



MAIN TAX-RELATED MEASURES INCLUDED IN ROYAL DECREE-LAW 35/2020

Tourism, hotel & catering and retail sectors

Royal Decree-Law 35/2020 of 22 December on urgent measures to support the tourism, hotel and catering and retail sectors in tax matters was published in the Official State Gazette on 23 December 2020. Among other areas, various indirect aid measures are regulated for the self-employed and small and medium-sized enterprises, and the taxation of lessors of premises where activities linked to the tourism, hotel and catering and retail sectors are carried out is reduced. In addition, a zero VAT rate for certain intra-Community supplies, imports and acquisitions related to transport, storage and distribution services concerning vaccines and diagnostic tests for COVID-19 has been approved until December 2022. The Royal Decree-Law also provides a clarification of the treatment of restaurant vouchers for personal income tax purposes with respect to distance working. The tax-related changes that might be of general interest are explained below.



DEFERRAL OF TAX LIABILITIES (Art. 8 of the RDL)

Within the scope of the competences of the Central Government Tax Administration, the deferral of the payment of tax liabilities derived from returns and self-assessments with payment periods ending in April 2021 has been granted. In other words, these measures will affect the return for the first quarter (Q1) of 2021, but in **no event** will they **apply to the tax liabilities for the fourth quarter (Q4) of 2020**.

The following **requirements** must be met in order to apply for a deferral:

- The debtor must be a person or entity whose volume of operations in 2020 does **not exceed €6,010,121.04**.
- Deferment is granted on **prior application** without any need to provide guarantees, up to a **maximum of €30,000**.
- On an extraordinary basis, the **deferral of withholdings, VAT and corporate income tax instalment payments** has also been allowed.
- A **6-month payment period** is provided for, without any interest for the first 3 months.

CORPORATE INCOME TAX (CIS)

- **Deductibility of losses due to the impairment of receivables derived from possible debtor insolvencies in small companies in tax periods commencing in 2020 and 2021 (Art.14 of the Royal Decree Law).**

In periods commencing in 2020 and 2021, losses due to the impairment of receivables deriving from debtor insolvency may be deducted in those periods when, at the time the tax liability arises, a three-month period has elapsed since the due date of the obligation, thereby changing the term required to deduct losses on the impairment of receivables deriving from possible debtor insolvencies.

PERSONAL INCOME TAX

Real property investment income

- **Reduction in the term for rent owed by lessees to be treated as doubtful debts (Article15 of the RDL).**

For financial years 2020 and 2021, the period for the amounts owed by lessees to be regarded as doubtful debts has been reduced to three months in accordance with the provisions of Article 13.e) of the Personal Income Tax Regulations. Doubtful balances will be deemed to be included in deductible expenses for determining net real property



investment income, provided that sufficient documentary evidence for this circumstance can be provided.

- **Tax incentives to encourage the reduction of rental income (Art.13 of the RDL).**

Lessors of premises other than companies, public institutions or large-scale owners whose lessees use the premises to carry out a business activity classified under certain headings related to tourism, hotel and catering or retail activities may treat the amount of any reduction in rent that they have voluntarily agreed to since 14 March 2020 relating to monthly payments for the first quarter of 2021 as a deductible expense for the purposes of real property investment income.

This may not be applied if the reduction is subsequently offset or if there is a relationship with the lessee under the terms of Article 18 of the CIT Act concerning related-party transactions.

Earned income

- **Exempt benefits in kind (Final Provision 1 of the RDL).**

With effect from 1 January 2020, Article 42.3.a) of the Personal Income Tax Act is amended so that said exemption will apply irrespective of whether the service is provided on the premises of the establishment itself or outside it, after collection by the employee concerned or by delivery to his/her work centre or to the work place chosen thereby.

Flat-rate scheme - modules

- **Special rules applicable for FY 2020 for determining net income from business activities using the flat-rate method for personal income tax purposes (Art. 11.2 of the RDL).**

In general, the net income calculated for personal income tax modules is reduced by 20%, when the reduction established by the Order for modules in that year was 5%, and the reduction increases to 35% for activities related to the tourism, hotel and catering and retail sectors.

- **Instalment payment for the fourth quarter of 2020 (Art. 9.2 and 11.2 of the RDL).**

The same reduction will be applied as that stipulated for determining net income from business activities for FY 2020.

- **Instalment payment for the first quarter of 2021 (Art.9.3 of the RDL).**

The same reduction will be applied as that stipulated for determining net income from business activities for FY 2020.



- **Reduction in the number of tax periods affected by the waiver of the flat-rate method for personal income tax purposes for FY 2020 and 2021 (Art.10 of the RDL).**

For financial years 2020 and 2021, the period in which personal income tax payers must determine net income using the direct evaluation method after having waived the flat-rate method is reduced and therefore they may go back to using the flat-rate method before the minimum three-year period stipulated in the personal income tax regulations expires.

VALUE ADDED TAX

Special simplified scheme

- **Reduction in 2020 of the accrued tax on current operations under the simplified scheme. (Art.9.4 of the RDL).**

The tax accruing on current operations corresponding to business activities other than agriculture, livestock and forestry has been reduced by 20%. The reduction will be 35% for retail, hotel and catering and transport activities.

- **Payment on account for the first quarter of 2021.**

Businesses carrying out the above activities may reduce by the same proportion - 20% or 35% - the rates for calculating the payment on account relating to the first quarterly tax payment for FY 2021 under Order HAC/1155/2020 of 25 November 2020.

- **Tax rates (effects from 24 December 2020 to 31 December 2022).**

A zero rate is set for intra-Community supplies, imports and acquisitions of:

- SARS-CoV-2 in vitro diagnostic medical devices
- Deliveries of vaccines authorised by the European Commission against the virus
- The provision of transport, storage and distribution services related to the operations referred to above.

The equivalence surcharge applicable to the supply of such goods will also be 0%.

The full text of **RDL 35/2020** may be consulted at the following link:

<https://www.boe.es/boe/dias/2020/12/23/pdfs/BOE-A-2020-16823.pdf>



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