The Spanish government has put forward a tax reform plan that includes lower income tax rates and changes to the taxation of savings and capital gains, as well as the so-called “impatriate” tax regime. On 23 June 2014, the government released draft legislation that, if passed, would constitute a far-reaching reform of Spain’s tax system within the framework of economic reforms developed by the government and recommended by the European Commission and the International Monetary Fund. In early August, draft legislation was submitted to parliament for review and debate.

Why This Matters

If enacted, these reforms would mean important changes for the taxation of earned income and the taxation of savings/investment income. While Spain’s tax rules – in some cases – would be simplified, the reform package offers a mixed bag for individuals, and, on the whole, tax burdens will likely rise. (Each individual’s tax status should be determined in light of his or her particular situation.) This means that companies with international assignees subject to Spanish tax law may see their international assignment-related costs rise.

Below we summarize some of the key proposals.

Personal Tax Rates/Thresholds

- New tax scales will apply to taxable income, with revised tax rates and a reduction of the number of tax brackets from seven to five. Transitional rules will apply.
- The 2016 scale sets the minimum marginal rate at 19 percent for income of up to EUR 12,450 (20 percent in 2015; currently it is 24.75 percent) and the maximum rate will fall to 45 percent for income exceeding EUR 60,000 (47 percent in 2015; currently it is set at 52 percent on income above EUR 300,000). It should be noted that the ultimate rate may be higher when the taxpayer is resident in an autonomous region where corresponding scales may apply.

Savings Income

New tax scales are proposed for savings income – there will be three brackets and reduced progressivity. The savings component of net taxable income will therefore be taxed according to the following scale:

<table>
<thead>
<tr>
<th>Up to EUR</th>
<th>2015 rate</th>
<th>2016 rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 6,000</td>
<td>20% (currently 21%)</td>
<td>19%</td>
</tr>
<tr>
<td>6,000 to 50,000</td>
<td>22% (currently 25%*)</td>
<td>21%</td>
</tr>
<tr>
<td>50,000 or more</td>
<td>24% (currently 27%†)</td>
<td>23%</td>
</tr>
</tbody>
</table>

* The 25% rate is currently applied from EUR 6,000 up to a tax base of EUR 24,000.
† The 27% rate is currently applied from a tax base of EUR 24,000. This applies to such things as bank interest, dividends, interest arising on life insurance policies, etc.
Savings Income and Financial Taxation

- The EUR 1,500/year dividend exemption will be eliminated.

- From 2015, capital gains and losses will be taxed according to the new rates for savings income, regardless of the holding period. (Currently, they are taxed (if held for less than a year) at ordinary rates of up to 52 percent.)

- The transitional regime for capital gains on assets not used for economic activities acquired prior to 31 December 1994 and transferred after 31 December 1996 is eliminated.

- Capital gains and losses will be permitted to offset investment income, along the lines of the new rules that apply to savings income – offsets of up to 25 percent of the positive balance applicable in 2018 (10 percent in 2015, 15 percent in 2016, and 20 percent in 2017) will be permitted.

- An exit tax will be due on gains in respect of shares or holdings (including in collective investment undertakings), where a taxpayer ceases to be a tax resident of Spain, provided that the value of the holding exceeds EUR 4,000,000 (or exceeds EUR 1,000,000, where the holding in the entity represents more than 25 percent). Special provisions concerning tax debt deferment or recovery of amounts paid are included in the measure for (1) temporary secondments (up to five years) for employment purposes, and (2) secondments within the European Union (EU) or European Economic Area (EEA), that allow for the recovery of amounts paid.

- It is proposed that new withholding percentages for investment income and capital gains will apply (19 percent in 2016 and 20 percent in 2015). Special transition rules may apply.

"Impatriate" Tax Regime (for Workers Seconded to Spanish Territory) – Main Points

- This regime may be applied to directors of entities, where the director does not own a holding in or is not deemed related to such entity. Previously, the rules were not entirely clear – the new terminology expressly extends the application of the regime to the directors of companies.

- Professional sportspersons are excluded from the regime. (The formal name of the special regime is Regimen especial para Trabajadores Desplazados, as per Title X on Special Tax Regimen, Section 5th, article 93 of the Spanish Income Tax Law (IRPF). However, as this rule was used at first mostly by sportsmen, it has commonly been known as “Beckham’s law” after the soccer star, David Beckham, who came to play for Real Madrid.)

- The impatriate regime may be applied to income exceeding EUR 600,000, although such income will be taxed at 45 percent. (Currently, individuals with income exceeding EUR 600,000 cannot apply this tax regime.)

- The applicable rates are aligned with the new, nonresident income tax rates and the savings income scale.

- A transitional regime is envisaged for workers seconded before 1 January 2015.

- The income tax formulae are to be defined in greater detail.
Nonresident Income Tax (NRIT)

Nonresident individuals and corporate entities are subject to NRIT to the extent their income is obtained in Spain. The proposed amendments to Nonresident Income Tax are designed to bring the current regulations for this tax into line with the EU rules, to adapt the NRIT to the proposed changes to Spain’s Personal Income Tax, and to bring greater clarity.

A number of amendments to the Nonresident Income Tax Law are set to take effect as of 1 January 2015, namely:

- The exemption for recipients of dividends not exceeding EUR 1,500 is eliminated.
- The rules for determining the capital gains allocated to taxpayers resident in a member state of the EEA with which an effective exchange of tax information arrangement exists are to be aligned/assimilated with those applicable to Spanish resident taxpayers, provided they do not operate through a permanent establishment (PE) in Spain.
- Under the NRIT regime, a general rate of 24 percent for nonresidents without a PE, and a rate of 19 percent in 2016 (20 percent in 2015) for residents of the EU or an EEA member state with which there is an effective exchange of tax information, are to apply (provided that there is not a ‘special’ tax rate that applies).
- The tax rate for dividends, interest, and capital gains arising to nonresidents will be 20 percent in 2015 and 19 percent in 2016.
- Taxation at a rate of 19 percent is proposed for transfers of subscription rights (rights to purchase shares) when the transferor is an individual. (The subscription rights are granted by companies to their shareholders as a part of their dividend/remuneration programs.)
- In order to encourage the free circulation of citizens throughout the EU, nonresident taxpayers are exempt from tax on capital gains obtained on the transfer of what was their main residence in Spain, provided that the amount obtained on the transfer is reinvested towards the acquisition of a new main residence.

Work-Related Compensation/Income and Income from Economic Activities

- It is proposed to exempt severance pay up to a new exemption limit of EUR 180,000.
- The exemption for share awards for employees is to be eliminated.
- There will be a reduction in the exemption limit applied to earned income obtained over more than two years, or on an irregular basis. The existing 40-percent exemption is reduced to 30 percent, while the annual EUR 300,000 limit and the limit for severance exceeding EUR 1,000,000, are maintained.
- Pension plans and similar:
  - There will be a reduction of the financial limit on contributions to private pension plans below which favorable tax treatment is permitted – to EUR 8,000 (from EUR 10,000; but if the individual is 55 years of age or over, EUR12,500), while the second tax limit of
30 percent of earned or business income remains unchanged. (The 30-percent limit refers to employment income obtained by the individual. Thus, the tax reduction applicable is capped at the lower of either EUR 8,000 or 30 percent of the employment income obtained.)

- There will be a change to taxpayers’ tax-exempt pension contributions on behalf of their spouses with low income (earned income or income from economic activities up to EUR 8,000). Taxpayers can make tax-exempt contributions on behalf of such spouses up to EUR 2,500 (the current limit is EUR 2,000).
- There will be a reduction of the exemption limit for contributions to private nursing care insurance from EUR 10,000 to EUR 8,000.

**Withholdings**

New withholding percentages will be established for work income as follows:

- Directors: 37 percent in 2015 and 35 percent in 2016, or 19 percent in the case of companies with a turnover (numeric value representing total sales) of less than EUR 100,000;
- Liberal professions (e.g., teachers, doctors, notaries, pharmacists, journalists, lawyers, etc.: 20 percent in 2015 and 19 percent in 2016 or 15 percent for income of less than EUR 12,000.

**Tax on Real Estate**

The giving over or assignation of one’s main residence as payment of a mortgage debt, or as payment in judicial or notarial foreclosure proceedings will result in the exemption of the capital gain from taxation, subject to the non-existence of other assets.

**Deduction for Income from Residential Leases**

The 60-percent and 100-percent deductions allowed against net rental income will be reduced to a single allowable 60-percent deduction.

**Next Steps**

Please note that this article does not discuss other proposed changes provided for in the draft law, such as those relating to the Corporate Income Tax – although, it is important to note the government aims to lower corporation tax rates from 30 percent to 28 percent in 2015 and to 25 percent in 2016.

The draft law will be debated in parliament and will be subject to comment by Spain’s economic and social partners.²

KPMG Abogados in Spain will endeavor to keep readers informed as developments occur.
Footnotes:


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The information contained in this newsletter was submitted by the KPMG International member firm in Spain. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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