

# The Autonomous Region of Madrid proposes a temporary amendment of the wealth tax allowance

## Tax Alert



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# The Autonomous Region of Madrid proposes a temporary amendment of the wealth tax allowance.

**The *Partido Popular* parliamentary group of the Madrid Assembly has presented a Legislative Proposal to temporarily amend the wealth tax allowance in the Autonomous Region of Madrid while the solidarity tax on large fortunes is in force (see the text of the Legislative Proposal [here](#)). [Access to the Spanish version.](#)**

This Legislative Proposal has been submitted for processing by means of the single reading procedure which, if accepted, means that it will be put to a single vote, without prior debate or an amendments phase (article 167 of the [Rules of Procedure of the Madrid Assembly](#)).

## 1.- Current regulatory environment in the Autonomous Region of Madrid

Any discussion of the amendment proposed by the Autonomous Region of Madrid calls for a prior understanding of both the background to the current status of wealth tax (and more specifically the relevant allowance) in the region and the impact of the temporary solidarity tax on large fortunes (the “TSTLF”), which has recently been declared constitutional.

- **100% reduction in wealth tax in the Autonomous Region of Madrid**

Since 2008, a 100% reduction in wealth tax (“WT”) has applied in the Autonomous Region of Madrid. For practical purposes, this means that taxpayers subject to Madrid’s regional regulations are not required to pay this tax (note here that although those with gross assets exceeding Euros 2,000,000 are required to file the relevant tax return, it will not result in tax payable).

- **Creation of the temporary solidarity tax on large fortunes**

Since 2022, individuals whose net worth exceeds Euros 3,000,000 have, in addition to wealth tax, been subject to the TSTLF provided for in article 3 of Law 38/2022 of 27 December 2022.

The harmonising effect that the legislator sought to achieve by introducing this tax led to its conception as a supplement to WT. The TSTLF is assessed under the rules envisaged for WT

assessments (with certain exceptions). Moreover, the WT paid to the relevant regional government may be deducted from the gross TSTLF payable.

In fact, while the related revenues generally fell short of expectations in the first year in which this tax was levied (2022), the highest level of TSTLF was collected in the Autonomous Regions of Madrid and Andalusia (where the 100% reduction in WT applies). The economic impact of the new tax on residents of these regions has nevertheless been mitigated by the fact that the so-called “tax shield”<sup>1</sup> is not calculated on the basis of the WT actually paid by the taxpayer but rather on the gross or theoretical tax payable.

The Governing Councils of the Autonomous Regions of Madrid and Murcia and the Regional Governments of Andalusia and Galicia lodged appeals with the Constitutional Court (CC) against article 3 of Law 38/2022 (by which the TSTLF was created). The appeal lodged by the Governing Council of the Autonomous Region of Madrid was dismissed in a judgment handed down by the CC on 7 November 2023.

## 2.- Legislative Proposal by the Autonomous Region of Madrid to repeal the 100% reduction in wealth tax and introduce a new allowance to offset the TSTLF payable

The proposal to amend the regional 100% reduction in wealth tax comes in the wake of the Constitutional Court’s recent ruling -the operative part of which was announced beforehand in a [press release](#)- dismissing the **constitutional challenge** brought by the Governing Council of the Autonomous Region of Madrid against the **TSTLF**.

According to the Preamble to the Legislative Proposal, “*now that the tax has been declared constitutional, it is appropriate, on a transitional basis*”, to replace the

<sup>1</sup> Reduction applicable to the TSTLF charge, whereby this is reduced by the amount by which the sum of PIT, WT and TSTLF payable exceeds 60% of the taxable income for PIT purposes.

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existing tax allowance with a variable one “so that it may be settled by Madrid taxpayers who are subject to the temporary solidarity tax on large fortunes as part of their wealth tax”.

Under this Legislative Proposal, a new transitional provision seven would be added to the Revised Legal Provisions of the Autonomous Region of Madrid in respect of taxes devolved by the central government, approved by Legislative Decree 1/2010 of 21 October 2010 (the “RLP”).

The proposed changes **would take effect from 1 January 2023**. They would thus affect the TSTLF becoming chargeable on 31 December 2023, and would continue to apply for as long as the TSTLF remains in force, with the following repercussions:

- First of all, the general regional reduction (100%) provided for in article 20 of the RLP would not apply.
- Secondly, taxpayers would be entitled to apply a regional reduction equal to the difference between: (i) the gross WT payable, after applying the reduction in respect of the combined PIT-WT limit provided for in article 31 of WT Law 19/1991 of 6 June 1991; and (ii) the gross TSTLF payable, after applying the reduction in respect of the combined PIT-WT-TSTLF limit provided for in article 3. Twelve of TSTLF Law 38/2022 of 27 December 2022.

This tax allowance would thus apply to taxpayers who are not subject to the solidarity tax. By contrast, those with positive gross TSTLF payable would be able to reduce the amount thereof by the amount of the WT that they are required to pay so that in the Autonomous Region of Madrid they would be taxed for wealth tax rather than TSTLF.

Meanwhile, since the validity of this measure is tied to that of the TSTLF, the Autonomous Region of Madrid is keeping one step ahead of any extensions that may be approved in relation to the validity of the TSTLF.

### 3.- CONCLUSIONS

If this proposal is passed, taxpayers who were not previously liable to pay either wealth tax or the temporary solidarity tax on large fortunes in Madrid will continue to be exempt from such payment.

Those who were liable to pay the TSTLF will no longer be required to do so. They will, however, pay the same amount in WT as they would have been required to pay in respect of the TSTLF.

The processing of this Legislative Proposal will have to be monitored, as will the reactions of other Autonomous Regions to the CC judgment and any changes that may be made to the wording of the TSTLF legislation.

Should all of the Autonomous Regions (not including the Basque Country and Navarre) approve a measure identical to that proposed by the Autonomous Region of Madrid, no TSTLF will be levied and the WT cost will be the same in each of them.

Bear in mind that this tax was created as a temporary measure for 2022 and 2023, and that this too will be subject to review.

It will nevertheless be vital for WT and TSTLF taxpayers to review their eligibility for any exemptions that may apply, as well as their income and wealth structure, in order to comply with their tax obligations.

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