

TAX

2008 TAX NEWS

The tax news for 2008 is included, as is customary, in the General Budgetary Law and in the corresponding amendment of the Personal Income Tax Regulations for the approval of the new table of withholdings. However, we should also highlight important news contained in other regulations in 2008. In Personal Income Tax, monetary correction coefficients for earnings derived from the transfer of fixed assets are to be updated, the rate of Tax has been raised by 2%, the personal minimum (which now becomes 5,151 euros a year) and family minimum, and also the reduction in work yield. In relation to these amendments, the table of withholdings is updated by 2% and the minimum on which withholdings will not be made is to rise, facts that should be taken into account when drawing up January 2008 payslips. These measures, although always well received by the taxpayer, do not make up for the rise in the rate of inflation for 2007, which was 4.2%. In terms of Personal Income Tax, it should also be stressed that a new rental deduction for low income and young people, which is included in the Law regulates the payment of 2,500 euros for the birth or adoption of children, which is added to the existing maternity deduction. Monetary correction coefficients for earnings derived from the transfer of Fixed Assets are also updated with regard to Corporate Tax. In 2008, the second part of the Tax reform enters into effect, going from the general rate of 32.5% to 30%. This reduction affects the general rate that applies to split payments to be submitted by major companies in 2008, which goes from 23% to 21%. Finally, we should remember that the new General Accounting Plan and the General Accounting Plan for Small and Medium Businesses and the specific criteria for micro-businesses came into effect on 1 January 2008, to which all businesses must adapt during 2008.

**Reinvestment deduction reform**

With effects backdated to 1 January 2007, Law 16/2007 has given new wording to Article 42 of the Revised Text of the Corporate Tax Act, regarding deductions for reinvestment of extraordinary profit. This new amendment leaves the wording of the provision made by Law 35/2006 without effect, which will never see the light of day in terms of its practical application. Law 35/2006 had enormously toughened the conditions of application of the deduction, especially for investment and divestment of securities representing interest in business organisations, leaving operations with securities of a significant business nature outside the framework of the deduction application. With the new wording, in operations with securities, the traditional requirements of

percentages equal to or higher than 5% and permanency of more than one year are maintained and adds that when the securities correspond to organisations that have equity elements that are not subject to this and these are a higher percentage than 15% of those that are subject to it, the deduction will not be applied to the part of income in proportion to the resulting percentage. If the percentage is equal to or less than 15%, no restriction will be applied. This way, the unfortunate condition, introduced by Law 35/2006, that securities are not representative of organisations where over half their assets are made up of equity elements that are not considered fixed assets is eliminated and it accommodates the inclusion of the deduction for all types of companies. The reform also toughened the requirements that transferred and reinvested equity elements had to fulfil. These restrictions are softened by stating that the deduction can be applied to those which have been part of the tangible or intangible fixed assets or property investments that are subject to economic activities which have been in operation for at least one of the three years prior to the transfer.

CONSUMERS AND USERS

*APPROVAL OF ROYAL LEGISLATIVE DECREE 1/2007, OF 16 NOVEMBER 2007*

Royal Legislative Decree 1/2007 was passed on 16 November, which incorporates the revised text of the General Consumer and User Defence Act and other complementary laws. Parliament has set out to unify the rules on this subject into one single text, creating a pseudo-code relating to consumers and users. In this vein, it deals with the aspects relating to the Defence of Consumers and Users, regulation of contracts entered into outside trading establishments and at a distance, provisions on guarantees in the sale of consumer goods, civil liability for damages caused by defective products, and regulation of combined travel, revoking the sectorial laws that dealt with these matters. This act strengthens the rights of consumers and users in line with community directives. It specifically determines the inalienable nature of the rights recognised in the consumer, declaring the clauses that state otherwise to be null and void; it recognises the free right of prior information and the right of abandonment generally and in contracts entered into at a distance and those entered into outside trading establishments; and it strengthens the system of abusive clauses and practices in buying a home. This rule demonstrates the growing legal interventionism in the placing on the market of consumer goods, advising agents on the importance of preventive law.

## STOCK MARKET

### AMENDMENT OF THE STOCK MARKET ACT

Law 47/2007, of 19 December 2007, came into effect on 21 December 2007, amending the Stock Market Act 24/1988, of 28 July 1988. This rule incorporates in part a number of European directives into Spanish legislation and introduces important new features aimed at providing investors acting in the market with greater protection. Of note is the extensive regulation of investment services companies introduced by the rule. In addition, the jurisdiction and powers of supervision of the CNMV (Spanish Securities and Exchange Board) are strengthened, in particular with regard to cooperation with other supervisory bodies.

## EMPLOYMENT

### EMPLOYMENT INSPECTIONS IN IMMIGRATION MATTERS IN CATALONIA

In 2007, the Government Delegation in Catalonia imposed "very serious penalties" on 697 Catalan companies for immigration infringements. These irregularities, detected by employment inspectors, include "the promotion of clandestine immigration and the hiring of foreign workers who do not have the appropriate work permit". These infringements are penalised in immigration legislation by fines of 6,000 euros for each illegal worker, as well as the ensuing penalties for possible National Insurance infringements. A further 36 penalties were imposed on foreign citizens for "serious infringements" such as working without the appropriate administrative permit. To these should be added the 32 fines for minor infringements such as delays in submitting the application for renewal. In total, the sum of the penalties imposed in 2007 came to 6,240,000 euros, of which 99% were for the payments made by companies in the form of fines.

## DATA PROTECTION

### APPROVAL OF THE REGULATIONS OF THE CONSTITUTIONAL DATA PROTECTION ACT

The Cabinet has passed Royal Decree 1720/2007, of 21 December 2007, approving the Regulations that develop the Constitutional Personal Data Protection Act, which will come into effect three months after its publication in the Official State Gazette. The most notable new feature introduced by the new regulations is the inclusion in its scope of application of non-computerised files and data treatment. In all else, it seeks to clarify the Act, echoing the contributions made by the Courts in their task of interpreting and applying the Constitutional Data Protection Act, also developing the disciplinary powers of the Spanish Data Protection Agency.

## INFORMATION SOCIETY

### LAW 56/2007, OF 28 DECEMBER 2007, RELATING TO MEASURES TO FOSTER THE INFORMATION SOCIETY

Last 29 December 2007 saw the publication in the Official Gazette of the Spanish State of Law 56/2007, of 28 December 2007, relating to Measures to Foster the Information Society. This Law introduces a series of regulatory innovations in terms of electronic billing and the use of electronic media in all phases of contracting processes, ensuring the electronic liaison of users and consumers with the companies that provide certain services of special economic relevance. To this effect, a series of amendments is introduced in the two cornerstones of the legal framework of the information society, namely: a) the Information Society and Electronic Commerce Services Act 34/2002, of 11 July 2002; and b) the Electronic Signature Act 59/2003, of 19 December 2003. Similarly, this revision of the legal system is completed by other minor amendments to the General Telecommunications Act 32/2003, of 3 November 2003, and to the Retail Business Supervision Act 7/1996, of 15 January 1996. The aim of these amendments is, firstly, to revise or eliminate excessive or unnecessary obligations and, secondly, to streamline the obligations regarding commercial communications and electronic contracting in order, among other reasons, to adapt its application to the use of mobile devices.

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