



GES NewsFlash

Spain – Amendment to the Spanish Personal Income Tax Legislation

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Changes have been introduced in the Spanish Personal Income Tax Law and Non Resident Income Tax Law by means of Act 39/2010 (The Act), of 22 December 2010 of National Budget for 2011, in effect from 1 January 2011, as along with some other new Regulations.

Introduction of new tax scale tranches

The Act has introduced two new tranches to the current progressive tax scale. Thus, from the aforesaid date, employment income higher than 120,000 Euros will be subject to a higher tax rate. Until 31 December 2010, the Spanish tax scale ranged from 24 up to 43%; from 1 January 2011, the Spanish Personal Income tax scale will not be the same for all Spanish regions, being 44% the maximum tax scale for some regions and 49% for some other regions.

However, the Spanish Personal Income tax scale for withholding tax purposes will be the same for all regions, and it will range from 24 to 45%.

Tax deduction for birth or adoption

The Act has also eliminated the 2,500 Euros tax deduction, which was available for births or adoptions.

Tax reductions applicable to employment income

For Spanish tax purposes, employment income could benefit from a 40% deduction if two requirements were met: (i) employment income should be generated over a period of 2 or more years and (ii) employment income should not be obtained periodically nor recurrently. From 1 January 2011, the employment income which will be able to benefit from the 40% tax reduction will be limited to 300,000 Euros per annum.

If the employment income subject to the 40% tax reduction comes from the exercise of stock options, a new formula will have to be applied to obtain the aforementioned

limit.

Tax deduction for the investment in the taxpayer's habitual home

The amounts invested in the acquisition of the taxpayer's habitual home (under certain requirements) are subject to a tax deduction through the taxpayer's Personal Income Tax return. From 1 January 2011, this tax deduction would only be available for taxpayers whose taxable base is 24,107.20 Euros or less. The maximum tax base for this deduction is 9,040 Euros investment each year and the general deduction percentage is 15%

Likewise, the amounts invested in a special savings account specially designated for the acquisition of the taxpayer's habitual home, will only be deductible for taxpayer's whose annual tax base is 24,107.20 Euros or less.

The taxpayer's who acquired their habitual home before 31 December 2010 will not lose the right to deduct the amounts invested in the acquisition of such habitual home, even when their annual taxable base is higher than 24,107.20 Euros.

Tax deduction for the rent of the habitual home

For Spanish tax purposes, some taxpayers with low income could benefit from a tax deduction in respect of the amounts paid for the rent of their habitual home. With effects from 1 January 2011, taxpayers with a taxable base over 24,107.20 Euros will not be able to opt for the tax deduction in respect of the rent paid. The maximum tax base for this deduction is 9,040 Euros rent per year and the general deduction percentage is 10.05%

Tax deduction for the amounts obtained in respect of rental income

Spanish taxpayers who obtain rental income from the renting of properties will be able to apply a 60% reduction (50% up to 31 December 2010) if the property is used for living purposes.

Furthermore, the aforesaid 60% reduction will be 100% reduction when the tenant is between 18 and 30 years old (35 years old up to 31 December 2010).

Travelling expenses for public service transport

From 1 January 2011, the employers will be able to issue travelling tickets (or any other formula designated to that effect) for its employees, which will not be considered benefit in kind for them provided certain requirements are met. The travelling tickets will have to be used in the public service transport and will have a limit of 136.36 Euros per month, with a maximum of 1,500 Euros per annum.

Spanish non-tax resident Act

With effects from 1 January 2011, the exemption applicable to benefits distributed

from Spanish entities to EU resident States has been modified and thus, the requirement of direct or indirect shareholding in the Spanish entity has been reduced from 10 to 5%.

Spanish non-tax resident returns

The Spanish non-tax residents return format has been modified. The most significant changes are as follows:

- In respect of tax refunds from the Spanish Tax Authorities to a Spanish non-tax resident it is now possible to request that the tax refund is made into a foreign bank account. Likewise, tax payments due from a Spanish non-tax resident to the Spanish Tax Authorities could be made from a foreign bank account.
- It is now possible to include deductible expenses.
- Spanish non-tax resident returns will be able to be filed through the Spanish Tax Authorities website, under certain circumstances.

The new tax return will be used for income generated from 1 January 2011. The new tax return to request the tax refund in a foreign taxpayer's account could not be used until 1 March 2012.

Deloitte's View

The new regulations bring substantial changes to the current Spanish tax legislation. Personal income tax rates have been increased considerably and these can vary substantially from one region in Spain to other; therefore it would be very advisable that companies which are interested in bringing employees into Spain contact in advance our office I) in order to plan - when possible - the region where the employee will be assigned, II) to benefit of the tax advantages available in the Law, and III) to try to apply the lower tax rates in force. In this respect, the compensation package received by employees working in Spain should be reviewed carefully, in order to structure them in a tax efficient manner which could reduce the final tax impact/costs for both the employee and the employer.

People to Contact

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