



## Spanish constitutional court will analyze the appeal filed against the temporary solidarity tax on large fortunes

**April 18, 2023**

The plenary session of the Spanish Constitutional Court (CC) has agreed to hear the constitutional challenge brought by the Regional Government of Andalusia against article 3 of [Law 38/2022](#), introducing the temporary solidarity tax on large fortunes (ITSGF, per its Spanish acronym), as announced in the Official State Gazette on 25 March 2023 (available [here](#) and in Spanish only).

The above Law, passed at the end of 2022, ushered in the following measures:

- a new temporary levy on large fortunes, which became chargeable for the first time on 31 December 2022 and affects individuals with net wealth exceeding Euros 3,000,000 (see our tax alert entitled [Temporary solidarity tax on large fortunes and other changes to wealth taxation](#)); and
- a temporary levy on financial institutions, applicable in 2023 and 2024 (discussed previously in the tax alert entitled [New temporary levy on the finance sector](#)), and a temporary levy on certain energy companies (discussed previously in the tax alert entitled [New temporary levy on the certain energy companies](#), available [here](#) in Spanish only).

As stated in the press release published on its website (available [here](#) and in Spanish only), the plenary session of the CC has given leave to proceed with the constitutional challenge brought by the Cabinet of the Regional Government of Andalusia against article 3 of [Law 38/2022](#), introducing a temporary solidarity tax on large fortunes, the implementing regulations for which were disclosed in an amendment presented to the Lower House during its passage through parliament. The request for the precautionary suspension of the effects of the contested provision has, by contrast, been rejected.

According to the constitutional challenge lodged against article 3 of Law 38/2022, this provision could entail:

- breach of the financial independence of the autonomous regions and the body of legal and constitutionality rules on devolved taxes; and
- breach of the right to political representation (article 23.2 of the Spanish Constitution), the principle of constitutional and institutional loyalty (article 2.1.g of Organic Law 8/1980 on Financing of the Autonomous Regions) and the principle of legal certainty (article 9.3 of the Spanish Constitution).

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It should be noted that in the wake of [CC judgment 182/2021](#) on the tax on the increase in urban land value (commonly referred to as the municipal capital gains tax), the effects of which were limited to taxpayers that had already appealed the tax at the judgment date

(although it remains for the Supreme Court to determine whether the declaration of unconstitutionality of the municipal capital gains tax is effective from 26 October 2021 -the judgment date- or from the date on which it was published in the Official State Gazette, i.e. 25 November 2021), the effects of a CC judgment upholding this appeal against the ITSGF might also be limited to those who had previously appealed the tax.

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