



EMERGENCY MEASURES COVID-19:

- **DEFERRAL OF TAX LIABILITIES**
- **FILING DEADLINES FOR TAX RETURNS**

Barcelona, 25 March 2020

SUMMARY

Due to the health crisis caused by the COVID-19 pandemic, the Spanish Government published RD Law 7/2020 on March 13, approving the procedure for the deferral of tax liabilities which is only available to the self-employed and SMEs. All other taxpayers must utilise the general procedure.

The deadlines for filing returns and self-assessments remain unchanged, except for specific regional differences.

Royal Decree Law 8/2020 of 17 March also provides, in general, for an extension to the period for paying assessments made by the Administration.

DEFERRAL OF TAX LIABILITIES FOR SMES AND THE SELF-EMPLOYED

As we mentioned in our News Alert III, Royal Decree Law 7/2020 lays down, as a financial support measure for SMEs and the self-employed, the **possibility of applying for a deferral of tax liabilities**, subject to the following limitations

- **Who?**

They **will only apply to debtors, whether individuals or entities, whose volume of operations in 2019 does not exceed €6,010,121.04**.

- **Which?**

Liabilities under returns/payments and self-assessments for which the **filing and payment deadline is between 13 March 2020 and 30 May 2020**, both inclusive.

The following tax liabilities will be **deferrable on an exceptional basis** (in general they are not):

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- Λ **Withholdings or payments on account**
- Λ Those derived from **output taxes, such as VAT**.
- Λ **Payment in instalments on account of corporate income tax.**

- **How much?**

The **amount of these deferred liabilities cannot exceed €30,000**. (It is not clarified whether this amount includes the amount of previous liabilities deferred without the need for security)

- **Conditions?**

The **duration** of the deferral will be **six months**, of which the **first three months** will not accrue late-payment interest.

DEFERRAL OF TAX LIABILITIES. GENERAL PROCEDURE

When is a liability deferrable?

In a transitory situation of economic-financial difficulties with insufficient cash flow which prevents payment being made on time. Never when the difficulties are of a structural nature.

Which liabilities are deferrable?

All tax liabilities are deferrable except those detailed below.

Which liabilities are undeferrable?

- Λ **Withholdings or payments on account.**
- Λ Those derived from **output taxes, such as VAT**, unless it can be evidenced that the output **taxes** have not been collected.
- Λ **Payment in instalments on account of corporate income tax.**
- Λ Those arising from the **enforcement of final rulings that are totally or partially unfavourable** handed down in an economic-administrative appeal or claim or in a contentious-administrative appeal that had previously been suspended during the processing of such appeals or claims.

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Consequence of applying to defer non-deferrable debts

Rejection. The application will be deemed not to have been submitted. The filing of a self-assessment without making the corresponding payment implies the **instigation of the enforcement period**, with the accrual of an enforcement surcharge of 5%, if the liability is paid before the notification of the enforcement order. Otherwise, the surcharge will be 10% and may be increased to 20%.

Conditions for applying for a deferral of the liability WITHOUT providing SECURITY

- **If the amount is less than €30,000:**
 - ⚡ The application will be processed through an automated procedure.
 - ⚡ The transitory cash difficulties are understood to be supported without further formalities.
 - ⚡ It is understood to be attested to without any further formalities that the taxes charged on have not been collected (in the case of VAT).
 - ⚡ The maximum period granted is six months, over which late-payment interest will accrue.
 - ⚡ The application may be rejected if the taxpayer has tax liabilities in an enforcement period which have not been deferred, or if a history of abuse of the deferral system is detected.
- **If the amount is greater than €30,000:**

Possibility of applying for **exemption from of the obligation to guarantee** the liability. It will only be granted when the **taxpayer evidences a lack of sufficient assets to be able guarantee it** and that **the execution of measures against the taxpayer's assets could substantially affect the maintenance of the production capacity and level of employment thereof.**

Conditions for applying for a deferral of the liability WITH SECURITY

When neither of the two previous conditions is applicable, that is, **when the liability is greater than €30,000** and the conditions required to obtain a waiver cannot be attested to:



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- Λ The **application will be processed through the ordinary procedure**, by means of a written individualised document providing evidence for the reasons for the application and proposing a payment schedule.
- Λ **Proof of the temporary nature of the cash-flow difficulties** must be provided by submitting the entity's financial statements together with a viability plan.
- Λ In the event of applying for the deferral of a **VAT** liability, it must be evidenced that **the output tax has not been collected**.
- Λ The **liability must be secured by providing a bank guarantee or surety credit insurance**. The possibility of presenting other alternative guarantees, such as a real-estate mortgage, will only be accepted if evidence is provided that the above-mentioned guarantees cannot be obtained.

FILING AND PAYMENT DEADLINES FOR TAX SELF-ASSESSMENTS

To date, in order to address the serious socio-economic and health situation, **no measures have been approved** in relation to central government taxes **that provide for the possibility of delaying or suspending tax returns or self-assessments**, and therefore **the ordinary deadlines for filing and payment stipulated for each tax are maintained**.

PAYMENT DEADLINES IN ASSESSMENTS MADE BY THE TAX ADMINISTRATION

RDL 8/2020, about which we have already informed you, provides for a **suspension of payment deadlines** for tax assessments made and notified by the Tax Administration and regulated by Article 62.2 of the General Tax Law, the payment deadlines of which depend on the date on which they are notified to the taxpayer. **The deadlines are set as follows:**

- Λ If the liability payable was notified prior to 17 March and the payment period had not yet expired on that date, the deadline for payment is extended to 30 April 2020.
- Λ If the liability has been notified on or after 18 March, the deadline for payment is extended to 20 May 2020, unless the ordinary deadline is longer.



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The same periods will apply to deadlines and instalments for deferrals and instalment payments that have been granted, and to the payment periods commencing under enforcement proceedings for liabilities falling within an enforcement period.

SPECIFIC MEASURES FOR REGIONAL AND ASSIGNED TAXES: CATALONIA

On 17 March the Government of Catalonia published Decree Law 7/2020, Article 14 of which provides for the **suspension of the filing and payment of self-assessments of regional and assigned taxes until the end of the state of emergency.**

This suspension will be applicable to inheritance tax, transfer tax and stamp duty, and other taxes pertaining or assigned to the Government of Catalonia.

We will continue to inform you of any new measures that may arise as a result of the COVID-19 pandemic.

The professionals that regularly work with your company are at your disposal for any clarification or additional information you may require in relation to the content of this Circular Letter. Please contact us by telephone at **934 677 414**.

Yours sincerely,

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