



Tax measures set out in the 2023 General State Budget Law

Tax Alert



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24 December 2022 saw the publication in the Official State Gazette of the 2023 General State Budget Law, which ushers in a number of new tax measures affecting various areas.

24 December 2022 saw the publication in the Official State Gazette of 2023 General State Budget [Law 31/2022 of 23 December 2022](#) (hereinafter the “2023 GSB Law”), Title VI (articles 60 to 91) and various additional, transitional and final provisions of which include a range of tax measures.

Note, in this connection, that article 134 of the Spanish Constitution provides that while the General State Budget Law cannot create new levies, it can modify them where a substantive piece of tax legislation so provides. The preamble to the 2023 GSB Law begins by referring to Constitutional Court criteria regarding the content of a General State Budget Law.

The 2023 GSB Law sets forth numerous tax measures concerning various taxes, the most salient of which relate to Value Added Tax (VAT), Corporate Income Tax (CIT) and Personal Income Tax (PIT).

As regards **VAT**, the 2023 GSB Law broadly provides for measures that include the modification of the so-called effective use rule, or effective use clause, on the place of supply of certain services -article 70. Two of the VAT Law-, and the amendment of certain aspects of the recovery of VAT on bad debts and the scenarios in which the reverse charge mechanism applies.

With respect to **CIT**, the applicable tax rate has been reduced for very small companies.

As regards **PIT**, a new tax bracket has been created for savings income, the minimum threshold for exemption from the obligation to file tax returns has been increased and a reduction has been provided for net earned income. Changes have been introduced to the objective assessment (modules) and simplified direct assessment regimes, and certain technical improvements have been made to the regulation of the cap on the reduction of taxable income for contributions to pension schemes. The maternity tax credit has been extended and the withholding tax rate on intellectual property income and royalty advances has been established.

Furthermore, the definitively adopted wording of the Law includes new tax measures that were not envisaged in the Draft GSB Law:

- (i) With respect to **CIT**, a compromise amendment approved by the Lower House introduces an accelerated depreciation scenario for investments in certain new electric vehicles.
- (ii) As regards the **tax on financial transactions (TFT)**, the technical amendment envisaged to delimit the subjective scope of the exemption in respect of acquisitions made by occupational pension funds, mutual insurance companies and voluntary social welfare entities has been eliminated (although the technical amendment is still referred to in the preamble, it is no longer included in the final wording of the Law).
- (iii) Another compromise amendment has led the 37th America’s Cup, among other events, to be declared an event of **exceptional public interest**, and the tax breaks applicable to this event are regulated accordingly.

In addition to the measures set forth in the 2023 GSB Law, other amendments of a tax nature have been introduced by various laws adopted in the final days of 2022.

These laws include [Law 38/2022](#) of 27 December 2022 for the establishment of temporary levies on energy and on credit and financial credit institutions, which creates a temporary solidarity tax on large fortunes and amends certain tax regulations. This law:

- Creates a special new levy for financial institutions, which is set to apply in 2023 and 2024.
- For further information, see our December 2022 tax alert in [Spanish](#) and [English](#).
- Creates a special new levy for energy companies, which is set to apply in 2023 and 2024.

For further information, see our December 2022 [tax alert](#).

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- Creates a temporary solidarity tax on large fortunes, applicable in 2022 and 2023.
- Amends wealth tax for non-residents who are indirect owners of property in Spain.

See our December 2022 [tax alert](#) on the temporary solidarity tax on large fortunes and other changes to wealth taxation.

- Introduces limitations on the offset of losses of entities that file consolidated corporate income tax returns.
- Introduces new measures in respect of tax credits applicable to film production and the related financing, also in respect of CIT.

Elsewhere, [Royal Decree-Law 20/2022](#) (Official State Gazette of 28/12/2022) has introduced various measures concerning tax, employment, social security, housing and eviction which, according to the preamble, seek to put in place a specific regulatory framework to curb escalating prices and support the most heavily affected citizens and companies in the following areas: energy, food, transport, gas-intensive industry, economic and financial stability and the “social shield” (a set of special measures put in place by the Spanish Government to help those who are most vulnerable). It has also extended the so-called “corporate moratorium” until the end of 2024.

For further information, see our January 2023 [tax alert](#).

In certain instances, the wording of the 2023 GSB Law contains specific rules on its entry into force.

A concise summary of the tax measures included in the 2023 GSB Law is provided below.

1. PERSONAL INCOME TAX (PIT)

The 2023 GSB Law provides for PIT amendments effective from 1 January 2023 and in force indefinitely. Noteworthy amendments to Law 35/2006 include the following:

An increase in the reduction for earned income

Taxpayers whose net earned income is lower than Euros 19,747.50 (previously Euros 16,825) may reduce such income by the following amounts, provided that they do not receive any non-exempt income other than earned income exceeding Euros 6,500:

- Where the net earned income is equal to or less than Euros 14,047.50 (previously Euros 13,115): Euros 6,498 per year (previously Euros 5,565).

- Where the net earned income falls between Euros 14,047.50 and Euros 19,747.50 (previously between Euros 13,115 and Euros 16,825): Euros 6,498, less the result of multiplying the difference between the earned income and Euros 14,047.50 per year by 1.14 (previously the result of multiplying the difference between the earned income and Euros 13,115 per year by 1.5).

The additional reduction for self-employed workers who are financially dependent or who have a single unrelated customer has increased by the same amounts and in respect of the same thresholds.

Obligation to file tax returns

The threshold determining the obligation to file tax returns has risen from Euros 14,000 to Euros 15,000 for those who receive earned income: a) from more than one payer; b) from maintenance payments from their spouse or annual non-exempt child support payments;

c) in respect of which the payer is not required to make withholdings; or d) the gross amount of which is subject to a fixed withholding rate.

Simplified direct assessment

Under the **simplified direct assessment regime**, effective in 2023 alone, the percentage of deductible provisions and expenses that are difficult to substantiate have increased to 7% instead of 5%. It is specified that this percentage may be amended by regulation.

Objective assessment (modules)

The following changes have been made to the **objective assessment regime** for self-employed workers:

- the general reduction applicable to the net performance of objective parameters in the 2023 tax period has increased to 10%;
- the quantitative limits applicable since 2016, setting out the scope of the objective assessment method for PIT purposes, have been extended to the 2023 period (with the exception of agricultural, livestock and forestry activities, which have their own revenue-based quantitative limit of Euros 250,000 which will continue to apply).

In keeping with the above, a new deadline has been approved for the waiver or revocation of the above regime.

Contributions to pension schemes

Effective from 1 January 2023, technical improvements have been made to the regulation of the **cap on reductions to taxable income for contributions to pension schemes** in both PIT legislation and the Pension Plans and Funds Law.

Total annual employer contributions to pension plans regulated in that Law are subject to a maximum limit of Euros 1,500.

This cap will increase in the following scenarios:

- 1) **By Euros 8,500 per annum**, provided that such additional amounts correspond to employer contributions, or worker contributions to the same pension instrument for an amount equal to or lower than the amounts resulting from the following table, based on the **annual amount of the employer contribution**:

Annual amount of the contribution	Maximum contribution of the worker
Equal to or lower than Euros 500	The result of multiplying the employer's contribution by 2.5
Between Euros 500.01 and Euros 1,500	Euros 1,250 plus the result of multiplying the difference between the employer's contribution and Euros 500 by 0.25
Above Euros 1,500	The result of multiplying the employer's contribution by 2.5

The Euros 500.01 - Euros 1,000 and Euros 1,000.01 - Euros 1,500 employer contribution brackets have been eliminated and replaced with an employer contribution bracket ranging from Euros 500.01 to Euros 1,500 per annum. The maximum reduction for workers will be Euros 1,250, plus the result of multiplying the difference between the employer contribution and Euros 500 by 0.25.

- 2) **By Euros 4,250 per annum**, provided that such increase arises from:
 - (i) contributions to the sector-specific pension plans provided for in article 67.1 a) of the Law, made by self-employed workers or independent contractors who sign up to such plans on account of their activity;
 - (ii) contributions to the simplified occupational pension plans for self-employed workers or independent contractors provided for in article 67.1.c) of this Law; or

- (iii) contributions made by individual traders or professionals to occupational pension plans in respect of which they are both sponsor and member.

These two increased limits may reach a maximum combined amount of Euros 8,500, meaning that the total reduction could total Euros 10,000.

The 2023 GSB Law improves this cap increase by Euros 4,250. More specifically, the reference to the sector-specific pension plans provided for in article 67.1 a) of the Revised Pension Plans and Funds Law (PPFL) relates to the contributions made by self-employed workers or independent contractors who sign up to such plans on account of their activity.

The wording of the financial limit envisaged for such contributions has been amended in the same manner.

New brackets in the tax scale for savings income

Effective from 1 January 2023, the **tax scale for savings income**, applicable to dividends, interest, savings insurance and capital gains, will increase in respect of both state and autonomous region brackets from the current rate of 13% (applicable to net taxable savings income of Euros 200,000 or more) to 13.5%. A new bracket has also been introduced for Euros 300,000 or more, which is taxed at 14%.

As in the case of general taxable income, net taxable savings income also has a state bracket that taxes 50% of such income and an autonomous region bracket that taxes the other 50%.

Consequently, the measure ultimately means that savings income of Euros 200,000 to Euros 300,000 will be taxed at 27%, while savings income exceeding Euros 300,000 will be taxed at 28%, reflecting an increase of 1 point in each case.

This tax rate hike also applies to workers posted to Spain who opt for the special inbound expatriate regime, and to certain personal income taxpayers who are resident abroad.

Maternity tax credit

Previously, in order to reduce the PIT ultimately payable by Euros 1,200 per year for each child under the age of three, it was necessary for the child in question to give rise to entitlement to the allowance for descendants and for the mother to be a self-employed worker or employee and, accordingly, be registered

with the social security authorities or a mutual insurance company under the relevant scheme.

From 1 January 2023, women with children under the age of three who are entitled to apply the allowance for descendants will be able to benefit from the tax credit, provided that:

- at the time of the birth of the child, the mother is receiving contributory or care allowances under the unemployment protection system; or
- at that time or at any later date, she is registered with the social security authorities or a mutual insurance company under the relevant scheme and, in the latter case, contributions have been made for at least 30 days.
- It is also noted that this tax credit is to be calculated in proportion to the months remaining in the tax period at the point at which the aforementioned requirements are fulfilled, in which the woman is entitled to the allowance for descendants in respect of that child under three years of age, provided that in those months neither parent receives, in relation to that child, the child support supplement provided for in Law 19/2021 of 20 December 2021, establishing the guaranteed minimum income. This requirement has been amended by RD-Law 20/2022, which clarifies the right to continue to receive the maternity tax credit as of 1 January 2023, even where one of the parents is entitled to the child support supplement in respect of the same descendant, subject to fulfilment of the other requirements laid down in the prevailing legislation as of 1 January 2023.
- In the event of registration with social security or a mutual insurance company after the birth of the child, the tax credit relating to the month in which the 30-day contribution period has been completed will be increased by Euros 150.
- Lastly, the tax credit increase provided for in the event that childcare (provided by authorised nurseries or pre-school centres) expenses have been paid in respect of the child under the age of three during the tax period will continue to be calculated as it has been to date. Now, however, it will only be limited to the total amount of the actual unsubsidised cost paid to the nursery or preschool centre during that period (there is no longer any reference to social security contributions).

Withholdings on certain income

Intellectual property income

The GSB Law amends, effective from 1 January 2023 and in force indefinitely, the withholding rate to be taken into consideration by paying entities:

- The withholding rate applicable to earned income arising from the creation of literary, artistic or scientific work in respect of which the related right of use has been assigned, has been **reduced from 15% to 7%** where: (i) the volume of such gross income for the immediately preceding year is lower than Euros 15,000; (ii) it represents more than 75 percent of the combined gross earned income and income from economic activities obtained by the taxpayer in the year concerned; and (iii) the taxpayer notifies the payer of these circumstances.
- The **withholding rate for income from intellectual property**, irrespective of the classification thereof, has been reduced from 19% to 15%, and will be 7% for taxpayers whose income from intellectual property was lower than Euros 15,000 in the previous year and constitutes their main source of income.

Earned income. Withholding rate January 2023

The GSB Law provides that withholdings and payments on account to be performed in respect of earned income paid in January 2023 (for that month), which is subject to the general procedure for calculating the withholding rate, must be performed in accordance with the legislation in force at 31 December 2022. As of 1 February 2023, the legislation in force from 1 January 2023 will apply and the rates must be adjusted accordingly.

Attribution of real estate income

The percentage of **income attributed** for ownership of real estate, where the cadastral values have been revised, amended or determined by means of a general collective valuation procedure in line with cadastral legislation, remains at 1.1%, provided that the values in question entered into force as of 1 January 2012. In all other cases, the attribution will be 2%.

New tax credit for having one's main and actual place of residence in La Palma in 2022 and 2023

During the 2022 and 2023 tax periods, taxpayers who have their main and actual place of residence on the island of La Palma may deduct 60% of the portion of the combined gross state and autonomous tax payable

that proportionally corresponds to the income calculated in order to determine the net taxable income obtained in that territory, under the terms and conditions of the rules (article 68.4.1 of the PIT Law) applicable to residents of Ceuta and Melilla.

2. CORPORATE INCOME TAX (CIT)

Reduced tax rate:

Effective for tax periods commencing on or after 1 January 2023 and in force indefinitely, the tax rate applicable to entities with revenues falling below one million Euros in the preceding tax period has been reduced to **23%** instead of 25%.

Revenue shall be determined pursuant to articles 101.2 and 101.3 of Corporate Income Tax Law 27/2014 of 27 November 2014 (the "CIT Law").

The 23% tax rate does not apply to the asset-holding companies referred to in article 5.2 of the CIT Law.

Notwithstanding this reduction, it should be noted that the 15% rate continues to apply to eligible newly-created companies. The "Start-ups Law" has recently established a temporary reduced tax rate of 15% for companies classed as startups. This reduced tax rate will apply in the first tax period in which the tax base of companies holding start-up status is positive and in the three subsequent tax periods, provided that they continue to qualify as start-ups.

Accelerated depreciation of vehicles

An accelerated depreciation scenario has been introduced for investments in certain new electric vehicles, the following aspects of which are noteworthy:

New fixed assets

The tax incentive relates to investments in the following new electric vehicles:

- Fuel cell vehicles (FCVs) or fuel cell electric vehicles (FCEVs): Electric vehicles that use electricity from a compressed hydrogen fuel cell alone.
- Fuel cell hybrid electric vehicles (FCHEVs): Electric vehicles which, in addition to fuel cells, are equipped with rechargeable electric batteries.
- Battery electric vehicles (BEVs): Electric vehicles that exclusively use rechargeable electric batteries from an external electricity source as their propulsion energy storage systems.
- Range extended electric vehicles (REEVs): Electric vehicles which, in addition to meeting all the requirements of a battery electric vehicle, are equipped with an internal combustion engine.
- Plug-in hybrid electric vehicles (PHEVs): Hybrid electric vehicles equipped with batteries that may be recharged by plugging a charging cable into an external electric power source, and which may also be propelled by electric motors.

Use in economic activities

The application of accelerated depreciation expressly requires the investment to be made in new FCV, FCHV, BEV, REEV or PHEV vehicles used for economic activities.

Tax period of entry into operation

The vehicles must enter into operation in tax periods commencing in 2023, 2024 and 2025.

Quantification of the depreciation acceleration

Investment in new electric vehicles may be depreciated for tax purposes on the basis of the rate resulting from multiplying the maximum straight-line depreciation rate provided for in the official depreciation tables by two.

Other CIT-related measures included in other laws. Limitation on tax losses within consolidated groups

In addition to the measures set forth in the 2023 GSB Law, CIT-related amendments have been introduced by other laws adopted in the final days of 2022.

One example would be the limitation on the offset of tax losses of subsidiaries within tax consolidation groups, approved by means of [Law 38/2022](#).

According to Law 38/2022, for periods commencing in 2023, 50% of tax losses incurred by companies forming part of a tax consolidation group are included, while the full amount of any taxable profit contributed by other companies will be taken into account. Any tax losses not included in the tax group in 2023 will be divided equally among the first ten tax periods commencing as of 1 January 2024, with certain exceptions.

3. VALUE ADDED TAX (VAT)

Numerous amendments have been adopted in relation to VAT, the most salient of which are the following:

Amendment of the effective use rule (article 70. Two of the VAT Law):

Effective from its entry into force, the 2023 GSB Law amends article 70. Two of the VAT Law, which regulates the so-called **effective use rule**, or effective use clause. Under this special rule, services which, despite initially falling outside Spanish VAT territory pursuant to the general rule on place of supply, are subject to effective use in Spain, are deemed to have been supplied within this VAT territory.

The amendment draws a distinction between whether the services in question are rendered to traders or professionals or to recipients not classed as such. Specifically:

- B2B services (i.e. when the supplier and recipient are traders or professionals): this effective use rule can no longer be applied to services in general.

Nonetheless, it may still be applied to the services referred to in article 69.2 g) of the VAT law, where such services are provided to traders or professionals. These services consist of the following: *“the insurance, reinsurance and capitalisation services, and the financial services, referred to, respectively, in sections 16 and 18 of article 20. One of this Law, including those that are not exempt, with the exception of the hiring of safe-deposit boxes.”*

The preamble to the 2023 GSB Law states that the purpose of this amendment is to continue to apply this effective use rule in sectors where the right to the reduction does not arise, such as the financial services and insurance sectors.

- This effective use rule will no longer apply to electronically-supplied services, telecommunications, radio or television broadcasting services.
- It is, however, set to apply to services for the hiring of means of transport, irrespective of whether the recipient is a trader or professional acting as such, or is not classed as such.
- Lastly, the effective use rule will continue to apply to the wide range of services included

in article 69 of the VAT Law, which the preamble to the 2023 GSB Law appears to refer to as “*supplies of intangible services*”, where the recipients of such services are not classed as traders or professionals acting as such (i.e. in transactions commonly referred to as B2C transactions).

These services include advisory, audit, engineering, legal, translation, data processing, motion picture dubbing and advertising services, etc., as well as the leasing of movable property other than means of transport or containers.

Amendment to the recovery of VAT on bad debts (article 80 of the VAT Law):

Effective from the entry into force of the 2023 GSB Law, certain aspects of the rules and procedure for the recovery of VAT on bad debts are amended to better align the Spanish VAT Law with European legislation and case law in this regard. Specifically:

- The minimum taxable amount of affected transactions is reduced from Euros 300 to Euros 50, where the defaulting recipient is the end consumer.
- The requirement to have claimed payment from the debtor via a court claim or notarial demand is relaxed to permit the use of any other methods that allow for reliable evidence of the fact that the debt has been claimed from the debtor, even in the case of receivables secured by public entities.
- The period available for recovering VAT after the debt in question is declared uncollectible is extended from three to six months. This measure is accompanied by a transitional regime to enable all taxable persons for VAT to take advantage of the new six-month period, where the relevant deadline has not already elapsed at the date of entry into force of the 2023 GSB Law.
- With regard to insolvency claims, the taxable amount may be modified even where the recipient of the transactions (debtor) is not established in the VAT territory, the Canary Islands, Ceuta or Melilla, provided that the uncollectible receivables are subject to insolvency proceedings declared by a court from another Member State, subject to Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

Reverse charge mechanism (article 84 of the VAT Law):

Effective from the entry into force of the 2023 GSB Law, the scenarios in which the reverse charge mechanism for VAT applies are amended. Specifically:

- It will now apply to supplies of plastic and fabric waste and scrap, as well as to various other types of waste.
- It will not apply to supplies of services involving the lease of property subject to and not exempt from VAT, or to property lease intermediation services, where such services are supplied by persons or entities not established in VAT territory.
- Moreover, two scenarios in which goods are supplied by traders or professionals not established in VAT territory are excluded from the scope of application of this mechanism:
 - On the one hand, services supplied to traders or professionals who facilitate supply via a digital interface and,
 - on the other, exports of goods performed by an exporter other than the non-established transferor or transferee.

Electronic commerce

Effective from the entry into force of the 2023 GSB Law, certain other changes are introduced with a view to adapting the Spanish VAT Law to Community legislation as regards the value added taxation of electronic commerce:

- rules are established as regards the place in which intra-Community distance sales of goods are made;
- the quantitative limit applicable to intra-Community distance sales of goods under article 68.Three.a) and b) and the supplies of services under article 70.One.4 and 8 is amended.

Specifically, the 2023 GSB Law incorporates the following paragraph into article 73 of the VAT Law:

“The limit provided for in the first paragraph of this section shall not apply where intra-Community distance sales of goods are performed, in whole or in part, from a

Member State other than the Member State of establishment”.

This means that the Euros 10,000 limit that permits taxation at source will only apply where the goods are sent to the end customer from the Member State of establishment.

Reduced VAT rates

Effective as of the entry into force of this Law and valid indefinitely, the **tax rate** for feminine hygiene products (tampons, sanitary towels and pantyliners), condoms and other non-medicinal contraceptives is reduced to 4%.

The publication of the 2023 GSB Law via RD-Law 20/2022 has introduced, effective from 1 January 2023, a reduced VAT rate on certain food products, while extending VAT reductions on energy.

Other VAT-related amendments

- In keeping with the measure introduced in respect of PIT, as regards VAT, the limits for application of the simplified regime (Euros 150,000) and the special regime for agriculture, livestock and fishing (Euros 250,000) are extended to the 2023 tax period and a new deadline is established for the waiver or revocation of the above VAT regimes.
- Certain technical adjustments are also made to adapt the Spanish VAT Law to Community customs legislation, effective from the entry into force of the 2023 GSB Law.
- Effective as of 1 July 2022 and valid indefinitely, intra-Community supplies and acquisitions of goods and services and imports of goods and their application by the armed forces of the Member States participating in activities included within the framework of the common security and defence policy, for their own use or for use by the civil personnel at their service, or for supplying their messes or canteens, are declared exempt.

The above modification is the result of the transposition of Council Directive (EU) 2019/2235 of 16 December 2019 amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC concerning the general arrangements for excise duty as regards defence efforts within the Union framework.

CANARY ISLANDS GENERAL INDIRECT TAX (CIGIT)

The 2023 GSB Law introduces several changes to the CIGIT with a view to aligning it with the amendments to VAT. Specifically:

- It has been harmonised with and adapted to Community customs legislation.
- The place of supply of certain services and the system governing the deduction of input CIGIT have been harmonised with the relevant VAT provisions.

EXCISE DUTIES (ED)

With respect to excise duties, note the transposition of Directive 2019/2235 of the Council of 16 December 2019, which was also mentioned among the amendments to VAT.

In relation to excise duties on manufacturing, effective from 1 July 2022 both the manufacturing and importing of products subject to excise duties on manufacturing, and the supply of electricity to the armed forces of any Member State other than Spain, for the use of those forces, for the civilian staff accompanying them, or for supplying their messes or canteens, provided that such forces are taking part in a defence effort carried out for the implementation of a Union activity under the common security and defence policy, are deemed exempt.

LOCAL TAXES

Business activities tax (BAT)

With respect to the **business activities tax (“BAT”)**, various amendments have been made to the relevant tax rates, effective for tax periods commencing as of the entry into force of this Law.

- Firstly, group 761 “Telephone services” has been modified to subject the mobile and fixed-line telephony sectors to the same taxation.

This change stems from Spanish Supreme Court Judgment 996/2022 of 14/07/2022, which held, in accordance with European Union law, that subjecting the mobile telephony sector to a higher level of BAT than the fixed-line telephony sector was unjustified.

Details of this change in taxation are shown in the table below:

	BAT rates and instructions prior to the 2023 GSB Law	2023 GSB Law
<u>Mobile telephony service</u>		
National charge per 1,000 subscribers or fraction thereof	Euros 632.11	Euros 137.48
Per antenna	Euros 649.16	Eliminated

- The heading of group 86 has been amended and now reads as follows: “Liberal, artistic, literary and cultural professions”.
- Group 861, referring to painters, sculptors, ceramists, craftspeople, engravers and similar artists, is modified to include “fallero” artists.
- Additionally, the following groups have been created:
 - ✓ 848, to specifically classify the services provided by flexible offices, co-working spaces and business centres.
 - ✓ 864, to specifically classify the activities carried out by writers and screenwriters.
 - ✓ 869, to include other professionals associated with artistic and cultural activities other than those classified in section three.
 - ✓ A new group 889 for mountain guide activities.
 - ✓ Group 034 has been created in section three to specifically classify musical composers, lyricists, arrangers and adapters.

Tax on the Increase in Urban Land Value (TIULV)

As regards the **TIULV**, new rates for the (objective) calculation of this municipal tax have been introduced, effective from the entry into force of this Law.

RD-Law 26/2021 regulated a new system to determine the tax base in this connection, providing for two alternative methods for the calculation thereof: (i) an objective calculation method; and (ii) an alternative method.

Under the objective method, the tax base is obtained by multiplying the cadastral value of the land in the year in which the conveyance takes place by rates based on the number of years over which the value has increased. RD-Law 26/2021 provides a table of rates which, it noted, factored in the situation of the real estate market and would be updated on an annual basis.

For these purposes, the 2023 GSB Law sets out a new table containing the rates shown below, compared against those provided for in RD-Law 26/2021.

Generation period	Rate RD-Law 26/2021	Rate 2023 GSB Law
Less than 1 year	0.14	0.15
1 year	0.13	0.15
2 years	0.15	0.14
3 years	0.16	0.15
4 years	0.17	0.17
5 years	0.17	0.18
6 years	0.16	0.19
7 years	0.12	0.18
8 years	0.10	0.15
9 years	0.09	0.12
10 years	0.08	0.10
11 years	0.08	0.09
12 years	0.08	0.09
13 years	0.08	0.09
14 years	0.10	0.09
15 years	0.12	0.10
16 years	0.16	0.13
17 years	0.20	0.17
18 years	0.26	0.23
19 years	0.36	0.29
Equal to or more than 20 years	0.45	0.45

(*) The rates that have decreased following this update, as compared with the previous update, are marked red.

The rates to be applied will be those which have been approved in the relevant ordinance and may not exceed the maximum rates set forth herein.

Transfer Tax and Stamp Duty (TTSD)

On the transfer tax and stamp duty front, the tax scale

applicable to the transfer and refurbishment of grandeeships and noble titles has increased by 2%. This measure will be effective as of the entry into force of this Law.

GENERAL TAXATION LAW (GTL)

Transfer of tax-related confidential information

Pursuant to article 95 of the GTL, any data, reports or records obtained by the tax authorities in the discharge of their duties are classed as confidential and may not be transferred or disclosed to third parties except as stipulated in that provision.

Effective from 1 January 2023, the wording of the exception referred to in the aforementioned article 95 d) has been amended to enable such information to be transferred in order to cooperate with the public authorities in the prevention and fight against tax offences and fraud in respect of obtaining or receiving public or European Union aid or grants.

This exception now applies to scenarios in which the purpose of the transfer is to prevent, detect and remedy any fraud, corruption or conflicts of interest affecting the financial interests of the EU.

Deferrals and instalment payments

Law 16/2022, reforming the Insolvency Law, introduced new, more restrictive, regulations governing deferrals and instalment payments of tax debts managed by the STA. This Law is set to enter into force as of 1 January 2023.

However, prior to the entry into force of the new regulations, the 2023 GSB Law has amended the provision introduced by Law 16/2022 on tax deferrals and instalment payments, also effective from 1 January 2023. The most salient aspects of this amendment introduced by the 2023 GSB Law are as follows:

- The regulations ushered in by the Insolvency Law reform only apply to taxpayers involved in **pre-insolvency proceedings**, provided that the restructuring plan has not been executed in a public instrument, the continuation plan has not been approved, a declaration of insolvency has not been issued and the special procedure for micro enterprises has not commenced.
- It is specified that the **penalty** may also be deferred and paid in instalments, along with the tax debt.
- The reduction in the maximum deferral periods continues to apply, but not in such a

restrictive manner as that provided for in Law 16/2022. For debts secured by a bank guarantee, mutual guarantee society or surety insurance certificate, the maximum term will continue to be 36 months.

Legal interest and late-payment interest

Additional provision forty-five provides that until 31 December 2023, the legal interest and late-payment interest rates (as referred to in article 26.6 of General Taxation Law 58/2003 of 17 December 2003), will be as follows:

- Legal interest rate: 3.25%
- Late-payment interest: 4.0625%

Priority patronage activities and tax relief for events of public interest

The list of priority patronage activities and programmes has been established for 2023 so that the tax incentives provided in the Patronage Law in this connection may be applied.

These activities and programmes include, inter alia, those carried out by the Cervantes Institute for the promotion and dissemination of the Spanish language and Spanish culture via electronic networks and using new technologies and other resources; the activities to promote the dissemination, disclosure and communication of scientific culture and innovation carried out by the Spanish Foundation for Science and Technology; the R+D+I in Biomedicine and Health Sciences in respect of Strategic Health Action carried out by CIBER and CIBERNED; the activities undertaken by public universities in the fulfilment of educational, scientific, technological, cultural, knowledge transfer, etc. objectives and duties.

For such activities, the percentages and deduction limits provided for in this Law will increase by five percentage points, as in previous years.

Meanwhile, the Euros 50,000 annual limit per donor envisaged for some of the activities identified will continue to apply.

The tax benefits applicable to various events deemed to be of exceptional public interest and the duration of the relevant support schemes are also regulated:

1. Plan to Promote the Opera at calle del Teatro Real (from 1 July 2023 until 30 June 2026).
2. Inauguration of the Royal Collections Gallery (from 1 January 2023 until 31 December 2025).

3. 1923-2023 Hockey Centenary (from 1 January 2023 until 31 December 2024).
4. The 60th Anniversary of the Blendio Princess of Asturias City of Oviedo Rally (from 1 January until 31 December 2023).
5. The 60th Anniversary of the Porta Ferrada Festival (from 1 January 2023 until 31 December 2025).
6. "EN PLAN BIEN", to promote healthy lifestyles among children and adolescents (from 1 January 2023 until 31 December 2025).
7. The 125th anniversary of Athletic Club, 1898-2023 (from the entry into force of the 2023 GSB Law until 31 December 2023).
8. The 2031 Ryder Cup (from 1 January 2023 until 31 December 2025).
9. The Barcelona Open and the 125th anniversary of Barcelona Royal Tennis Club (from 1 January 2023 until 31 December 2025).
10. The 750th anniversary of the Consolat del Mar chamber of commerce (from 1 January 2023 until 31 December 2025).
11. The International Union of Architects Congress (from 1 January 2023 until 31 December 2026).
12. The Sónar: Music, Creativity & Technology International Festival (from 1 January 2023 until 31 December 2025).
13. The 37th America's Cup Barcelona (from the entry into force of this Law until 31 December 2025). The Law also regulates the tax regime for this event (that applicable to the organiser of the 37th America's Cup and the participating teams), in addition to the customs and taxation system applicable to any merchandise imported for use in the event.

Special tax regime for the Balearic Islands

A special tax regime has been introduced for the Balearic Islands in view of their island nature, including two tax measures applicable in the autonomous region of the Balearic Islands for tax periods commencing between 1 January 2023 and 31 December 2028.

On the one hand, it regulates the "**Reserve for investments in the Balearic Islands**", entailing a reduction of up to 90% of any amounts allocated to this reserve in the tax base of corporate income and non-resident income taxpayers with a PE in this territory.

The amounts allocated to the reserve must be used for certain investments made within a period of three years, and a series of requirements relating to the holding period over which the investments must remain in operation must also be met.

On no account may the application of the reduction give rise to a negative tax base. The investment reserve must be reflected on the balance sheets as a completely separate item, under an appropriate heading, and it will be restricted insofar as the assets in which the investment has been made must remain at the company for the duration of the holding period.

For personal income taxpayers who perform business activities under the direct assessment scheme, a reduction of up to 80% of the gross tax payable is provided for in respect of net operating income from business activities performed in establishments located in the Balearic Islands which is allocated to the reserve. For this tax benefit to apply, the same investment materialisation, term and holding requirements must be met.

On the other hand, corporate income, non-resident income and personal income taxpayers (in the latter case, provided that income is calculated using the direct assessment method) engaged in industrial, agricultural, livestock and fishing activities can now benefit from an **allowance** for 10% of the gross tax payable in respect of income from the sale of tangible property produced in the Balearic Islands. For this allowance to apply, the average headcount for the period must not be lower than the average headcount for the twelve-month period prior to commencement of the initial tax period.

The allowance may be increased provided that there is also an increase in the average headcount, which must be maintained for a specific period of time.

The 2023 GSB Law dedicates a specific section to the adaptation of these tax benefits to European Union law and the Community framework for state aid, which will significantly limit the application of the relief under the special tax regime.

[Amendments to the economic and tax regime of the Canary Islands](#)

Amendments have been made to Law 19/1994 of 6 July 1994, amending the Economic and Tax Regime of the Canary Islands, and to Law 20/2001 of 7 June 2001, amending tax aspects of the Economic and Tax Regime of the Canary Islands, and the relevant implementing regulations.

The Canary Islands Special Zone (CISZ) and the acquisition of goods for resale

Goods may now be acquired for resale within the CISZ without the need for them to physically pass through the territory of the Canary Islands, provided that the transaction takes place in the CISZ and marks the conclusion of a trade cycle generating economic results.

This will require: (i) the transactions to have been organised, directed, contracted and billed from the Canary Islands; and (ii) at least 90% of the expenses arising as a result of such activity (excluding the acquisition cost of the goods and the related transport costs) to arise from the use of the entity's human and material resources located in the Canary Islands.

Taxpayers performing such transactions will have to file a quarterly information return detailing their goods transactions performed outside the CISZ.

Other CISZ-related amendments

In the case of entities that render **air transport services**, clarification is provided as to which aircraft are deemed located in the CISZ and determination of the tax base of entities rendering air transport services.

Elsewhere, the assignment of **software usage or exploitation rights, intellectual property rights** other than mere distinctive signs identifying the taxpayer or its products, and **copyright**, as well as the transfer thereof to unrelated entities, created by the entity within the CISZ, will be regarded as having been performed in the CISZ in respect of the proportion located within that territory. Certain rules have been established in this connection.

[Public multi-purpose income indicator](#)

The PMPII for 2023 stands at: Euros 20 per day; Euros 600 per month; and Euros 7,200 per year.

[Fees](#)

Amendments include an update to **railway fees**, which have been approved indefinitely. A temporary amendment of the relevant unit amounts has nevertheless been approved for 2023. The **fees** for the provision of services and performance of activities in relation to railway safety services have also been adjusted.

Basic **port fee** amounts will continue to apply. However, relief and correction rates have been established in certain cases (occupancy, vessel, passage and goods rates, as well as those which apply to the fixed rate for taking receipt of waste generated by ships, as provided for in the Ports Law).

The exemption provided for in article 171 c) of the Revised State Ports and Merchant Navy Law for Spanish Red Cross vessels and material, and humanitarian goods sent by it to areas or regions affected by crises or emergencies, has been extended to legally-incorporated non-profit entities engaged exclusively in humanitarian activities.

Other measures adopted in laws approved at the end of 2022

Aside from the above, the final stretch of 2022 saw the publication of other laws containing significant tax-related amendments which, in many cases, will enter into force in 2023:

- [Law 28/2022](#) of 21 December 2022, to promote the start-up ecosystem (referred to as the Start-ups Law). Among other measures, this Law introduces a new tax regime for start-ups and improvements in the taxation of inbound expatriates, investors, workers and venture capital fund managers. For further details, see our [Tax Alert](#).
- [Law 38/2022](#) of 27 December 2022, for the establishment of temporary levies on energy and on credit and financial credit institutions, which creates a temporary solidarity tax on large fortunes and amends certain tax regulations.

This Law sets in place, inter alia, two new temporary levies in the form of non-tax contributions for public purposes, which will be imposed on certain energy companies and credit and financial credit institutions. It introduces the new temporary solidarity tax on large fortunes, in addition to other tax measures such as a temporary limitation on the offset of losses in the context of tax consolidation.

- [Royal Decree-Law 20/2022](#) of 27 December 2022, on measures in response to the economic and social consequences of the war in Ukraine and on support for the rebuilding of the island of La Palma and other situations of vulnerability.

This RD-Law introduces measures concerning energy and indirect taxation. Specifically:

- It extends the application of the 0.5% special tax on electricity rate until 31/12/2023.
- It extends the temporary suspension of the tax on the value of electricity production until 31/12/2023.
- It extends the application of the 5% VAT rate to the supply, import and intra-

Community acquisition of electricity until 31/12/2023 for:

- Holders of electricity supply contracts with a contracted capacity (fixed power term) of less than 10kW, irrespective of the supply voltage level or contract type, and where the arithmetic mean price on the daily market for the last calendar month prior to the calendar month in which the final day of the billing period falls exceeded €45/MWh;
 - Holders of electricity supply contracts who receive the discount electricity rate and are classed as severely vulnerable or severely vulnerable and at risk of social exclusion.
- It extends the application of the 5% VAT rate to the supply, import and intra-Community acquisition of natural gas, briquettes and pellets made from biomass, and to firewood, from 01/01/2023 until 31/12/2023. RD-Law 20/2022 also provides that from 01/01/2023 until 31/12/2023, the VAT surcharge applicable to the supply of briquettes and pellets made from biomass, and to firewood, will be 0.625%.
 - It extends the application of the 4% VAT rate to the supply, import and intra-Community acquisition of disposable surgical masks until 30/06/2023.
 - It also extends the application of the 0% VAT rate on the supply, import and intra-Community acquisition of certain goods and services required in order to combat the effects of SARS-CoV-2 until 30/06/2023. The 0% VAT surcharge on the same goods is likewise extended until 30/06/2023.
 - Lastly, RD-Law 20/2022 provides for a reduction in the VAT rate applicable to certain food products: (i) from 10% to 5% for olive and seed oils, and pasta; and (ii) from 4% to 0% for basic food products (such as standard bread, bread-making flours, cheese, eggs, fruit, greens, vegetables, pulses, root vegetables and cereals classified as natural products per the Codex Alimentarius and its implementing provisions). Meanwhile, the VAT surcharge applicable to the aforementioned products is reduced to 0.625% and 0%, respectively. Both reductions have been established on a temporary and extraordinary basis from 01/01/2023 until 30/06/2023, but are nonetheless subject to the performance of the year-on-year underlying rate of inflation.

Contacts

Alberto Estrelles
Partner
KPMG Abogados
Tel. 91 456 80 94
aestrelles@kpmg.es

Julio César García
Partner
KPMG Abogados
Tel. 91 456 59 08
juliocesargarcia@kpmg.es

KPMG Offices in Spain

A Coruña

Calle de la Fama, 1
15001 A Coruña
Tel: 981 21 82 41
Fax: 981 20 02 03

Alicante

Edificio Oficentro
Avda. Maisonnave, 19
03003 Alicante
Tel: 965 92 07 22
Fax: 965 22 75 00

Barcelona

Torre Realia
Plaça de Europa, 41
08908 L'Hospitalet de Llobregat
Barcelona
Tel: 932 53 29 00
Fax: 932 80 49 16

Bilbao

Torre Iberdrola
Plaza Euskadi, 5
48009 Bilbao
Tel: 944 79 73 00
Fax: 944 15 29 67

Girona

Edifici Sèquia
Sèquia, 11
17001 Girona
Tel: 972 22 01 20
Fax: 972 22 22 45

Las Palmas de Gran Canaria

Edificio Saphir
C/Triana, 116 – 2º
35002 Las Palmas de Gran Canaria
Tel: 928 33 23 04
Fax: 928 31 91 92

Madrid

Torre de Cristal
Paseo de la Castellana, 259 C
28046 Madrid
Tel: 91 456 34 00
Fax: 91 456 59 39

Malaga

Marqués de Larios, 3
29005 Málaga
Tel: 952 61 14 60
Fax: 952 30 53 42

Oviedo

Ventura Rodríguez, 2
33004 Oviedo
Tel: 985 27 69 28
Fax: 985 27 49 54

Palma de Mallorca

Edificio Reina Constanza
Calle de Porto Pi, 8
07015 Palma de Mallorca
Tel: 971 72 16 01
Fax: 971 72 58 09

Pamplona

Edificio Iruña Park
Arcadio M. Larraona, 1
31008 Pamplona
Tel: 948 17 14 08
Fax: 948 17 35 31

San Sebastián

Avenida de la Libertad, 17-19
20004 San Sebastián
Tel: 943 42 22 50
Fax: 943 42 42 62

Seville

Avda. de la Palmera, 28
41012 Sevilla
Tel: 954 93 46 46
Fax: 954 64 70 78

Valencia

Edificio Mapfre
Paseo de la Alameda, 35, planta 2
46023 Valencia
Tel: 963 53 40 92
Fax: 963 51 27 29

Vigo

Arenal, 18
36201 Vigo
Tel: 986 22 85 05
Fax: 986 43 85 65

Zaragoza

Centro Empresarial de Aragón
Avda. Gómez Laguna, 25
50009 Zaragoza
Tel: 976 45 81 33
Fax: 976 75 48 96

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