



# Relevant issues to be considered by financial and insurance entities when calculating the VAT pro-rata for fiscal year 2023

Tax Alert



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**Law 13/2023 of 24 May 2023, amending Spanish General Tax law 58/2003 of 17 December (the "GTL") and transposing Council Directive 2021/514 of 22 March 2021 (known as "DAC7"), introduced, among other things, various relevant amendments for the financial and insurance sector. One of the amendments commented was the elimination of the application of the VAT use and enjoyment rule provided for in article 70.Two of the VAT Law to financial and insurance services provided to entrepreneurs or professionals. [Click here to access the spanish version.](#)**

As noted in the KPMG tax alert ([attached](#) again) of 18 May 2023, Law 13/2023 introduced a number of relevant amendments for the financial and insurance sector.

On behalf of the KPMG Financial Sector Taxation team, we remain at your disposal for any questions or assistance you may need in this regard.

One such amendment was the elimination of application of the VAT use and enjoyment rule provided for in article 70.Two of the VAT Law to financial and insurance services provided to entrepreneurs or professionals.

As explained in our alert, this modification is likely to have a significant impact on the VAT deductibility regime applicable to entities that provide financial and insurance services to entrepreneurs or professionals not established in the European Union. In many cases, this modification could entail a relevant VAT saving, to the extent that these operations could be included in the numerator of the VAT pro-rata calculation, thus increasing the amount of input VAT recoverable by such entities.

The impact will be especially notable in the case of financial entities that have contracted derivatives, be it for hedging or speculation purposes, with counterparties not established in the European Union.

It will also be particularly important, in the wake of this legislative amendment, to review the amount to be included in the pro-rata calculation in respect of financial and insurance operations of this nature, taking into account the rules for determining the tax base of such operations and the effective date of this legislative amendment, as well as the applicable accrual rules.

In this regard, the VAT return corresponding to the last period of 2023 (to be filed by 30 January 2024) will be the first return in which the effects of this modification on the calculation of the VAT pro-rata will need to be considered. We would therefore like to reiterate our recommendation to review the impact of the above legislative amendment by the end of January.

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