation Law are applicable to the evaluation of these means of proof. And, for these purposes, besides having to be reported on the self-assessment return for the tax period in which they arose and for the period in which they are offset, the tax loss carryforwards also have to be reported in the interim periods. The burden of proving the existence of tax loss carryforwards lies with the taxpayer and failure to report them in those interim periods may be evaluated by the tax authorities under the rules of healthy criticism.

Lastly, the DGT recalled that, under the theory settled by TEAC, the offset of tax loss carryforwards falls within the scope of tax options. Under Article 119 of the General Taxation Law, any options to be exercised, requested or waived with the filing of a return are not allowed to be corrected after the end of the stipulated filing period.

4.2 Corporate income tax.- Even though the absorbed company has tax loss carryforwards, the merger may have valid economic reasons

Directorate General for Taxes. Resolution V3106-19 of November 6, 2019

Company A is wholly owned by individuals belonging to the same family group. The company's economic activity consists of acquiring real estate for subsequent lease. The company has always recorded losses, and therefore has generated tax loss carryforwards.

One of A's shareholders is sole shareholder of company B, which has the same corporate purpose and economic activity as A. Company B, however, has recorded income.

Insofar as the two companies belong to the same family group and one records losses and the other, income, a merger of the companies is being considered to improve the group's net worth position.

The DGT reiterated in this resolution that the neutrality regime may be elected for this merger because the submitted reasons appear to be valid. The DGT added that the fact of the absorbed company having tax loss carryforwards does not invalidate this conclusion; and underlined in this respect that the merger is to be made between two operating companies and strengthens and improves the net worth position of the post-merger company.

4.3 Personal income tax.- Shares under bare ownership and under legal ownership are not shares of the same kind

Directorate General for Taxes. Resolution V3113-19 of November 7, 2019

An individual owns various shares in a company under bare ownership and others under legal ownership and intends to sell the shares held under bare ownership.

Under the personal income tax legislation, where there are shares of the same kind, the shares with the earliest acquisition dates are considered to be transferred first.

In this case, however, the shares under bare ownership are not considered to be of the same kind as the shares under legal ownership, because they have different rights attached to them and therefore they have different effects for their owners. As a result, in this case it is the shares under bare ownership that will be considered to be sold, because they are the ones actually sold, regardless of how long the shares under legal ownership have been held.

4.4 Personal income tax.- The creation of a usufruct right for no consideration in shares gives rise to imputed income unless proven otherwise

Directorate General for Taxes. Resolution V3101-19 of November 5, 2019

The person submitting the issue intends to create for his father, for no consideration, a lifelong usufruct right in 50% of a company's shares.

The DGT stated that:

(a) The creation of a usufruct right is characterized as income from movable capital.

(b) In this case, because the transaction is for no consideration, it will give rise to imputed income, unless proven otherwise.

(c) The imputed income will be equal to the normal market value, meaning the price that would be agreed between independent parties, again this is so unless it can be proven otherwise.

4.5 Wealth tax.- An individual resident in Gibraltar is not required to report an investment in a Gibraltar company that indirectly controls real estate in Spain

Directorate General for Taxes. Resolution V3178-19 of November 14, 2019

An individual resident in Gibraltar owns all the shares in a Gibraltar company. This Gibraltar company owns all the shares in a Spanish limited liability company having as its only asset a residential property located in Spain. The limited liability company does not carry on any type of economic activity and it makes the property available to the individual, who uses it as a vacation home.

Nonresident individuals are only subject to wealth tax as nonresident taxpayers, which implies that they are only taxed on the assets and rights that they own which are located, may be exercised or have to be performed, in Spain.

As a result, wrote the DGT, since the requester only directly owns the shares in the Gibraltar company, not any assets and rights located or exercisable in Spain, that individual is not subject to Spanish wealth tax as a nonresident taxpayer.

4.6 Inheritance and gift tax.- Proof of payment of the tax is needed for a company to be able to deliver registered shares to the heir

Directorate General for Taxes. Resolution V3179-19 of November 15, 2019

A Spanish company's capital stock is divided into registered shares represented by certificates, and the certificate holders are entered on the share register. One of its shareholders, resident in Germany, has died. The shareholder's heir is a German individual resident in Canada.

The DGT recalled the following:

(a) A non-Spanish resident heir is subject to inheritance and gift tax as a nonresident taxpayer in respect of the acquisition of shares issued by a company formed and resident in Spain and therefore located and exercisable in Spain.

(b) The Spanish company is required to ask the heir to provide proof of the payment of inheritance and gift tax or exemption from the tax, before delivering the registered shares and entering them on the share register. Failure to fulfill this duty is a tax infringement subject to a penalty.

5. Legislation

5.1 Approval of the Annual Tax and Customs Control Plan for 2020

The Tax Control Plan for 2020 has been published in Decision of January 21, 2020 by the General Management of the State Tax Agency (AEAT) (Official State Gazette, January 28, 2020 edition). The plan persists with the areas of control in previous years' plans, although certain action lines and programs are highlighted. Here are the ones we have picked out:

1. In relation to information and assistance for the prevention of breaches of tax law, the key initiatives are:

    (a) Creating and strengthening ADI (comprehensive digital assistance) platforms, designed to provide information and assistance services electronically, using virtual communication channels. Those mentioned include the new business taxation status notification assistant or the additional tools designed to ensure correct operation of the Immediate Supply of Information Service's (SII) virtual assistant or of the VAT virtual assistant –AVIVA-, such as the real estate classifier or assistance with preparing form 303 for lessors.

    (b) Strengthening the tools for analyzing and checking requests for correction of self-assessment returns, notably by adding for 2019 corporate income tax returns the option of making these requests on the self-assessment form.

    (c) Making progress with giving taxpayers access to their tax information. This option will be introduced for the first time for corporate income tax, with information on prepayments, withholdings, amounts carried forward from previous years or penalties and surcharges imposed by AEAT; and for VAT, in this case as part of the PRE-303 assistance service, for preparing form 303.

2. It places particular emphasis on encouraging voluntary compliance with tax obligations and fraud prevention and, among others:

    (a) On cleaning up and analyzing the tax registers, so that only companies and other legal entities that actually carry on activities retain their records statuses for tax law purposes and to ensure that taxpayers file their business taxation status notification forms correctly.

    (b) On encouraging the filing of complete and accurate information by taxpayers, to improve the quality of this information. In the international arena, it recalls that in 2020 the OECD's Global Forum on Transparency and Exchange of Information will assess Spain, along with the other countries and jurisdictions participating in the automatic exchange of information on financial accounts, in relation to observance of obligations under the *Common Reporting Standard* -CRS-.

    (c) On compliance in relation to customs and excise and other special taxes. In this area pre-arrival customs processing will be put in place, which will allow the document checks required for pre-customs declarations to be made before the goods arrive, thereby increasing the length of time customs authorities have to analyze them while speeding up processes, especially in relation to movements outside offices' processing times. Moreover, particular attention will be paid to companies commencing importing activities.

3. In relation to audit work on tax and customs fraud, the following is underlined:

   (a) A special audit schedule will be drawn up for taxpayers who have repeatedly reported tax loss carryforwards and unused tax credits on their corporate income tax returns.

   (b) A new computer system will take off, designed to allow representatives and advisors to interact with audits without needing to travel to field tax auditor's place of work (including a video connection).

   It also recalls that in 2020 within the European Union an obligation will come into effect to report aggressive planning schemes and other techniques for hiding the ownership of income and assets, arising from the transposition into Spanish law of Council Directive 2011/16/EU of 15 February 2011 (DAC 6), which will mean that steps will be taken in this area.

   In relation to multinational groups, large companies and tax groups, the spotlight is placed on:

   (a) Carrying out simultaneous checks and coordinated audits.

   (b) Strengthening mutual agreement procedures and applying the new dispute resolution mechanisms arising from Council Directive (EU) 2017/1852.

   (c) Putting into practice a new automatic transfer pricing risk analysis system based on all the information on controlled transactions that is held by the tax authorities. In this field particular attention will be paid to observance of reporting obligations; without casting aside substantive analysis of transactions, focusing on business restructuring processes, intragroup asset transfers (intangibles, basically) or the deduction of items that erode the tax base (such as royalty payments for licensed intangibles or payments for intragroup services).

   In the field of net worth analysis it highlights as an area for particular attention effective implementation of the *Common Reporting Standard* -CRS- for financial accounts; and underlines (as it did in 2019) the work of the Central Unit for coordinating the Monitoring of High Net-Worth Individuals, created in the National Anti-Fraud Office.

   In relation to the hiding of business or professional activities and the fraudulent use of companies, coordinated operations for combatting unreported activities and the underground economy are going to be carried out in conjunction with IT audit units.

   In relation to monitoring economic activities, it spotlights:

   (a) Monitoring procedures relating to VAT, using the information obtained from the immediate supply of information system (SII). They will look particularly at the retail trade to prevent evasion of the compensatory charge.

   (b) Steps in the field of corporate income tax relating to combatting the underground economy.

   It also highlights, among other steps:

   (a) Designing and developing a withholding monitoring tool from the standpoint of the withholding agent, by increasing the contingencies to be checked using the risk management tool, which will enable a comprehensive approach to monitoring personal income tax, starting out from the source of income.

(b) Steps in relation to nonresident artists and athletes who carry on activities in Spain.

5.2 Approval of standard document for substantiating appointment of a representative in the procedure for providing electronic accounting entries on products subject to excise and other special taxes

The January 8, 2020 edition of the Official State Gazette published the decision of December 18, 2019, by the general management of the State Tax Agency, approving the standard document for substantiating the appointment of a representative in the procedure for providing electronic accounting entries on products subject to excise and other special taxes on AEAT's website.

5.3 Publication of list of municipalities qualifying for the revised cadaster value multipliers approved for 2020

The December 28, 2019 edition of the Official State Gazette (BOE) published Order HAC/1257/2019 of December 17, 2018, setting out the list of municipalities qualifying for the revised cadaster value multipliers that will be contained in the General State Budget Law for 2020.

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