



NEW TAX MEASURES INTRODUCED BY ROYAL DECREE-LAW 15/2020, OF APRIL 21ST

April 22nd, 2020

After several tax measures adopted since the State of Alarm was declared on March 14th 2020 (which have been analyzed in previous alerts), the Spanish Government, through Council of Ministers gathered on April 21st, has passed the Royal Decree-Law, of complementary urgent measures to support the economy and employment (hereinafter, RDL 15/2020). This new regulation has been published in the Official State Bulletin (BOE) on April 22nd, and has come into force on April 23rd, 2020.

The aim of the RDL 15/2020 is to minimize the tax impact that certain tax options stated in the Spanish regulations, and exercised by small and medium companies (PYMES) as well as self-employed workers, at the time of assessing their tax due to be paid regarding the payments in advance of the Corporate Income Tax (CIT) and the Personal Income Tax (PIT). Furthermore, the RDL 15/2020 modifies the Value Added Tax (VAT) rates for certain products considered essentials in the State of Alarm. Finally, certain prerogatives are granted for tax collection purposes.

For a specific analysis of the tax measures introduced by the RDL 15/2020, a detailed summary has been prepared:

1. **Extraordinary possibility of assessing the CIT payments in advance on the tax base method**

The CIT payments in advance can be assessed by the taxpayers through two methods: i) a percentage applied on the tax quota of the last CIT return submitted (tax quota method), or ii) a percentage to be applied on the taxable base of the period in course (tax base method). The first option is the general one, applied by companies whose net turnover does not exceed €6,011,121.04. And although the second option (tax base method) is compulsory only for those companies exceeding the said turnover amount, small companies are also able to opt for such taxable base method.

As an extraordinary measure, the RDL 15/2020 allows taxpayers whose net turnover did not exceed €600,000 during 2019, and applying the tax quota method, to opt for applying the tax base method on the accounting result corresponding to the first 3 months of fiscal year 2020. In other words, medium and small companies applying the quota method will be able to modify such method if the tax base method becomes more beneficial.

Nevertheless, only taxpayers whose tax period began on or after January 1st 2020 can opt for this change of

method.

Consequently, those taxpayers not exceeding a €600,000 net turnover during 2019, on which the postponement of the deadline for the filing and payment of periodic tax returns, stated by virtue of Royal Decree-Law 14/2020, of April 14th (hereinafter, RDL 14/2020), becomes applicable, will be able to calculate their CIT payment in advance applying the tax base method if they were not doing so previously.

The option will be exercised, by the aforesaid taxpayers, regardless they have filed their periodic tax returns during the first 20 days of April or they have applied the postponement of submission deadline stated in RDL 14/2020.

Regarding CIT taxpayers whose fiscal year began on or after January 1st 2020, which have not been able to apply the aforementioned extraordinary option, and whose net turnover did not exceed € 6,000,000 during 2019, will however be able to modify their calculation method on the second CIT payment in advance (to be filed on October 2020). That is, although these taxpayers will not be able to change their calculation method for the first payment in advance purposes, they will be able to do so in their second CIT payment in advance.

Nevertheless, these taxpayers (with turnover no greater than € 6,000,000) will not be able to change their calculation method on the second CIT payment in advance if they apply the tax consolidation special regime.

Finally, it is necessary to highlight that in both cases (taxpayers able and not able to modify their assessment method on the first payment in advance) the option exercised will only affect the 2020 CIT payments in advance.

This tax measure allows to remove: i) the compulsory census obligations, normally stated to change the CIT payments in advance method, and ii) the binding effect that the change of method would have for future tax periods (since it will only be applicable for fiscal year 2020). Hence, small and medium companies will be able to adjust their payment in advance to the economic reality of their income and expenses during the State of Alarm, in order to avoid strong treasury impacts.

2. Tacit waiver of the objective estimation method (“modules”). PIT and VAT implications.

Currently, the PIT regulations allows taxpayers under the modules regime (e.g. taxi drivers, certain restaurants or relocation professionals, among others), and assessing their PIT net income and taxable base according to objective elements (e.g. length of the bar, number of employees, surface of the commercial premises,...) to renounce the application of such method during the voluntary period to file the first PIT payment in advance (this period has been extended until May 20th 2020, by virtue of RDL 14/2020). Consequently, these taxpayers will calculate their PIT payment in advance on real income and expenses basis. However, under the general PIT standards, if the

renounce is exercised, the modules method will not be applicable again during the subsequent three years.

This limitation is solved through the RDL 15/2020, which states that, if taxpayers renounce the modules method through their first 2020 PIT payment in advance (under the aforementioned conditions), they will be able to return to such regime in 2021. That is, the three year minimum period will not be applicable.

Finally, the RDL 15/2020 also states that the renounce, as well as the return to the modules method in 2021, will have the same effects for the special tax regimes for VAT and the Canarian Indirect General Tax (IGIC) purposes.

Through this measure, self-employed workers will be able to reduce their tax burden by considering the real income and expenses incurred during the State of Alarm. Otherwise, they would be taxed on objective criteria basis which, under the current situation, would imply an unreal and impossible tax burden.

3. Special assessment rules under the objective estimation method. PIT and VAT implications.

Those professionals who decide not to renounce the modules method in their first payment in advance for 2020, to be submitted on May 20th 2020 the latest, will calculate their net income and taxable base under the general criteria stated in the regulations in force.

However, in such cases the RDL 15/2020 states that, in order to assess the net income and taxable base under the objective estimation method, the calendar days in which the State of Alarm has been declared will not be considered as days in which the activity has been effectively carried out during the calendar quarter.

Similarly, and for VAT purposes, those taxpayers applying the objective estimation method and under the simplified special tax regime, will neither consider, as days of effective activity during the natural quarter, those in which the State of Alarm has been in force.

4. Reduction of the VAT rates

From the entry in force of the RDL 15/2020 and until July 31st 2020, a 0% VAT rate will be applicable on deliveries, imports and intra-community acquisitions of health products (e.g. monitors, pumps, tubes, masks, gloves or glasses, among others), as long as the acquirer is a public entity, clinical centres, hospitals or private entities with social purposes.

In the same vein, the VAT rate applicable for downloads and suscriptions of digital books, newspapers and magazines is reduced from 21% to 4%. In such way, the tax burden of digital versions is permanently equated to the physical ones.

5. Measures in tax collection

Another relevant measure introduced by the RDL 15/2020, is that the executive tax period will not commence regarding tax debt managed by the State

Tax Administration and resulting from tax returns without payment filed during the State of Alarm.

This measure will only be applicable for debts arising from the submission of tax returns with deadline from April 20th to May 30th.

In order to apply such exception, the following requirements must be met:

- a) The taxpayer must have requested in due time the financing stated in Section 29 of the Royal Decree-Law 8/2020, of March 17th, of extraordinary urgent measures against the economic and social impact of COVID-19 (hereinafter, RDL 8/2020), for the payment of tax debts resulting from tax returns and, at least, for the amount of such tax debts.
- b) The taxpayer must provide the Tax Authorities, in a maximum period of five days from the ending of the voluntary submission and payment period, with a certificate issued by the financial institution proving that the financing request has been performed; including the identification and amount of the tax debts.
- c) The financing must be granted, at least, for the amount of the aforementioned tax debts.
- d) The tax debts must be paid effectively, completely and immediately once the financing is granted.

In essence, only taxpayers entitled to obtain the financing stated in the RDL 8/2020 will be able to apply this measure and regarding the tax debts arising from tax returns filed from April 20th to May 30th.

By virtue of Agreements of the Council of Ministers on March 24th and April 10th, it is necessary, in order to request the aforementioned financing, to be considered a small or medium company (PYME) in terms of the Section 2 of the Annex I of the Commission Regulation (EU) No 651/2014 of 17 June 2014. In this regard, companies with less than 250 employees and whose turnover does not exceed € 50 million, or whose annual balance sheet does not exceed € 43 million, will be considered PYMES.

Consequently, only the PYMES as defined above, complying with the requirements stated in a), b), c) and d), can avoid the beginning of the tax collection period regarding tax returns submitted but not paid; and avoiding therefore eventual tax surcharges.

Furthermore, the RDL 15/2020 states the postponement of harbor dues arising from the entry in force of the Royal Decree-Law 7/2020, of March 12th, of urgent measures against the economic impact of COVID-19, until June 30th. The postponement will be granted for a six months period, no delay interests will be accrued and no guarantees will be requested.

6. Extension of the term of certain tax measures introduced by the Royal Decree-Law 8/2020 and the Royal Decree-Law 11/2020.

The postponement terms introduced by the Royal Decree-Law 8/2020 and the Royal Decree-Law 11/2020, originally until April 20th and May 30th, are

now extended until June 30th in the following cases: i) in order to pay tax debts assessed by the Tax Authorities; ii) in order to pay any maturity of deferral/installments previously granted; iii) to answer any requirement, enforcement decision or tax information request, as well as to file allegations; iv) to appeal administrative decisions; v) in order to enforce any guarantee on immovable property under the enforced recovery procedure; vi) in order to determine the maximum term of tax procedures; vii) in order to determine the statute of limitations and expiration period; and viii) to respond requirements and information requests issued by the General Directorate of Cadastre.

We keep at your disposal for any question regarding this or any other matter.

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