

TAX ALERT – VALUE ADDED TAX

December 2016

SPANISH TAX MEASURES: SUBMISSION OF VAT BOOKS THROUGH ELECTRONIC CHANNELS

On 6 December 2016, the Spanish Government adopted Royal Decree 596/2016, dated 2 December, that provides for the modernisation, improvement and promotion of electronic channels for the management of the Value Added Tax, which amends the Spanish VAT Regulations, the General Regulations on Tax Management and the Tax Audit Procedure and the Invoicing Regulations (hereinafter, “**RD 596/2016**”).

The main objective of RD 596/2016 is to implement a new Value Added Tax (hereinafter, “**VAT**”) system by means of which taxpayers shall submit invoicing information directly to the Spanish Tax Authorities (hereinafter, “**STA**”) through electronic channels, provided that certain requirements are complied with.

The purpose of the current tax alert is to summarise the main impacts of this new VAT reporting system, generally referred to as “*Immediate Submission of Information*” (hereinafter, “**ISI**”) and to provide you with a general overview of the implications thereof.

Scope of application of the ISI

As we have set out hereinabove, the purpose of the ISI is to provide the STA with information regarding the invoices that have been both issued and received by taxpayers.

In this regard, it is important to highlight that, according to RD 596/2016, the ISI shall only apply to VAT taxpayers (i.e. both corporate enterprises and professionals) who shall be required to submit the corresponding VAT returns on a monthly basis. In this regard, the ISI shall be applicable to the following taxpayers:

- 1) Entities whose gross turnover for the previous tax year, for VAT purposes, calculated in accordance with Section 121 of the Value Added Tax Act 37/1992, dated 28 December (hereinafter, “**VAT Act**”), is higher than 6,010,121.04 Euros.
- 2) Taxpayers included under the terms of the VAT Monthly Refund Regime (hereinafter, “**REDEME**”).
- 3) VAT groups subject to the regulations regarding the Special Regime of VAT Groups.

Notwithstanding the foregoing, the ISI may be opted for by any taxpayer other than the foregoing taxpayers by filing the corresponding Census return and by opting for the application of the ISI. Accordingly, after a VAT taxable person has decided to voluntarily apply

the ISI, the corresponding VAT returns shall be filed on a monthly basis. Thus, after the ISI system is opted for, said regime shall be applicable until it is cancelled or declined by means of the filing of a new Census return that states said situation, however, after the regime has been opted for, the regime shall be applicable for at least one year.

Information required and filing deadlines

The information that must be provided relates to the invoicing information regarding the following VAT books:

- VAT book of invoices issued.
- VAT book of invoices received.
- VAT book relating to investment goods.
- VAT book of intra-EU transactions.

The information which relates to the invoices issued must be filed through electronic channels to the STA within the period of four calendar days after the issue thereof.

Furthermore, the information regarding the invoices received must be filed within the period of four calendar days as from the date on which the invoices were accounted for. Accordingly, the Royal Decree provides for a similar rule as for the importation of goods.

In relation to the foregoing, and in order to determine the relevant deadline, it should be highlighted that Saturdays, Sundays and public holidays are not included for the calculation of the deadline. Furthermore, during the fiscal year 2017, the submission deadline is extended up to eight calendar days.

Finally, regarding the VAT books relating to investment goods the information must be filed within the deadline of the VAT return of the last period of the year (i.e. 30 January).

Effects

The taxpayers subject to the ISI rules will not be required to file the following tax returns:

- Annual return of transactions with third parties (form 347).
- Monthly return of operations included in the VAT books for taxpayers included in the REDEME (form 340).
- Annual Summary VAT return (form 390), as foreseen in the introduction of the Royal Decree.

Additionally, the relevant deadline for the filing of the VAT returns for taxpayers subject to the ISI system shall be increased up to the 30th of the following month or the last day of February for the VAT return for January.

Fines and penalties

Pursuant to Section 200.3 of Act 58/2003, dated 17 December, that approved the General Tax Act (hereinafter, the “**General Tax Act**”), any delay in the provision of the information required through the ISI system may be penalised by the imposition of the pertinent fine amounting to 0.5% of the invoiced amount, which may not be less than 300 Euro or more than 6,000 Euro, on a quarterly basis.

Enforcement

The ISI will be applicable as from 1 July 2017. Notwithstanding the foregoing, the information corresponding to periods as from 1 January 2017 to 30 June 2017 should be filed with the STA through electronic channels within the period from 1 July 2017 to 31 December 2017.

We hope you find this information useful.

Should you require any additional information, please do not hesitate to contact any of the following tax specialists:

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