
# Indirect Tax Newsletter

## January 2026

### I. LEGISLATION AND NEWS

#### Validation of Royal Decree-Law 15/2025: postponement of Veri*Factu until 2027

The Spanish Congress of Deputies validated Royal Decree-Law 15/2025 at its session of 11 December 2025, thereby granting full legal effect to the regulation approved by the Government pursuant to Article 86 of the Spanish Constitution. This validation, published in the Official State Gazette (BOE) on 16 December, confirms the entry into force of the legal text.

Parliamentary ratification confirms the postponement of the mandatory implementation of Veri*Factu until 2027. Specifically, entities subject to Corporate Income Tax will have until 1 January 2027 to adapt their systems, while the remaining taxpayers (self-employed individuals, Personal Income Tax and Non-Resident Income Tax taxpayers, and entities under an income attribution regime) will have until 1 July 2027.

This postponement responds to the need to ensure an orderly and effective implementation of the system, allowing companies to carry out testing and adjustments without being subject to immediate obligations to issue invoices under the new format. The regulation fully maintains the technical requirements relating to integrity, traceability and security of records, which must be complied with once the system enters into force definitively.

Nevertheless, it has also been approved that the postponement of VeriFactu will be processed as a Bill under the urgent legislative procedure, opening the door to a potential future amendment of substantive aspects of VeriFactu.

#### Approval of Royal Decree-Law 16/2025: extraordinary opt-out from SII and deregistration from REDEME for 2026

On 23 December, the Government approved Royal Decree-Law 16/2025, which introduces a fourth transitional provision into the VAT Regulations, approved by Royal Decree 1624/1992 of 29 December. This provision enables, on an extraordinary basis, taxpayers to opt out of keeping VAT record books through the Spanish Tax Agency's electronic platform (SII), as well as to request voluntary deregistration from the Monthly Refund Register (REDEME) for fiscal year 2026.

Specifically, taxable persons may exercise both options from the day following the entry into force of the Royal Decree-Law until 31 January 2026, irrespective of the time limitations generally established under VAT legislation.

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## Approval of Order HAC/1425/2025 of 9 December, implementing the simplified VAT regime for fiscal year 2026

This regulation maintains the structure and conditions applied in fiscal year 2025, providing continuity and regulatory stability for taxpayers applying this regime. In particular, the existing modules, indices and percentages remain unchanged, with no substantive amendments to their configuration.

Likewise, the Order maintains the specific reductions applicable to certain livestock activities facing particular difficulties, such as poultry breeding and fattening and beekeeping, in order to ensure the continuation of tax support for these especially sensitive sectors.

Overall, the regulation does not introduce any relevant changes compared to the previous fiscal year, maintaining the existing modules system and sector-specific reductions.

## Customs: the EU will introduce a temporary €3 duty per shipment in e-commerce from July 2026

On 12 December, the Ministers of Economy of the European Union agreed to introduce, from July 2026, a temporary customs duty of €3 per item on e-commerce shipments with a value below €150 originating from third countries. This measure aims to protect the competitiveness of European businesses by levelling the playing field between e-commerce and traditional retail trade.

In light of the rapid growth in imports of goods purchased through e-commerce platforms, the European Commission and the Member States have acknowledged the need to adopt an urgent solution. This temporary duty will serve as a transitional measure until the EU Customs Data Hub becomes operational in 2028, within the framework of the reform of the EU customs system.

The Council and the Commission are working jointly to enable the implementation of this measure through the necessary legal amendments and by ensuring the proper functioning of the required technological infrastructure.

Once the EU Customs Data Hub is fully operational, a permanent customs regime will apply. This system will allow for the full integration of new customs data related to e-commerce and provide customs authorities with a comprehensive overview of goods entering and leaving the European Union.

The temporary €3 duty per item will apply to shipments sent directly to consumers from third countries. This measure is independent of the ongoing negotiations regarding the possible introduction of a handling fee at EU level for e-commerce shipments. While the duty eliminates a competitive advantage currently enjoyed by certain e-commerce operators, the handling fee aims to offset the increasing costs borne by customs authorities in supervising the high volume of shipments.

## II. EU CASE LAW

### Judgment of 13 November 2025 of the Court of Justice of the European Union. Case C-639/24 (FLO veneer)

*Reference for a preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 138(1) — Implementing Regulation (EU) No 282/2011 — Article 45a — Conditions for exemption of intra-Community supplies of goods — Presumption — Required evidence*

This judgment concerns a dispute between a Croatian company (FLO veneer) and the Croatian tax authorities. The company sold oak logs to a customer in Slovenia applying the VAT exemption for intra-Community supplies of goods. Although FLO provided various pieces of evidence of transport, such as the CMR, invoice and dispatch certificate, the Croatian tax authorities denied the exemption on the grounds that the formal requirements of Article 45a of Implementing Regulation 282/2011 were not met.

Article 45a establishes rebuttable presumptions aimed at preventing carousel fraud and providing legal certainty, provided that the supplier submits specific documents such as a signed CMR, transport invoice or statements from the purchaser. In the absence of these documents, the Croatian authorities considered that the exemption could not be granted.

The case was referred to the national court, which asked the CJEU whether this interpretation was correct, particularly where other solid evidence existed demonstrating effective transport, even if it did not strictly fit within the framework of Article 45a.

The CJEU held that Article 45a introduced harmonised evidentiary mechanisms to facilitate compliance for businesses and tax authorities, but did not establish a closed system excluding any other form of proof. Furthermore, the VAT Directive does not require a specific type of documentary evidence. In simplified terms, it merely requires proof that the goods were supplied to a taxable person identified in another Member State and physically transported outside the Member State of departure.

Accordingly, the absence of the documents referred to in Article 45a constitutes a formal infringement which, in itself, cannot justify denial of the exemption where the substantive requirements are proven. The Court emphasised that tax authorities must assess all available evidence as a whole, in accordance with the principle of fiscal neutrality. The exemption may only be denied in cases of fraud or where the formal defect prevents verification of the substantive requirements.

### Judgment of 26 November 2025 of the Court of Justice of the European Union. Case C-657/24 (Versãofast)

*Reference for a preliminary ruling — Common system of VAT — Article 135(1)(b) of Directive 2006/112/EC — Exemptions relating to other activities — Negotiation of credit — Credit intermediary activity — Classification*

The dispute originated in Portugal, where Versãofast, a credit intermediary, carries out activities including customer acquisition, preparation of documentation, submission of applications and communication between end consumers and financial institutions. The Portuguese tax authorities considered these activities to be exempt from VAT as constituting negotiation of credit, which led to the denial of input VAT deduction.

The Portuguese Tax Arbitration Court asked whether such activities may be classified as negotiation of credit, even though the company does not influence or participate in the loan conditions, does not represent the bank, and customers remain free to enter into the contract or not.

The CJEU stated that the exemption under Article 135(1)(b) is an autonomous concept of EU law and must be interpreted strictly, while always taking into account the objective of avoiding divergences between Member States.

The Court recalled its settled case law according to which the term "negotiation" is equivalent to mediation, namely an activity aimed at enabling two parties to conclude a contract, without the intermediary needing to influence the conditions or act on behalf of the lender.

Although some of the services provided by Versãofast are material or administrative in nature (delivery of brochures, receipt of communications, etc.), the activity must be analysed globally. Its real function is to mediate between end customers and the bank, thereby facilitating the conclusion of the credit agreement.

The fact that the credit conditions are predetermined and that Versãofast has no capacity to intervene does not negate the negotiating nature of its activity, as customer acquisition and channelling of the application process are, in themselves, typical financial mediation activities.

Moreover, remuneration through a success-based commission (proportional to the volume of credit ultimately contracted) confirms that the activity is directly linked to the conclusion of the contract, as is characteristic of credit negotiation.

Accordingly, the CJEU held that these activities are exempt from VAT, even in the absence of powers of representation or influence over the contractual terms, since their nature and purpose fall within the concept of negotiation of credit under the VAT Directive.

## III. BINDING RULINGS

### V1573-25: Acquisition and leasing of dwellings for tourist use

The Directorate General for Taxes (DGT) issued Binding Tax Ruling V1573-25, analysing the possibility of deducting input VAT incurred on the acquisition of a new dwelling by an individual, where such dwelling is leased to a limited liability company that uses it, in its own name, for tourist rental purposes.

As a preliminary matter, the DGT recalls that, pursuant to Articles 4 and 5 of VAT Law 37/1992, a person qualifies as a taxable person where they organise factors of production with the purpose of obtaining continuing income, expressly including lessors of goods. Consequently, the applicant acts as a taxable person for VAT purposes and the leasing of the property constitutes a supply of services subject to VAT.

With regard to the possible application of the exemption provided for in Article 20.One.23 of the VAT Law, the DGT reiterates the purposive nature of such exemption, which depends on the effective use of the property. Since the dwelling is leased to a commercial entity that uses it for tourist rental to third parties, the lease cannot be regarded as being intended exclusively for residential use. Accordingly, the exemption does not apply and the transaction is subject to and not exempt from VAT, being taxable at the standard rate of 21%, which must be charged by the applicant to the lessee company.

As regards the right to deduct input VAT incurred on the acquisition of the dwelling, the DGT states that, pursuant to Articles 94 et seq. of the VAT Law, such right arises insofar as the property is used for the performance of taxable and non-exempt transactions, such as the lease described. However, Article 93.Four expressly excludes the deduction of input VAT where the acquisition was made without the intention of allocating the asset to a business or professional activity, even if the asset is subsequently allocated to such activity.

In this respect, the ruling emphasises that taxable person status and the right to deduct may arise from the moment of acquisition of the property, provided that a business intention is evidenced by objective elements, in accordance with Article 5.Two of the VAT Law and Article 27 of its Regulations. By way of example, the DGT refers to the filing of a census declaration for commencement of activity, maintenance of VAT record books, consistency between the nature of the acquired asset and the intended activity, the time elapsed until the effective start of the lease, applications for licences or authorisations, and compliance with other formal and tax obligations.

Finally, the DGT recalls that the proof of business intention is a question of fact, the burden of proof of which lies with the taxpayer, and its assessment falls within the remit of the Tax Authorities in accordance with the general rules on burden and assessment of evidence.

In conclusion, the leasing of the dwelling to the limited liability company will be subject to and not exempt from VAT at the rate of 21%, and the input VAT incurred on the acquisition of the property will be deductible provided that it is duly evidenced that, from the time of purchase, there was an intention to allocate the dwelling to a taxable and non-exempt leasing activity.

## V1626-25: Transfer and granting of use of tourist apartments within a hotel complex

Binding Tax Ruling V1626-25 analyses the VAT treatment of two transactions linked to a hotel complex: (i) the mandatory granting of use of the tourist apartments by their owners to the operating entity of the complex, and (ii) the initial transfer of such apartments by the developer to the purchasers.

Firstly, the DGT classifies the granting of use of the apartments in favour of the operating entity as a supply of services for VAT purposes, in accordance with Article 11 of VAT Law 37/1992, as it constitutes a consideration-based granting of the right to use or enjoy immovable property. The DGT specifies that the owners act as taxable persons, since they exploit a tangible asset with the aim of obtaining continuing income.

The application of the exemption provided for in Article 20.One.23 of the VAT Law is also ruled out, as the apartments are not intended for residential use, but rather for hotel exploitation by the operating entity in its own name. In particular, the DGT underlines that this is a case of granting for sub-letting, which is expressly excluded from the exemption, and that the legal framework governing the complex prevents any residential use of the properties. Consequently, the granting of use is subject to and not exempt from VAT, taxable at the standard rate of 21%, pursuant to Article 90 of the VAT Law.

Secondly, as regards the initial transfer of the apartments by the developer, the DGT confirms that this transaction qualifies as a first supply of buildings, within the meaning of Article 20.One.22 of the VAT Law, and is therefore subject to and not exempt from VAT.

With respect to the applicable VAT rate, the ruling analyses the potential application of the reduced rate of 10% provided for in Article 91.One.1.7 for buildings or parts thereof suitable for use as dwellings. In this regard, the DGT recalls its traditional doctrine on suitability for residential use and refines it in light of the recent Supreme Court Judgment No. 82/2025, which clarifies that such suitability constitutes an objective circumstance that may be evidenced by any means of proof, without it being essential to obtain a habitation certificate or first occupancy licence.

However, applying this reasoning to the specific case, the DGT concludes that the apartments transferred form part of a hotel complex and are legally and necessarily allocated to exploitation under a hotel regime, with no possibility of being used as a habitual or occasional dwelling outside such regime. Therefore, even in light of the Supreme Court's criteria, the properties cannot be regarded as suitable for use as dwellings, thereby excluding the application of the reduced rate.

Accordingly, both the granting of use of the apartments to the operating entity and the initial transfer of the apartments by the developer are subject to and not exempt from VAT and must be taxed at the standard rate of 21%, with the reduced rate applicable to residential supplies being inapplicable.

## V1638-25: Event organisation services for non-established clients

In Binding Tax Ruling V1638-25, the DGT analyses the VAT treatment of incentive business event organisation services provided by a Spanish entity to a US entity, within the MICE segment (Meetings, Incentives, Conferences and Events), as well as the deductibility of input VAT incurred by the organising entity.

As a preliminary matter, the DGT confirms that the US recipient of the services qualifies as a taxable person for VAT purposes, regardless of the fact that the services are intended as hospitality for its own clients. Accordingly, the rules on the place of supply applicable to services rendered between taxable persons (B2B) apply.

Regarding the nature of the services, the DGT classifies the applicant's activity as a single or composite supply of event organisation, consisting of a plurality of closely linked services (local transfers, personalised assistance, gala dinners, cultural excursions and recreational activities), which are invoiced jointly and are indispensable for the proper execution of the event. However, it is specified that neither international transport nor accommodation form part of the service, as these are contracted directly by the US entity.

Furthermore, the DGT confirms that the special VAT scheme for travel agencies regulated in Articles 141 to 147 of the VAT Law does not apply, as transport and accommodation services are not included among the main supplies.

From a place of supply perspective, the DGT applies the general rule in Article 69.One.1 of the VAT Law, pursuant to which services are deemed to be supplied within the territory of application of the tax only where the recipient has its place of business, a fixed establishment or, failing that, its domicile or habitual residence therein, provided that the services are supplied to such establishment. In the case analysed, since the US entity is not established in Spain and has no fixed establishment therein, the event organisation services are deemed to be supplied outside the territory of application of Spanish VAT and are therefore not subject to the tax.

Finally, as regards the deductibility of input VAT incurred by the applicant, the DGT recalls that, pursuant to Article 94 of the VAT Law, VAT incurred on the acquisition of goods and services used in transactions carried out outside the territory of application of the tax is deductible where such transactions would have given rise to a right of deduction had they been carried out in Spain. Since the event organisation services would have been subject to and not exempt from VAT if supplied in Spanish territory, the input VAT incurred by the applicant in organising the event is deductible, provided that the remaining formal and substantive requirements laid down by the legislation are met.

In conclusion, the provision of event organisation services to the non-established US entity is not subject to Spanish VAT due to place of supply rules, the special travel agency scheme does not apply, and the input VAT incurred by the Spanish entity on goods and services necessary for the performance of the services is deductible under the applicable legislation.


## V1759-25: VAT regime applicable to the Deposit Guarantee Fund: exemptions, deductions and formal obligations in intra-Community acquisitions

In Binding Tax Ruling V1759-25, the DGT analyses the VAT regime applicable to transactions carried out by the Deposit Guarantee Fund for Credit Institutions (FGD), focusing both on the nature of its transactions and on the potential application of the exemption provided for in Article 3 of Royal Decree-Law 16/2011, as well as the formal obligations arising from the performance of intra-Community acquisitions of services.

As a preliminary matter, the DGT recalls that the FGD has its own legal personality and acts as a taxable person for VAT purposes. Its main transactions, consisting of the provision of guarantees intended to cover financial risks of credit institutions, constitute financial services and are classified as transactions subject to and exempt from VAT pursuant to Article 20.One.18 of VAT Law 37/1992. As a direct consequence of such exemption, these transactions do not give rise to a right to deduct input VAT, as they are not included among the transactions that entitle to deduction under Article 94 of the VAT Law.

With regard to the exemption provided for in Article 3.2.b) of Royal Decree-Law 16/2011, the DGT clarifies that such provision does not apply to VAT incurred on acquisitions of goods and services made by the Fund. In this respect, it recalls that EU VAT harmonisation rules prevent the application of national tax benefits that contradict the general VAT regime, a criterion already upheld in previous administrative doctrine. Consequently, purchases made by the FGD are subject to the ordinary VAT regime, with no specific exemption applicable for VAT purposes.

As regards formal obligations, the DGT confirms that, insofar as the FGD carries out exclusively transactions subject to and exempt from VAT under Article 20 of the VAT Law, it is not required to file periodic VAT returns (Form 303) or the annual summary return (Form 390). However, this exemption does not extend to non-periodic self-assessments, and the Fund must file Form 309 in the legally prescribed cases, in particular where it performs intra-Community acquisitions of goods or is the recipient of services supplied by taxable persons not established in the territory of application of the tax, in respect of which the reverse charge mechanism applies pursuant to Article 84.One.2 of the VAT Law.

Additionally, the ruling confirms the obligation to include such intra-Community acquisitions of services in Form 349 (recapitulative statement of intra-Community transactions), as these constitute services subject to and not exempt from VAT in Spain in which the FGD acts as the taxable person, regardless of whether the supplier is established in another Member State.

In summary, the FGD carries out transactions subject to but exempt from VAT that do not give rise to a right of deduction, cannot benefit from the exemption provided for in Royal Decree-Law 16/2011 for VAT purposes, and, although it is not required to file periodic returns, it must comply with the formal obligations associated with intra-Community acquisitions of services and the application of the reverse charge mechanism.

## V1330-25: Taxable base in intra-Community transactions and right to refund (Non-Reusable Plastic Packaging Tax)

Binding Tax Ruling V1330-25 analyses the case of a company that manufactures non-reusable plastic packaging from sheets acquired both in Spain and in other Member States, and subsequently sells such packaging to a domestic customer that dispatches it outside the territory of application of the tax. Two issues are addressed: how to determine the taxable base in intra-Community acquisitions and whether the customer making the intra-Community supply may request a refund of the Non-Reusable Plastic Packaging Tax (IEPNR), regulated under Law 7/2022.

Firstly, regarding the determination of the taxable base in intra-Community acquisitions, the DGT confirms that it must be calculated exclusively on the quantity of non-recycled plastic, expressed in kilograms, contained in the acquired products.

Any reduction for recycled plastic is only admissible where such quantity is duly certified by an accredited entity in accordance with UNE-EN 15343:2008. In the absence of valid certification, no reduction of the taxable base is permitted.

Secondly, as regards the right to a tax refund in cases where packaging is dispatched outside the territory of application of the tax, the DGT interprets Article 81.1.d) of Law 7/2022 strictly. The right to request a refund corresponds to the non-taxable purchaser that effectively carries out the intra-Community dispatch, and not to the manufacturer that initially bore the tax charge, provided that both the removal of the product from the TAI and the prior payment of the tax are duly evidenced.

The administrative criterion reinforces the formal and objective nature of the IEPNR, highlighting the relevance of certification of recycled content and the correct identification of the party entitled to request refunds in intra-Community supply chains.

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