

**TAX**

*TEMPORARY RE-ESTABLISHMENT OF THE WEALTH TAX AND APPLICATION OF THE REDUCED 4% VAT RATE ON CONVEYANCING FOR NEW HOMES*

Royal Decree Law 13/2011, of 16 September 2011, which approves the re-establishment of the Wealth Tax temporarily and exclusively for 2011 and 2012, was published in the State Gazette on 17 September 2011. According to the preamble, the measure was justified due to the need for higher wealth brackets to provide a greater contribution for a way out of the recession. The Royal Decree Law does not introduce any significant modifications to the structure of the tax and stresses that main homes will be exempt up to a maximum of €300,000 and that, in the case of a personal obligation, the taxable base will be reduced, as an exempt minimum, by the amount approved by the Autonomous Community. If the Autonomous Community does not regulate the exempt minimum, this will be set at €700,000. It also establishes the obligation to submit a declaration for taxpayers who, although not liable for tax, have assets and rights with a value in excess of €2,000,000.

Besides this, on 19 August 2011, Royal Decree Law 9/2011 approved the application of the reduced 4% VAT rate on conveyancing for new homes; this measure will only apply until 31 December 2011. Other tax measures approved by the Royal Decree regarding Spanish Corporate Tax were (i) the increase to rates that apply to the calculation of on account payments by large companies with turnovers in excess of €20,000,000 for 2011, 2012 and 2013 and (ii) the extension to the compensation period for negative taxable bases from 15 to 18 years, coming into effect for financial years after 2012.

**COMMERCIAL**

*PARTIAL REFORM OF THE CAPITAL COMPANIES ACT AND INCORPORATION OF THE 2007/36/CE DIRECTIVE*

Law 25/2011 partially reforming the Capital Companies Act and incorporating the 2007/36/CE Directive, by the European Parliament and Council, of 11 July 2011, concerning the exercising of certain shareholder rights in listed companies, was passed on 1 August 2011. The following are some examples of the new features introduced by this law: 1) it generalises the general system for advertising the call to meeting for shareholders in limited liability companies. This way, following its entry into effect (two months as of 2 August), the mandatory nature of advertising the call to meeting in the Official Gazette of the Companies' Registry (BORME) and in one of the province's top-selling daily newspapers no longer applies, unless the shares are payable to the holder or a listed

company; 2) the repeal of the legal requirement that certain decisions amending the articles of incorporation must be announced in newspapers for their registration, and requirements in liquidations for publication in one of the top-selling newspapers or in the BORME of the annual accounts; 3) admission in the articles of incorporation to provide two or more ways of organising the administration, without the need to modify the articles of incorporation every time one system or the other is chosen; 4) the need to legitimise the administrator's signature to make deposits in the account; 5) the possibility is regulated of a third of board members calling the council in the absence of the Chairman required for this; and 6) once five financial years have elapsed since the company's registration in the Companies Registry, the partner's right of separation is established when, if that partner had voted in favour of the distribution of company profits, the general meeting does not agree on the distribution of dividends equivalent to at least one third of own operating profits during the previous financial year that are legally distributable.

**BANKRUPTCY**

*APPROVAL OF THE REFORM TO THE BANKRUPTCY LAW*

On 22 September, the Congress of Deputies passed the reform to the Bankruptcy Law in an extraordinary session during which several laws were passed, which, given their importance, would have required more deliberate and in-depth debate. This reform to the Bankruptcy Law, which we will be discussing in the next newsletter, concerns the practices being followed, although we have highlighted the most important points of the reform. First, sports organisations that are declared to be undergoing bankruptcy proceedings will not avoid sports regulation sanctions and will be relegated if they are not up to date with paying their players; i.e. credits pending payment will not prevent relegation, as has happened up to now. Second, out-of-court negotiation concerning debts is made easier and minority blocking is prevented, as it states that renegotiation agreements entered into by a company with the majority of its creditors may be imposed on the rest, providing that they have the support of 60% of the debts and are backed by the favourable report of an independent expert. Finally, it highlights the composition of the bankruptcy administration, which was one of the most controversial points in the parliamentary procedure. PSOE, the Spanish Socialist Party, has finally accepted the recommendations of PP, the People's Party, and CiU, the Catalan Convergence and Union Party, that bankruptcy administrators should have specific training in the subject and at least five years' experience working in this field. However, bankruptcies will be managed by a single, legally appointed administrator, instead of the current three.

## FOUNDATIONS

### THE CATALAN GOVERNMENT APPROVES THE DRAFT BILL FOR THE MODIFICATION OF BOOK III OF THE CATALAN CIVIL CODE REGARDING ORGANISATIONS TO FOSTER THE CREATION OF NEW FOUNDATIONS

Overloading, which for the development and efficiency of institutions, leads to excess legislative regulation becomes patently clear in the functioning and use of foundations. The social importance of this institution, borne out in a clearly evident altruism and generated by the generous contributions of the founders, is clear for all to see. However, the excessive regulatory rules have, without a doubt, been one of the causes of the decline in the number of new foundations. The Catalan Government has passed a draft reform and has published an informational note. The aim sought is to achieve greater simplicity in the establishment and development of foundations, under the guiding light of simplification. We can only pray that this path begins and widens to prevent what Carnutti meant when he lamented that the thick branches of legislative proliferation were so dense and abrupt that the sunlight of justice could not lighten the forest, which plunged itself into darkness. To aid the establishment of foundations, the minimum sum of the initial foundation contribution goes from € 60,000 to € 30,000. The running and management of the foundation is streamlined through the decrease of the mandatory intervention of the Protectorate (Administration body) for certain acts, restoring the natural freedom of pronouncement to the Board of Trustees. It's just a pity that in this age of compensation claims, the references to the responsible declaration and the assumption of liability of the trustees do not exactly stimulate acceptance of the post. Of course, any legal act makes its author generally liable for any inappropriate divergence. The outsourcing divergent puritanism that banned trustees from providing services to the foundation has also been abolished, allowing the most to be made of people who genuinely give themselves to the foundation, although special requirements are demanded for hiring these services, especially if the service hired does not enter the scope of the institutional duties of the trustee, a line that can be permeable and diffuse for an active and generous man. Pity.

## INBLF

A meeting was held in Paris on 17 September of the Board of Directors and the Assembly of the International Network of Boutiques Law Firms (INBLF), whose annual gala dinner was held in Europe for the first time. Our firm was represented by María del Mar Martín and Eva María Ochoa. Based in New York, the INBLF is an association comprising prestigious law firms from the United States and Canada, with strategic alliances with firms throughout the world. Pintó Ruiz & Del Valle is the INBLF strategic partner in Spain.

### BARCELONA

Beethoven 13, 7<sup>o</sup>  
08021 Barcelona  
Tel: +34 93 241 3020  
Fax: +34 93 414 3885 / 1157  
bcn@pintoruizdelvalle.com  
www.pintoruizdelvalle.com

### MADRID

Guadalquivir, 22  
28002 Madrid  
+34 91 745 4958  
Fax: +34 91 411 5045  
ma@pintoruizdelvalle.com  
www.pintoruizdelvalle.com

### PALMA

Sindicato, 69-7<sup>o</sup>  
Edificio Banco Santander  
07002 Palma de Mallorca  
Tel: +34 971 71 6029  
Fax: +34 971 71 9075  
palma@pintoruizdelvalle.com

### ALICANTE

César Elguezábal 39, pp1 dcha  
03001 Alicante  
Tel: +34 96 514 3928  
Fax: +34 96 5145353  
ali@pintoruizdelvalle.com  
www.pintoruizdelvalle.com

## INDUSTRIAL PROPERTY

### .XXX DOMAINS

After a number of years' discussion, ICANN, the Internet domain regulatory agency, has approved the use of the .xxx extension to designate pornography industry or adult content websites. The ICM Registry, the agency promoting the triple X, expects that over 600,000 websites will be operational with this Internet extension by the end of the year. The triple X domains offer two fundamental advantages: on the one hand, it groups together the adult content industry visibly, and on the other, it offers greater security, both due to the possibility of providing greater parental control and to the guarantee of not accessing content affected with malicious code.

To prevent the cybersquatting that opening up the .xxx domain names market might lead to, ICM has created a series of reserved domains that cannot be applied for, including references to famous people (such as Barack Obama, Angelina Jolie and Lady Gaga). In addition, ICM has reserved around 15,000 domains at the request of governments and international agencies working in the protection of minors, and the owners of registered trademarks have been offered the opportunity of having their name blocked – for a specific time period – so that third persons cannot register it under the .xxx extension. The phase for protecting trademarks from the .xxx domain opened on 7 September and will carry on until 28 October. During this phase, any owner of a registered trademark can communicate their wish to reserve their "registeredtrademark.xxx" for defensive purposes and so prevent any third person from registering a .xxx domain with their trademark, avoiding future damage to their image and their business. Once this period has elapsed, they may not apply to have the trademark blocked and the name will therefore become available to the general public.

## SPORTS

### PINTÓ RUIZ & DE VALLE

Lucas Ferrer, Counsel at the Court of Arbitration for Sport, based in Lausanne (Switzerland), during the last four years, has resigned his post to join us at Pintó Ruiz & Del Valle as partner and head of the sports law department. Welcome.

### CAS HEARING AT PINTÓ RUIZ & DEL VALLE

On 28 September, the Pintó Ruiz & Del Valle offices staged the hearing of the Court of Arbitration for Sport (CAS) in the case: TAS 2011/A/2365 Aritz Aduriz v. Antxon Múgica & RFEF. Despite the headquarters of the CAS being in Lausanne, on special occasions, hearings are held in other venues. In this case, the CAS decided to hold the hearing in Barcelona and chose our firm's offices as the venue.

The arbitration team comprised Italian professor Massimo Coccia – acting as Chairman – and Spanish arbitrators Miguel Ángel Fernández Ballesteros and José Juan Pintó Sala.