

Accounts » Tax » Audit
» Business Consultancy
» Payroll » Outsourcing

Welcome to another edition of our regular update on what is going on in Spain. This year looks like it's going to be another "scorcher" with tourism beginning to make a comeback, especially after the events in Tunisia and Egypt. The government has finally woken up to the fact that tourism is Spain's number one earner and needs to be treated as such. Huge plans are being drawn up to turn the industry around, and bring it into the 21st century in terms of service and class. The national transport infrastructure improvements of the last 5 years have no doubt made their mark, with some 5 international airports now having world class status.

Local elections in May could turn the balance of power; with the right wing Partido Popular showing up as a clear winner in all the soundings. If this trend continues, next year's general elections could bring about a change of government in Madrid.

On the economic front a massive reorganization and consolidation of the banks and building societies is taking place, prompted by pressure from the EU and the Central Bank of Spain, an independent body. The Cajas de Ahorros (savings banks with no shareholders) are merging at the speed of light and the government's intention is to convert them eventually into banks. The killer of course is the unemployment levels we have reached, some areas of Spain have more than 50% of the under 25's on the dole! An unsustainable situation in spite of what the government might say. If it wasn't for Mrs Merkel, who has offered employment for up to 300,000 German speaking young and qualified Spanish people, God knows' where we would be!

HOWEVER doomsday has not yet arrived and the Spanish stock market is maintaining healthy levels with a substantial number of new floats, and many of the large construction companies, continue to pick up big infrastructure jobs in Latin America, closely followed by the oil, gas and electricity companies who are becoming very strong in central America. Another of the major energy projects recently finished is the 210 Km gas pipe from Algeria direct to Almeria in Southern Spain. The tourist industry is showing signs of a comeback, Hilton Hotels has recently announced a major project designed to double the number of hotels they have in Spain.

On the taxation front a general easing of the overall tax burden is being put into place, the results of which we hope will show through in 12 to 18 months. Here at ASEC we have continued to grow in spite of the recession, albeit in new areas of activity such as payroll, HR, outsourcing, data protection audits etc. Talk to us about opportunities in Spain, you will be surprised with what we can come up with.

Our team has not wasted any time in the glum time, and has invested much of their spare time in improving their areas of knowledge especially in languages. Call us or come and see us, our coffee is one of the best you will taste in Southern Spain!

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Contents

Get your electrics in order!
page 2

Tax havens; on their way out?
page 3

**New features of the Prevention
of Money Laundering Act.**
page 4-5

Spanish Tax Information 2011
page 6-7



The electricity companies will be obliged to inform the tax authorities regarding the electricity consumption of taxpayers in order to detect non-declared leases or concealed industrial or business activities.

Get your electrics in order!

By Ministerial Order, as from February next, the electricity companies will be obliged to inform the tax authorities regarding the electricity consumption of taxpayers in order to detect non-declared leases or concealed industrial or business activities. In February 2011, the electricity companies will be obliged to submit, for the first time, the electricity consumption for this year as well as to identify the contract subscribers, together with the cadastral reference of the property and its location.

For this purpose the tax authorities have approved form 159, an annual declaration of information on electrical energy consumption, which will have to be submitted electronically every year and will oblige the electricity companies to provide data on around the 25 million contracts in Spain.

The notification sent to the tax office must include the name and surnames or company name and tax no [NIF] of the subscribers, as well as the person or entity paying the bills, given that there are thousands of electricity contracts in which the signatory does

not pay the bill, for example, in the case of leased homes or premises.

Additionally, the electricity companies must also include in the notification to the tax authorities the cadastral reference of the property and its location, the nominal power subscribed and the annual consumption in kilowatts, as well as the location of the supply point and the date of subscription of the supply.

This measure, introduced in the Tax Fraud Prevention Act [Ley de prevención del fraude fiscal] complements the obligation previously established by the tax authorities, precisely to detect non-declared leases, and which requires that all income taxpayers notify the cadastral reference of their homes, regardless of whether they own or lease them.

On the other hand the Government Commission on Financial Affairs is to hold a meeting today to establish the increase in the electricity base rate [Tarifa de Último Recurso (TUR)] to come into effect in January. Though the industry has refused to say what

percentage the rise will be, it has reaffirmed its intention to freeze the part of the rates that cover the regulated costs and to apply the "Coal Decree" costs. After taking into account the rise in energy prices, this could mean an increase of 10% in the TUR.

This percentage, which has not been confirmed but with which both the National Energy Commission and businesses in the sector coincide, will mean an increase in the average monthly electricity bill of 4.25 euro per consumer; that is, an annual increase of 51.1 euro. This amount could be slightly lower if, as the Consumers and Users Association [Organización de Consumidores y Usuarios (OCU)] affirms to have heard directly from Industry's Energy Policy Department, the increase does not exceed 9%. In any case, an increase of around 10% would mean an additional cost per consumer and day of 0.14 euro.

Contact us, we are here to help.
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Tax havens; on their way out?

According to information provided to CincoDias by sources within the Ministry of Economy, Spain has included 48 countries in its list of tax havens and of these, around twenty are currently negotiating or have signed data exchange or dual taxation agreements with the Spanish tax authorities. This is an exceptional event as never before have so many countries, and less in such a short space of time, contacted the government to reach tax agreements.

The head of the tax authorities, Juan Manuel López Carbajo, declared to the aforementioned newspaper that "this shows that the international pressure being exercised to eliminate tax havens is having effect." Up to now Spain has signed agreements that include the OECD recommendations on tax information exchange with Trinidad & Tobago, Barbados, Luxembourg, Andorra and Panama, which were already included in its list of tax havens. Furthermore, these are expected to

be joined within a relatively short period by Andorra, Bahamas, Bahrain, Barbados, Bermudas, Cyprus, Gibraltar, Guernsey and Jersey, Hong Kong, Caiman Islands, Isle of Man, Jordan, Oman, San Marino and Singapore.

Inclusion in the list of tax havens constitutes a significant handicap for Spanish companies and taxpayers to invest or carry out business with these countries as they cannot apply the tax benefits established under company tax or personal income tax laws.

In this respect, the dual taxation agreement signed with Panama offers an incentive to Spanish business with financial interests in the Central American country. Sacyr, for example, is participating in the titanic project to expand Panama Canal and welcomed, with relief, the agreement reached between both countries.

Hong Kong, gateway to China

A possible agreement with Hong Kong - one of the main gateways to

the Chinese market - could be highly beneficial for Spanish companies.

Among the most negotiations expected to present the most problems, Mr López Carbajo acknowledges that it will be difficult to reach an agreement with Gibraltar, territory that, according to sources within the tax office, is considered the tax authorities' "great black hole". Spain's refusal to recognise British sovereignty over the Rock makes it difficult to reach any agreement.

In any case, the taxation agreements do not imply that the government will obtain information on all Spaniards with accounts in, for example, Andorra, which will continue to maintain its banking confidentiality. Nevertheless, when there are indications of tax fraud, Andorra's banks will be obliged to provide information if so requested by the Spanish tax authorities.

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New features of the Prevention of Money Laundering Act.

The legal liability of companies under the Criminal Code reform

The new Prevention of Money Laundering Act [Ley de Prevención de Blanqueo de Capitales], which goes even further than the European Directive from which it originates, has introduced many new features, modifying and completing, to a large extent, the previous Spanish legislation that regulated the procedures and obligations of many companies and professionals. However, as if this were not enough, the 26th revision of the Criminal Code, which comes into effect on 23 December, consolidates criminal liability for money laundering, as well as introducing criminal liability for companies as personalised entities in the case of certain actions or omissions of its directors or employees and which include, logically, infringement of the money laundering regulations.

To summarise, we will enumerate the new features in Law 10/2010 (Prevention of Money Laundering Act) compared to the previous legislation and the points we consider most significant in the Criminal Code reform.

New aspects regarding the scope of the Act

- ✓ The definition of the concept of money laundering is modified to give it greater scope. Now it extends to funds coming from any crime, offence or illegal act (including offences against the Public Treasury) and not just from serious crimes.
- ✓ The list of activities that carry a compliance obligation under this legislation is expanded. The most significant obliged parties are:
 - I. Land and Company Registrars.
 - II. Any person or entity that provides services to third parties for:
 - a. Company incorporation
 - b. Company management or secretarial services or similar for other entities such as foundations, etc.
 - c. Provision of a registered address or postal or administrative or commercial address to associations or similar entities.
 - d. Provision of trustee services.
 - III. Individuals or entities that trade professionally with assets, when collections and payments are made via non-nominative payment means and are for amounts in excess of €15,000, even when carried out in more than one transaction.
- ✓ The division between obliged parties in the general scheme and those in the special scheme has been removed. Now a differentiation is established between the different measures to be taken, called Due Diligence, which may be ordinary, simplified or reinforced.

New features regarding obligations and due diligence measures

- ✓ As already commented, due diligence measures are established as a set of obligations for all obliged parties. The new act details the definition of the real holder, who the obliged party must identify when his or her client acts for and on behalf of a third party or when dealing with a company or similar entity.
- ✓ The law establishes an obligation of continuous monitoring of the business relation with the client, which must be documented; this obligation must be described in the prevention of money laundering manual or internal protocol.
- ✓ Under the new legislation it is also mandatory to apply due diligence measures to all existing clients, not only new ones, for which the Seventh Transitory Provision gives a maximum period of five years, unless the existing client subscribes new services or an operation arises that is significantly important in volume to warrant application of due diligence.
- ✓ An interesting new feature is the obliged parties' option of using a third party, who are also obliged to declare under the prevention of money laundering regulations, to fulfil the due diligence measures, with certain prior conditions.
- ✓ The act describes a new type of particularly sensitive client from the perspective of prevention of money laundering: those in political spheres or



PEPs

(Personas del Entorno Político) for whom the legislation establishes reinforced due diligence measures.

New features regarding other obligations of obliged parties

✓ Notification of indications to the Executive Service: the obligation to notify the SEPBLAC is extended to include the mere attempt in any operation.

✓ Exemption of lawyers from the obligation to notify when they obtain the information from clients for the purposes of defence in judicial proceedings. This exemption, which in the previous legislation was applicable to notaries, auditors, accountants and consultants, may now only be applied in cases of legal defence or advice.

✓ The prohibition of revealing to third parties the notification to the SEPBLAC based on indications or suspicion has been modified or qualified.

✓ The period during which documents generated in the internal due diligence procedure must be held is extended to 10 years. Additionally, a moratorium of two years is established for the obliged

parties to establish digital storage systems and to store copies of their clients' identification documents on optical, magnetic or electronic media.

New features regarding internal control

Contrary to the previous legislation, under the new act it is mandatory for an independent expert to annually examine the internal control measures of all obliged parties, with the sole exception of individual company owners and professionals. Notwithstanding this, the independent expert will only carry out a full examination every three years, whilst in the two following years the expert will only assess the corrections and measures taken after the previous full examination; that is, carrying out monitoring audits.

Employee training in prevention of money laundering must be planned annually by the Internal Control Body and participation of employees in such training courses must be documented in writing.

New reforms of the Criminal Code

Among many new features, the 26th reform of the Criminal Code introduces a new Section 32bis, which will no doubt be extremely polemical. It establishes that companies, as entities, may be

held criminally jointly liable for the actions or OMISSIONS of directors and employees when it is proven that the company was benefitted by said action and this constitutes a criminal offence within the catalogue established in the Criminal Code, which clearly includes money laundering. A series of penalties are established, which range from a monetary fine to company intervention, halting of activities and branch office closures or even the dissolution and liquidation of the company.

Additionally, the new Section 301, which sets out the Criminal Code's definition of money laundering, states that an offence will be committed by: "those who acquire, convert, transfer, POSSESS" funds originating from any illegal activity (and not simply from a criminal offence) committed by any third party, as well as the concealment of or contribution towards the legal consequences of said actions.

The Criminal Code gives a general description of the attenuating circumstances required for a criminal offence committed by an employee not to ultimately affect the company as a whole, which are based mainly on the existence of an internal control protocol or control systems. The "Corporate Compliance", habitually used in the United States and which in Spain is translated in the internal "Code of Good Conduct" must be linked to the Internal Manual on Prevention of Money Laundering.

SPANISH TAX INFORMATION 2011

Income Tax on financial products and CGT

Taxable base	Rate applicable
Up to 6.000,00 €	19%
From 6.000,01 € onwards	21%

Income Tax in Andalucía (Pensions, rental, business activities)

The top rate for Spanish resident income tax has suffered an increase. This depends on the region where the Spanish resident is permanently living. For example, Andalusian income tax top rate has been increased from 43% to 48%.

Property transfer tax for Andalusia Region is 7%. This is increased to 8% if the property value is over 400.000€ and for garages if its value is over 30.000€

Taxable Base Up to Euros	Tax Due Euros	Remaining Taxable Base Up to Euros	Remaining Taxable Base %
0	0	17.707,20	24%
17.707,20	4.249,73	15.300,00	28%
33.007,20	8.533,73	20.400,00	37%
53.407,20	16.081,72	26.592,80	43%
80.000,00	27.516,62	20.000,00	44%
100.000,00	36.316,62	20.000,00	45%
120.000,00	45.316,71	55.000,00	47%
175.000,20	71.166,71	Onwards	48%

Spanish Company tax

The general tax rate applicable to companies is 30%.

For small companies (turnover under 8.000.000€) the tax rate is 25% up to 120.202,41€ of profits, the excess over this amount will be taxed at 30%. There is a reduction from 20% - 25% if certain requirements are fulfilled.

Non resident individuals with property investments in Spain

- Capital gains is taxed at 19%.
- 3% Withholding taxes on the sale of property.
NOTE: This is a payment on account of CGT.
- Accelerated Capital Allowances of 11,11% p.a. for properties acquired prior to 1994, will continue to apply only for the period to 20.01.06.
- Rental income will be taxed at 24% on the profit obtained.
- Deemed income on property utilised privately by the individuals, is taxable also at 24% and assessed at 2% or 1, 1% of the rateable value (Valor Catastral) depending on the municipality. This tax will have to be submitted on a self-assessment basis and becomes payable by the 31st December after the end of the tax year in question.

Inheritance Tax Rates

Taxable Base Up to Euros	Tax Due Euros	Remaining Taxable Base Up to Euros	Rate Applicable %
0	0	7.993,46	7,65%
7.993,46	611,50	7.987,45	8,50%
15.980,91	1.290,43	7.987,45	9,35%
23.968,36	2.037,26	7.987,45	10,20%
31.955,81	2.851,98	7.987,45	11,05%
39.943,26	3.734,59	7.987,45	11,90%
47.930,72	4.685,10	7.987,45	12,75%
55.918,17	5.703,50	7.987,45	13,60%
63.905,62	6.789,79	7.987,45	14,45%
71.893,07	7.943,98	7.987,45	15,30%
79.880,52	9.166,06	39.877,15	16,15%
119.757,67	15.606,22	39.877,16	18,70%
159.634,83	23.063,25	79.754,30	21,25%
239.389,13	40.011,04	159.388,41	25,50%
398.777,54	80.655,08	398.777,54	29,74%
797.555,08	199.291,40	Onwards	34,00 %

Tax on dividends

Dividend income and interest received by non-resident (companies or individuals) are taxed at 19%, unless the tax payer is resident in a Double Taxation Treaty Country (DTTC) or the European Directive 90/435/CEE can be applied.

Resident individuals

Personal allowance to be applied:

- For joint declaration 8.551 €
- For separate declaration 5.151 €

Child allowance:

- For the 1st 1.836 €
- For the 2nd 2.040 €
- For the 3rd 3.672 €
- For the 4th and rest 4.182 €

Please be informed that all the information shown is for guidance purposes only.
For further clarifications, please do not hesitate to contact us and we shall be delighted to advise you.

I HAVE A HOUSE IN SPAIN, WHAT TAXES DO I PAY?

TAX			
TOWN/ CITY	Property Local Rate (called IBI)	Road Tax	Garbage Collection
San Roque	15th June - 15th October	5th April - 1st July	1st Sept - 22nd Nov
Casares	1st July - 9th September	14th March - 20th May	No charge
Manilva	1st July - 9th September	14th March - 20th May	No charge
Estepona	1st July - 9th September	14th March - 20th May	1st July - 9th September
Benahavis	1st July - 15th Sept	15th March - 15th May	No charge
San Pedro Alc	1st July - 9th September	14th March - 20th May	29th April - 30 June
Marbella	1st July - 9th September	14th March - 20th May	29th April - 30 June
Fuengirola	3rd May - 2nd November	22nd Feb - 30th June	3rd May - 2nd November
Mijas	1st March - 20th Nov	1st March - 20th Nov	1st March - 20th Nov

Note: * In Marbella and San Pedro Alcantara, there is a second semester to pay the Garbage Collection, which goes from the 1st July until 30th September



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