

European Commission commences infringement proceedings against Spain in respect of the information return on assets and rights located abroad (Form 720)

26 November 2015

On 24 November, the European Commission ("EC") announced the commencement of infringement proceedings against Spain, considering that Form 720, in which individual tax residents in Spain are required to declare assets and rights located abroad, may be contrary to European Union Law.

This information return must be filed, among others, by employees coming to work in Spain who hold investments (immovable property, shares, savings deposits etc.) in their home country. The Commission's decision to commence these proceedings is based on:

- 1 The establishment of disproportionate penalties for late filing of this return, as compared to the regulatory penalties applicable to domestic tax infringements;
- 2 The establishment of a different and longer statute-of-limitation period, which, in the case of unjustified capital gains, exceeds the generally applicable 4-year term, as any such gains must be attributed to the last non-statute-barred year, subject to an additional penalty of 150%.

Although it is too soon to predict how the proceedings will develop, they may ultimately conclude with the European Court of Justice declaring the obligation contrary to European Union Law. This will be of particular interest to taxpayers who have incurred penalties as a result of infringement of this obligation, the legality of which now is questioned.

At People Service area we are at your disposal to solve any doubts related to the commence of the proceeding.

KPMG Abogados

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In light of your relationship with certain professionals of KPMG Asesores S.L., KPMG Abogados S.L., KPMG Auditores S.L. and/or KPMG S.A. (hereinafter "KPMG") we are pleased to provide you with certain information regarding the processing of your personal data ("data"), in compliance with Organic Law 15/1999 of 13 December 1999 on Personal Data Protection ("LOPD") and its implementing regulations, as well as Law 34/2002 of 11 July 2002 on Information Society Services and Electronic Commerce ("LSSI").

1. Data collection and end purpose

The data that you have provided or that we may obtain in the future will be included in data processing files owned by KPMG, with registered office at Paseo de la Castellana, 95, 28046 Madrid, to maintain, further or control our professional relations.

2. Other data processing purposes and communication to third parties

Additionally, unless you have advised us otherwise as indicated in section 4 below within 40 days from the date of issuing this communication, the data will be processed: (i) to send commercial information and communications on KPMG's services, activities, publications, social and professional meetings and events, as well as greetings, by any means, including email and other equivalent electronic communications; and (ii) for communication to other Spanish firms affiliated with KPMG International (KPMG in Spain) and other firms affiliated with KPMG International (hereinafter "KPMGI"), so that those firms may send you, by any means, including email or other equivalent means of electronic communication, commercial information and communications on their services, activities, publications, social and professional meetings and events, as well as greetings.

The KPMGI firms are located in Spain and abroad (in EU member states, as well as third countries that might not offer data protection comparable to that in Spain). These entities are listed on the following website, where you can obtain more detailed information thereon: www.kpmg.es

3. Personal data retention

Your data will be stored in our files for the duration of our professional relationship and for the legal or contractual periods stipulated for the exercise of any action by you or KPMG. In any case, upon termination of our relationship your data will be duly blocked, as set forth in the LOPD.

Notwithstanding the foregoing, after our relationship has ended we may continue to use your data for commercial purposes, strictly according to the terms and conditions indicated in the above section, until such time as you may revoke your consent, if this were the case.

4. Exercising your rights

In relation to any of the firms of KPMG in Spain, to exercise: (i) rights of access, rectification and erasure of the data, (ii) the right to object to any of the data processing indicated in sections 1 and 2 above, and (iii) the right to revoke any of the consents granted; you may contact the Office of General Counsel of KPMG, at Paseo de la Castellana, 95, 28046 Madrid by post or by sending an email to the following address: derechosarco@kpmg.es indicating in both cases your name and surname(s) and specifying the right you wish to exercise.

Should you wish to object to the data processing requested in sections 1 and 2 above, please send an email to derechosarco@kpmg.es, indicating:

- i) Your name and surname(s) and the text "I DO NOT CONSENT to the processing of my personal data for any purpose".
- ii) Your name and surname(s) and the text "I DO NOT CONSENT to the processing of my personal data for the sending of commercial information and communications, by any means, on services, activities, publications, social and professional events of KPMG".
- iii) Your name and surname(s) and the text "I DO NOT CONSENT to the processing of my personal data for the benefit of KPMGI firms for the purposes communicated".

Finally, we are pleased to inform you that there is a Data Protection Working Group in KPMG, which you may freely contact regarding any doubts, consultations or suggestions that might arise in relation to the processing of your data, via the following address, indicating your name and surname(s): derechosarco@kpmg.es.