



VAT newsletter

September 2025

I. LEGISLATION AND UPDATES

Galicia creates an indirect tax on tourist stays with a municipal surcharge adopted by several local councils

As of 29 September 2025, Galicia will join Catalonia and the Balearic Islands in applying a tax on tourist stays, which could mark a trend towards broader adoption throughout Spain.

This new levy was introduced by Law 5/2024 of 27 December, which creates the Galician Tourist Stay Tax as an indirect tax and establishes the possibility of setting an optional municipal surcharge. The first municipalities to regulate it through the corresponding ordinance will be A Coruña and Santiago de Compostela.

System operation:

- ▶ **Regional tax:** The Xunta de Galicia has established an indirect tax on overnight stays in tourist accommodations. Currently, this tax is fully subsidised by the regional administration, so it does not generate tax obligations for companies in the sector.
- ▶ **Municipal surcharge:** Local councils are authorised to apply a surcharge of up to 100% on the amount of the regional tax. In practice, this surcharge is the only amount charged to tourists, since the regional tax remains subsidised.

For example, Santiago de Compostela has set the surcharge at 100% of the regional rates: EUR 2 per night in 3- and 4-star hotels, and EUR 2.50 per night in 5-star hotels. A Coruña is expected to adopt a similar structure. Both municipalities will apply six-month settlement periods, with accommodation establishments responsible for collecting and electronically filing the self-assessments.

Although neither the Galician law nor the local ordinances expressly mention VAT, Article 78.2.4 of the Spanish VAT Law (Law 37/1992) establishes that the VAT taxable base must include any taxes and levies of any kind that fall on the same taxable transactions. Consequently, the municipal surcharge must be included in the VAT taxable base, which means that hotels must charge VAT on the surcharge amount itself.

The Galician tax is similar to the models already implemented in Catalonia and the Balearic Islands, where levies are applied per night and vary depending on the type of accommodation, with revenues earmarked for sustainable tourism projects.

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With three autonomous communities applying this type of tax, a trend towards its generalisation is consolidating. Other regions with high tourist inflows may explore similar mechanisms, driven both by fiscal needs and sustainable tourism policies. For the hotel sector, this entails an increase in regulatory complexity: different rates, exemptions, reporting obligations, and, in particular, the need to charge VAT on the tourist tax itself.

Reform of the procedure and models for diplomatic VAT exemptions under Order HAC/738/2025

On 28 June 2025, Order HAC/738/2025 of 27 June entered into force, introducing amendments to the procedure and models applicable to VAT-exempt transactions within the framework of diplomatic, consular, and international organisation exemptions. This reform is part of the development of Royal Decree 3485/2000 of 29 December and responds to the need to modernise and digitalise administrative procedures.

The main objective of the new Order is to simplify and adapt to the digital environment the procedures for requesting refunds of VAT borne by recipients of exempt transactions, as well as the procedure for applying for prior recognition of the exemption. In this context, forms 362 and 363 are updated.

- ▶ **Form 362**, relating to the refund of VAT in the context of diplomatic, consular and international organisation relations recognised by Spain, remains denominated in euros and must be filed electronically through the Ministry of Foreign Affairs, European Union and Cooperation. This ministry will be responsible for validating the application and forwarding it to the Spanish Tax Agency (AEAT). The filing must be made within

six months following the end of the calendar quarter to which the transactions relate. The application must be accompanied by the original or certified invoices, a destination certificate signed by the competent authority and, where applicable, a file containing the list of invoices in accordance with AEAT technical specifications.

- ▶ **Form 363**, intended for the application for prior recognition of the VAT exemption, is also updated and its electronic filing is made mandatory. This form will be used for transactions such as the transfer or lease of buildings for diplomatic or consular premises, works carried out on such buildings, and the supply of vehicles to foreign states, international organisations or diplomatic personnel. The application must be submitted before the transaction takes place and must include contractual documentation, budgets, a destination certificate and, where applicable, a report from the Ministry of Foreign Affairs on the commencement or cessation of duties of the beneficiary personnel.

Both electronic procedures require applicants to hold a Spanish Tax Identification Number (NIF) and a qualified electronic certificate in accordance with Law 6/2020 of 11 November.

With this reform, another step is taken towards the digitalisation of tax procedures, facilitating the management of diplomatic exemptions and reinforcing legal certainty and administrative efficiency.

II. CASE LAW OF THE EUROPEAN UNION

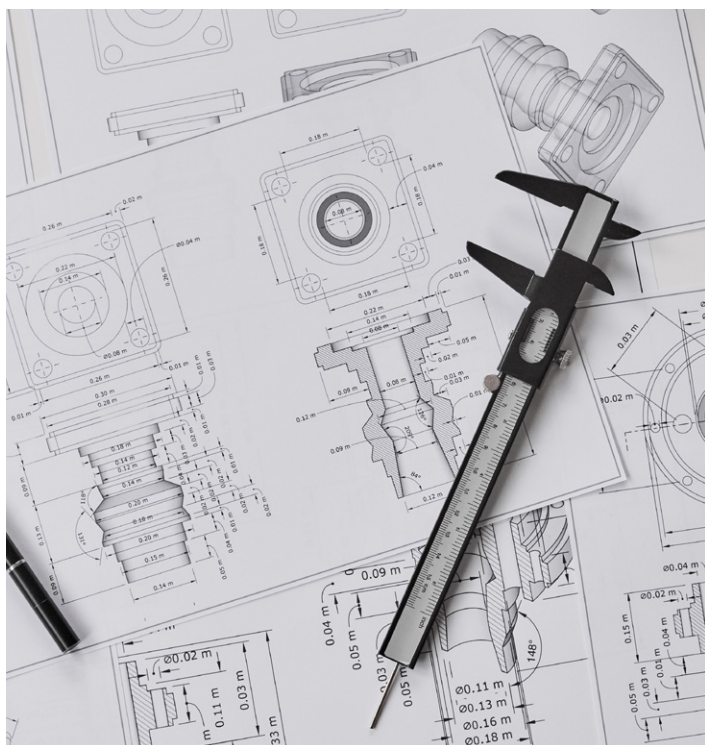
Judgment of 12 June 2025 of the Court of Justice of the European Union. Case C-125/24 (AA v. Allmänna ombudet hos Tullverket)

Preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — VAT exemption — Article 143(1)(e) — Re-importation of goods — Condition relating to the exemption from import duties for returned goods — Regulation (EU) No 952/2013 — Articles 86(6) and 203 — Incurrence of a customs debt due to failure to comply with a formal obligation under customs law — Cases where such a debt arises.

This judgment of the Court of Justice of the European Union sets limits on the application of the VAT exemption for the re-importation of goods subject to the returned goods regime.

The dispute arose in Sweden following the re-importation of horses by an individual (AA), after having taken them to Norway to compete. On returning to Sweden (VAT territory), he crossed the border without presenting the animals at customs or making the declaration for release for free circulation, which prompted intervention by the Swedish customs authorities.

The administration considered that, although no import duties were due under the returned goods regime, VAT had to be paid since, in its view, the VAT exemption for re-importations was conditional on compliance with all customs formalities.





After exhausting administrative remedies in Sweden, the Supreme Court referred a preliminary question to the CJEU asking whether, in cases of formal breaches (failure to present goods at customs and failure to request the exemption), the VAT exemption provided for in Article 143(1)(e) of the VAT Directive and Article 203 of the Union Customs Code still applied.

In particular, Article 203 of the Customs Code requires goods to be declared for free circulation and the exemption to be formally requested. By contrast, Article 86(6) extends the exemption even to cases where a customs debt arises due to non-fraudulent non-compliance.

The CJEU considered that a strict interpretation of the formal requirements would undermine Article 86(6) of the Customs Code, which specifically contemplates situations where debts arise from non-fraudulent formal breaches and yet customs benefits remain applicable. In addition, Article 38 of the Union Customs Code requires consideration of operators' good faith and mitigation of the consequences of mere negligence. Therefore, a non-fraudulent breach of formal obligations should not deprive taxpayers of the right to the exemption.

Consequently, the Court held that, unless fraud is involved, the failure to present returned goods at customs or declare them for free circulation does not preclude the re-importation of such goods from benefiting from the VAT exemption. Finally, it clarified that it is for the Swedish court to verify whether the individual's omission was mere negligence and not an attempt to commit fraud.

Judgment of 19 June 2025 of the Court of Justice of the European Union. Case C-785/23 (EAD)

Preliminary ruling — Taxation — Common system of value added tax — Directive 2006/112/EC — Exemptions applicable to certain activities in the public interest — Article 132 — Public postal services — Directive 97/67/EC — Article 12 — Universal postal service provider — Concepts of “public postal service” and “service of public interest”.

In this judgment, the CJEU determines the limits of the VAT exemption for public postal services provided under individualised contracts with specific companies.

The dispute opposed the Bulgarian tax authorities to the state-owned company Bulgarian Posts EAD, concerning whether certain specific services it provided should benefit from the VAT exemption for postal services under Article 132 of the VAT Directive (exemptions in activities of public interest) and Directive 97/67/EC (universal postal service).

The key issue was whether Bulgarian Posts, when negotiating individualised contracts with companies for specific services, was still acting as a “public postal service” or whether such activity fell outside the scope of the exemption.

The Bulgarian tax authorities demanded payment of VAT, arguing that these services were not part of the protected “universal service” but commercial agreements subject to taxation.

The CJEU recalled that the exemption seeks to ensure access to essential postal communication services for all citizens at an affordable price, reflecting a notion of public interest. However, the Bulgarian court noted that not every activity of a designated provider is automatically exempt, but only those that form part of the universal service, according to the conditions set out in national law.

Thus, under Bulgarian law, individually negotiated services for large clients are not considered part of the universal service. Consequently, they may be subject to VAT.

The CJEU, in line with the national court's interpretation, stressed the importance of avoiding distortion of competition, as exempting such contracts would grant the universal operator an unjustified advantage over private competitors.

Therefore, it was held that the exemption under Article 132 of the VAT Directive only covers postal services falling within the universal service, excluding individual contracts outside that framework.

Judgment of 3 July 2025 of the Court of Justice of the European Union. Case C-733/23 (EOOD)

Preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 273 — Articles 49(3) and 50 of the Charter of Fundamental Rights of the European Union — Principle of ne bis in idem — Accumulation of criminal and administrative penalties for the same offence — Monetary fine and sealing of a commercial premises — Provisional enforcement of the sealing — Principle of proportionality.

This judgment examines the limits on the application of multiple and simultaneous penalties. The dispute concerned the simultaneous imposition in Bulgaria of two penalties: on the one hand, a financial fine, and on the other, the provisional sealing of a commercial premises with the corresponding prohibition of access for 14 days, both derived from VAT-related infringements.

The company penalised argued that such accumulation breached the ne bis in idem principle enshrined in Articles 49(3) and 50 of the Charter of Fundamental Rights of the EU, which prohibits double punishment for the same offence. The preliminary ruling sought to clarify whether this accumulation was compatible with EU law, in particular Article 273 of the VAT Directive, which allows Member States to impose obligations necessary to ensure proper tax collection.

The CJEU analysed the nature of both sanctions. On the one hand, the fine is clearly punitive; on the other, the sealing, although administrative in appearance, also constitutes a coercive measure with punitive effects.

The Court stressed that, in order not to infringe the ne bis in idem principle, multiple sanctions must pursue different aims, be proportionate, and be coordinated within a legal system that avoids duplications.

It concluded that Article 273 of the VAT Directive and Article 49(3) of the Charter preclude national rules that establish minimum fines that are excessively high without allowing judicial modulation, since such rigidity infringes the principle of proportionality, which requires individualising the penalty according to the seriousness and circumstances of each case.

Judgment of 3 July 2025 of the Court of Justice of the European Union. Case C-808/23 (Höggkullen AB)

Preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 72 — Normal market value — Article 80 — Re-assessment of the taxable amount — Parent company providing services to its subsidiaries in the context of their active management — Determination of the normal market value.

The judgment addresses the determination of the normal market value of specific services provided by a parent company to its subsidiaries when the total consideration is invoiced globally.

The case originated from a preliminary reference by a Swedish court focusing on the interpretation of the VAT Directive and certain provisions of the Charter of Fundamental Rights.



Höggkullen AB, a Swedish holding company, provided various management and financial services to its subsidiaries in 2016. Some subsidiaries carried out VAT-exempt transactions, limiting their right to deduct input VAT.

To set consideration for its services, Höggkullen AB applied a cost-plus method, adding a profit margin to the costs incurred in providing the services. However, it excluded certain “shareholder costs” (audits, general meetings, share issuance) and costs linked to raising capital.

The tax authorities argued that the consideration applied was below the normal market value, since no comparable market services existed for certain transactions, and therefore the taxable amount should include all costs incurred by the parent.

The Swedish court asked whether the VAT Directive allows services between parent and subsidiaries to always be treated as a single supply preventing the use of the comparative method under Article 72, and, in such a case, whether all costs (including shareholder and financing costs) must always be treated as service costs.

The CJEU held that it cannot be assumed in abstract that services provided by a parent to its subsidiaries, even when invoiced globally, always constitute a single supply excluding the use of the comparative method under Article 72. Each supply



must be assessed on its own characteristics (comparability, independence, etc.). The fact that total consideration is invoiced globally is not sufficient to rule out the possibility of finding comparable market services.

Having reached that conclusion, the Court did not consider it necessary to answer whether all costs, including shareholder and financing costs, must always be included as service costs, since the comparative method may be used in certain cases.

Judgment of 10 July 2025 of the Court of Justice of the European Union. Case C-276/24 (KONREO)

Preliminary ruling — Taxation — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 205 — Joint and several liability — Requirements and scope of liability — Combating VAT fraud — VAT not paid by the supplier — Denial of the purchaser's right to deduct VAT — Possibility of considering the purchaser jointly and severally liable for unpaid VAT by the supplier — Principle of proportionality.

This judgment examines the compatibility of Article 205 of the VAT Directive and the principle of proportionality with the simultaneous application of both the denial of the right to deduct input VAT and the obligation to jointly pay VAT unpaid by the supplier, where the purchaser knew or should have known that they were participating in tax fraud.

The dispute arose in the Czech Republic in insolvency proceedings in which the company FAU, through its administrator Konreo, contested the joint liability imposed by the tax authorities for

VAT unpaid by one of its suppliers. The key issue was whether the purchaser of goods could be held liable for the unpaid VAT under Article 205 of the VAT Directive.

The Czech court referred a preliminary question to the CJEU to clarify the limits of such liability and whether the measure respected the principle of proportionality, since such joint liability may result in penalising a taxpayer without direct involvement in fraud.

The Court acknowledged that, in principle, the purchaser may be declared jointly liable if it is shown that they knew or should have known that they were participating in a fraudulent transaction. However, it noted that denying the purchaser's right to deduct input VAT, as was imposed on FAU, runs counter to the fundamental principle of the VAT system and may only be restricted in cases of actual involvement or gross negligence by the purchaser.

Accordingly, the CJEU held that Article 205 of the VAT Directive does not preclude a national practice that imposes joint liability on the purchaser of goods for the VAT due by the supplier, even where the purchaser is denied the right to deduct input VAT, provided that it is proven that the purchaser knew or should have known of their participation in VAT fraud.

Judgment of 1 August 2025 of the Court of Justice of the European Union. Case C-427/23 (Határ)

Preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Articles 1(2), 2(1)(c) and 78 — Exemptions relating to exports — Article 146(1)(b) — Exempt supply of goods — VAT refund management service for purchasers not resident in the European Union — Single supply — Distinct and independent supplies — Principal or ancillary nature of a supply — Exemptions under Articles 135(1)(d) and 146(1)(e) — Protection of legitimate expectations — Taxable amount.

This case concerned the VAT treatment of services managing VAT refunds to non-EU acquirers.

The dispute arose in Hungary, where retailer Határ Diszkont sold goods to non-EU travellers who exported the goods on the same day, receiving the same receipt including VAT. Határ then reimbursed the VAT to customers but charged a 15% management fee on the refunded amount.

Határ treated these fees as VAT-exempt income, arguing that the service was directly linked to exports and therefore ancillary. The tax authorities, however, considered that the commission was a separate and independent service subject to VAT, since it did not coincide with the sale of goods and was not indispensable for the refund.

The Hungarian court referred several questions to the CJEU concerning whether the service could be treated as ancillary to the sale and exempt as an export-related service.

The CJEU reiterated that each transaction must normally be regarded as distinct and independent, unless several elements are so closely linked that they form a single indivisible economic supply. This was not the case here, as the sale and refund management occurred at different times and had different objectives.

Accordingly, the Court held that the commission for refund management is an autonomous service subject to VAT, since it is not a means of enjoying the goods under better conditions but an end in itself for the purchaser.

The Court also addressed the principle of legitimate expectations. Határ argued that Hungarian authorities had previously accepted that the commission was exempt and later changed their position, demanding VAT retroactively. The Court held that such protection does not apply where the prior interpretation was unclear or where the relevant facts were not properly disclosed. Therefore, the company could not rely on legitimate expectations to avoid VAT liability.

Finally, the CJEU clarified that the commission must be treated as a gross price including VAT, meaning that the tax authorities cannot demand an additional amount that would distort the principle that VAT is borne only by the final consumer.

Judgment of 1 August 2025 of the Court of Justice of the European Union. Case C-794/23 (P GmbH)

Preliminary ruling — Common system of value added tax (VAT) — Directive 2006/112/EC — Article 203 — Incorrect VAT amount stated on the invoice — Article 238 — Simplified invoicing — Supplies invoiced to non-taxable persons and to taxable persons not entitled to deduct VAT — Obligation to pay the wrongly invoiced VAT — Absence of risk of loss of tax revenue.

The CJEU interpreted Article 203 of the VAT Directive regarding the invoicing of an incorrect VAT rate.

The case arose in Austria, where P GmbH operated an indoor play area. In 2019, the company incorrectly applied the standard 20% VAT rate to ticket sales, issuing cash receipts due to the low transaction amounts. However, these operations should have been taxed at the reduced 13% rate. P GmbH later sought to correct its VAT returns and recover the overpaid VAT.

The tax authorities refused, arguing that (i) the invoices could not be corrected and credit notes could not be issued for the rate difference, and (ii) reimbursement would unjustifiably enrich the company, as customers had already borne VAT at 20%.

The case reached the Austrian Federal Tax Court, which partially upheld P GmbH's position. The tax authorities appealed, and the Austrian Supreme Administrative Court referred questions to the CJEU on the debt arising from incorrectly invoiced VAT, the concept of final consumer, and the use of estimations in simplified invoicing.

- ▶ **First question:** whether a taxable person who has issued invoices with an incorrect VAT rate is liable for the wrongly invoiced VAT even when the customer is a non-taxable person. The CJEU held that under Article 203 of the VAT Directive, the taxable person is not liable for incorrectly invoiced VAT when the invoice is issued to a final consumer with no right of deduction, even if the same operator makes identical transactions with other taxable persons.
- ▶ **Second question: the scope of "final consumers who have no right to deduct input VAT."** The CJEU clarified that this concept is strictly limited to non-taxable persons and does not include taxable persons who, in a given transaction, cannot exercise the right of deduction. This restrictive interpretation is necessary to ensure legal certainty.



► **Third question:** whether, in the context of simplified and mass invoicing, the tax authorities may rely on statistical estimations to determine what portion of invoices issued with the wrong VAT rate created a risk of loss of tax revenue, and therefore an actual VAT debt. The CJEU confirmed that the VAT Directive does not preclude such a method, provided that the principles of fiscal neutrality, proportionality, and the right of defence are respected. In particular, the taxpayer must be allowed to challenge the estimation and present contrary evidence.

III. DOMESTIC COURT RULINGS

Judgment 923/2025 of 7 July 2025 of the Supreme Court. Appeal 582/2023

Supreme Court judgment No. 923/2025, dated 7 August 2025, addresses the inclusion of subsidies to compensate for operating deficits in the VAT taxable base.

The case arose from claims filed by Riojana de Autocares SL against the Spanish Tax Agency (AEAT), after the latter denied the company's request to rectify its VAT self-assessments for 2016. The company argued that subsidies received to cover the deficit in intercity public transport should not form part of the VAT taxable base.

The La Rioja Regional Tax Tribunal rejected the claim in 2021, considering that these compensations were directly linked to ticket prices. Later, the High Court of Justice of La Rioja upheld this decision in 2022, reasoning that the subsidies covered the deficit resulting from reduced fares and that the reform introduced by Law 9/2017, which expressly excluded these subsidies from the taxable base, could not be applied retroactively.

The company filed an appeal in cassation, arguing that the High Court's ruling infringed Article 73 of the VAT Directive and the case law of the CJEU. It also stressed that there was objective cassational interest for the creation of jurisprudence.

In its reasoning, the Supreme Court explained that the issue could not be resolved solely on the basis of retroactivity but also required proper application of EU law, which obliges Spanish legislation to be interpreted in line with the VAT Directive and CJEU case law.

The Court recalled that it had previously established that subsidies intended to finance general public services, where there is no real competitive market or identifiable users, are not considered linked to the price and therefore do not form part of the VAT taxable base.

The Chamber concluded that the subsidies received by Riojana de Autocares SL were compensation to cover the operating deficit of public transport, with fares set by the Administration and with no direct link to the price paid by users. Therefore, they could

not be classified as subsidies linked to the price. Consequently, the Supreme Court upheld the cassation appeal, annulled the judgment of the High Court of Justice of La Rioja and the decision of the Regional Tax Tribunal.

As a result, the Supreme Court ordered the refund of the amounts unduly paid by the company, together with the corresponding interest.

IV. ADMINISTRATIVE RESOLUTIONS

Resolution No. 00/07350/2024/00/00 of 15 July 2025 of the Central Economic-Administrative Court (TEAC)

In this resolution of 15 July 2025, the TEAC established doctrine determining that, in fraudulent transactions initially declared as exempt but later reclassified by the Tax Authorities as taxable and not exempt, the taxable base must be calculated by treating the consideration received as "VAT included."

The case concerned a business group that had declared certain sales of beverages and drugstore products as intra-Community supplies to Portugal, incorrectly applying the VAT exemption. The Regional Inspection Unit of Catalonia concluded that the goods had neither left Spanish territory nor been effectively received by the alleged Portuguese operators, and therefore reclassified the operations as domestic supplies subject to VAT. The corresponding output VAT was assessed by treating the sales price as the taxable base (exclusive of VAT), along with penalties.





The taxpayer appealed to the Catalonia Regional Economic-Administrative Court, arguing that the consideration received should be deemed VAT-inclusive, since Article 89.3.2 of the VAT Law prevents VAT from being passed on to customers once fraud has been detected.

The Regional Court partially upheld the appeals, ruling that the consideration must be treated as VAT-inclusive, in line with CJEU case law (Tulică judgment of 2013) and Supreme Court precedents. The Tax Agency challenged this decision, citing a Supreme Court judgment of 18 March 2024 supporting the opposite view.

Finally, the TEAC confirmed the Regional Court's reasoning and unified doctrine, holding that in fraudulent operations initially declared as exempt but later found taxable and non-exempt, the amounts collected must be regarded as VAT-inclusive.

Resolution No. 00/07484/2022/00/00 of 19 June 2025 of the Central Economic-Administrative Court (TEAC)

This resolution addressed the VAT rate applicable to finance lease agreements with a purchase option on real estate intended for residential use when such properties are subleased.

The case involved company XZ SA, which since 2006 held a leasing contract with a purchase option over a building comprising residential units and commercial premises. Between 2017 and 2021, the company paid leasing instalments with VAT at 21% and requested a refund of EUR 102,657.94, arguing that the reduced 10% VAT rate under Article 91.1.2.11 of the VAT Law should apply to leasing with purchase option of buildings intended for residential use. The Tax Agency rejected the request, arguing that the properties were not "exclusively for residential use," as they were subleased in the course of an economic activity.

The company claimed the VAT neutrality principle and pointed to allegedly contradictory criteria issued by the General Directorate of Taxation (GDT), arguing that the residential use by subtenants should suffice to apply the reduced rate. The Administration, however, relied on binding ruling V3306-17, which expressly excludes the application of the 10% rate in subleasing situations.

The TEAC upheld the Administration's position, stressing that reduced VAT rates are exceptional and must be interpreted strictly. It recalled that their purpose is to facilitate access to housing for final consumers, a purpose not present when the lessee exploits the property as a sublease business. Therefore, the reduced 10% rate cannot be applied; the general 21% rate must apply.

With this decision, the TEAC rejected the company's claim, clarifying that finance leases with purchase option on residential properties can only benefit from the reduced rate when the exclusive use is residential, excluding cases where the lessee acts as an economic intermediary through subleasing. Although not yet binding pending further repetition of the criterion, the resolution signals the current trend of administrative courts in this matter.

V. BINDING RULINGS

V0850-25: Clarifications on certain issues relating to the Verifactu Regulation

In binding ruling V0850-25, a series of questions are raised regarding the incorporation of letter j) into Article 29.2 of the General Tax Law and of Article 201 bis of the same Law, both related to invoicing IT systems approved by Royal Decree 1007/2023, also known as the Verifactu Regulation.

Specifically, the following questions are raised:

1. What is considered a software or IT system, and whether the definition encompasses invoicing or management systems that may exist in spreadsheet format, for example.
2. What will happen with those programmes available prior to the regulatory development if they do not comply with the requirements that are established. Whether this infringement applies to systems or programmes manufactured, produced or marketed prior to 10 October 2021, the date on which this obligation entered into force, and consequently whether they must cease to be marketed if not adapted to what is established in this new provision.
3. Whether it should be understood that any modification or deletion of records or entries in the software or IT systems can be carried out as long as such modification or deletion is logged and traceable.
4. What data this traceability must include and whether it must be visible from the same programme at the time of inspection or whether an export in a specific format is required.

Article 29.2.j) establishes an obligation that affects producers, distributors and users of IT or electronic systems that support certain processes or systems of taxpayers engaged in economic activities: accounting, invoicing and management. The new obligation consists in requiring that such programmes or systems guarantee the integrity, preservation, accessibility, readability, traceability and immutability of the records, without interpolations, omissions or alterations that are not properly logged within the systems themselves.

For its part, Article 201 bis establishes the penalties applicable for failure to comply both in the manufacturing, production and marketing of IT systems that do not comply with the specifications required by the regulations, and in the possession and use of such systems by taxpayers.

The GDT notes that, of the three categories of systems and software with respect to which the obligation referred to in Article 29.2.j) of the General Tax Law is established (accounting, invoicing and business management), as of the date of publication of the ruling, regulatory development of the requirements and technical specifications has only taken place for those supporting invoicing processes.

With regard to the first question, according to Article 1.2 of the Verifactu Regulation, an invoicing IT system is understood to mean the set of hardware and software used to issue invoices by carrying out the following actions:

- ▶ Admitting invoicing information input by any method.
- ▶ Preserving the invoicing information.
- ▶ Processing the invoicing information.

Since there is currently no specific legal definition of "software and IT systems" that support accounting or management



processes, although there is such a definition for invoicing, this latter definition established in Article 1.2 of the Verifactu Regulation would apply analogously to clarify what would be understood as IT systems and software supporting accounting or management processes.

With regard to programmes available prior to the regulatory development that do not comply with the requirements to be established, the Verifactu Regulation requires producers and distributors of invoicing IT systems to offer their products fully adapted to the Regulation within nine months of the entry into force of the Ministerial Order. Considering that the Order entered into force on 29 October 2024, it can be concluded that producers and distributors must offer their products adapted to the Verifactu Regulation as from 29 July 2025, with regard to invoicing IT systems.

For their part, taxpayers required to have such invoicing IT systems, according to the Verifactu Regulation, must have them in place by 1 January 2026 in the case of entities subject to Corporate Income Tax, and by 1 July 2026 in the case of PIT taxpayers, permanent establishments subject to Non-Resident Income Tax or entities under the income attribution regime.

With respect to the third question, the General Directorate of Taxation (GDT) concludes that the modifications or deletions of records or entries necessary for the proper use of the above-mentioned software or IT systems may be carried out, provided that the due logging and traceability of such changes remains, and that the other requirements demanded (ensuring the integrity, preservation, accessibility, readability, traceability and immutability of the records, without interpolations, alterations or omissions not properly logged in the system itself) are complied with.

In the specific case of invoicing IT systems, any modification and deletion of recorded data must be carried out, where applicable,



within the framework of the obligations and procedures regulated in the Verifactu Regulation and the Ministerial Order.

Finally, as regards the data that such traceability must include and whether it must be visible from the programme itself at the time of inspection or whether there must be an export in a specific format, the GDT limits itself to indicating what is established in Articles 7 and 8 of the Verifactu Regulation.

V0935-25: Sale of a property in exchange for cryptocurrencies

The GDT issued on 27 May 2025 a binding ruling analysing the sale of a property in which the seller receives as consideration an amount of bitcoins. The transaction is carried out outside the scope of an economic activity for VAT purposes.

The ruling focuses on determining how this transaction should be taxed within the field of indirect taxation.

The gdt begins by analysing the concept of virtual currency in accordance with Law 10/2020 on the prevention of money laundering and the financing of terrorism, which establishes that "virtual currency shall mean a digital representation of value that is not issued or guaranteed by a central bank or public authority, is not necessarily associated with a legally established currency and does not have the legal status of currency or money, but which is accepted as a means of exchange and can be transferred, stored or traded electronically."

From the perspective of Personal Income Tax (PIT), the GDT has considered in various rulings that virtual currencies or cryptocurrencies are intangible assets. Therefore, it determines that the sale of a property in exchange for a number of cryptocurrencies must constitute a barter transaction.

In the case analysed, where the taxpayer acquires cryptocurrencies in exchange for the transfer of a property, the GDT concludes that the taxpayer, as acquirer of cryptocurrencies outside the scope of an economic activity for VAT purposes, must be taxed under the Transfer Tax and Stamp Duty (ITP and AJD) as this constitutes the acquisition of intangible assets. The GDT clarifies

that this taxation will apply provided that the transferor of the cryptocurrencies does not act in that transaction as a business or professional in the exercise of their economic activity and that the transaction does not constitute a supply of goods subject to VAT.

Finally, in accordance with the provisions of the ITP and AJD Law, the taxable base will be the market value of the cryptocurrencies, unless the declared value, the price or the consideration agreed upon by the parties is higher than the market value, in which case the higher of these amounts will be taken.

V1006-25: VAT group, balances to be offset generated by a dependent entity before its incorporation into the group

In binding ruling V1006-25, the General Directorate of taxation analyses whether the parent company of a VAT group may offset the balances pending of a dependent entity that were generated before its incorporation into the group.

The VAT group regime is regulated in Articles 163 quinquies to 163 nonies of the VAT Law and is voluntary for the entities that form part of it. To apply it, requirements of financial, economic and organisational links must be met, and all the entities that are part of the group must be established in the territory of application of the tax.

In addition, it is important to point out that the parent entity must have effective control (more than 50% ownership) over the subsidiaries and must not itself be dependent on another entity established in the territory of application of VAT. As a general rule, the parent entity must notify in December the entities within its group that will apply the special regime, providing the corresponding agreements required in the case of new incorporations.

In relation to the ruling, according to Article 163.octies.Four of the VAT Law, each entity in the group makes its deductions individually, although the results are aggregated in a single return filed by the parent entity. When a business or professional includes the balance to be offset arising from one of its individual returns

in the aggregated return of the VAT group, such balance may not be offset in any later individual return, regardless of whether the special regime of the VAT group applies afterwards or not.

Therefore, the GDT concludes that the balances pending to be offset generated by a dependent entity before its incorporation into the group may be included by the parent entity in the aggregated return, proceeding, where appropriate, to the payment of the tax liability or to the request for offset or refund, as applicable.

V0693-25: Services of installation of goods on an immovable property. Concept of services linked to immovable property

The GDT issued on 15 April a binding ruling analysing the VAT treatment of an international transaction in which a Canadian company, not established in Spain, manufactures truck wheel restraint systems that are transported to France for their subsequent transfer to Spain for installation at loading docks. The installation is carried out by a Spanish subcontracted company, and it is noted that these restraint systems are fixed to the ground or to the walls of the clients, but can be removed without causing damage or impairment to the immovable properties.

With regard to the deliveries of goods from France to Spain for their installation in the clients' loading docks in Spain, since they are supplies of goods with installation and assembly in Spanish territory, these supplies of goods will be considered as carried out in Spain and, therefore, subject to VAT. Furthermore, in accordance with the provisions of Article 84 of the VAT Law, the taxable person of these supplies of goods will be the purchaser, since they are supplies carried out by an entity not established in Spain.

It should be noted that, with regard to the shipment of the goods from France to Spain, these will not be considered as a transaction assimilated to an intra-Community acquisition pursuant to the provisions of Article 16 of the VAT Law, insofar as such delivery will be considered carried out within Spanish territory by virtue of a supply of goods subject to installation and assembly.

As for the subcontracted services to carry out the installation, the GDT analyses their VAT treatment, beginning with an analysis of European legislation, specifically Implementing Regulation 282/2011, which establishes that for the purposes of Directive 2006/112, immovable property shall be understood to include, among other cases, any element that has been installed and forms an integral part of a building or a construction and without which they cannot be considered complete, and any element, equipment or machine permanently installed in a building or a construction that cannot be moved without destroying or altering such building or construction.

For its part, Implementing Regulation 282/2011 itself establishes that services linked to immovable property referred to in Article 47 of Directive 2006/112 shall only cover those services that have a sufficiently direct connection with the immovable property

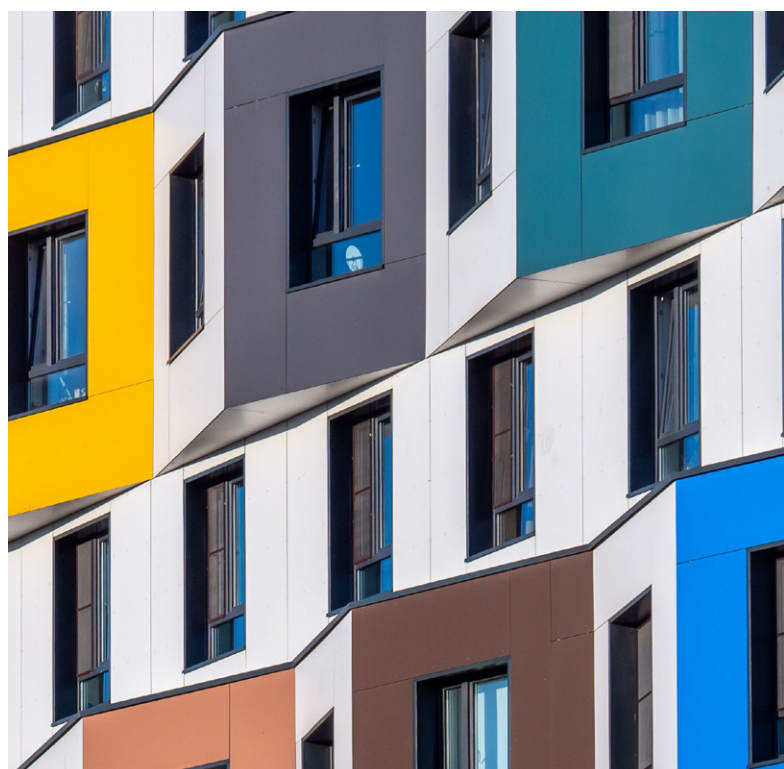
in question. In this regard, it adds that installation or assembly, maintenance and repair, inspection or supervision of machines and equipment that are not and will not become immovable property shall not be considered included.

On this basis, the GDT concludes that since the installation of such restraint systems is not necessary for the building to be considered complete, nor does it imply that such systems cannot be moved without destroying or altering the building or construction, the service will not be considered related to an immovable property. Therefore, since the Canadian company, recipient of the installation services provided by the subcontractor, is a business or professional not established and without a permanent establishment in the territory of application of the tax, such services will not be subject to VAT.

V0740-25: Change of criterion in the concept of "suitable for housing" for the application of reduced VAT rates.

Binding ruling V0740-25, issued by the on 22 April 2025, analyses the VAT rate applicable to foundation and sanitation works carried out on a plot of land acquired by a property developer for the construction of dwellings. The contractor proposes applying the general rate of 21%, which leads the applicant to ask whether the reduced rate of 10% provided for in Article 91.One.3.1º of the VAT Law can be applied.

The legislation establishes that the reduced rate of 10% applies to works of construction, with or without the supply of materials, arising from contracts directly concluded between the developer





and the contractor that have as their object the construction or refurbishment of buildings or parts thereof mainly intended for housing, including the premises, annexes, garages, installations and complementary services located therein.

As established by the GDT regarding the concept of housing, there is currently no definition in the VAT Law that allows concluding when a property can be classified as a dwelling or not. However, in the absence of such a legal definition, the GDT has repeatedly stated that the usual meaning must be used, so that a dwelling should be understood as "the building or part thereof intended for the habitation or residence of a natural person or a family, constituting their home or the centre of their domestic life."

Up to now, the criterion repeatedly applied by the GDT for the application of the reduced rate is that an objective circumstance must be met: the suitability of the building or part of it to be used as housing, regardless of the purpose for which it is destined by the purchaser. Such suitability is understood to exist when the building or part thereof has the corresponding occupancy licence or certificate of habitability and, objectively considered, can be used as a dwelling.

Consequently, insofar as the properties have an occupancy licence or certificate of habitability once their construction is completed, they will be considered suitable for use as dwellings and the reduced rate will apply to the construction works of such buildings.

However, the criterion has been qualified following Supreme Court judgment 82/2025, in which the Court stated that an occupancy licence, certificate of habitability or similar authorisation is not necessary, since the suitability for use as housing derives from the objective characteristics of the design and construction of the building, in conjunction with the possible legal purpose insofar as it must be dedicated to satisfying the need for housing.

This conclusion regarding the non-requirement of an occupancy licence, certificate of habitability or similar authorisation represents a change in the criterion established by the GDT, among others, in binding ruling V1548-18 and in binding ruling V0006-24.

V0924-25: Exports under FCA conditions and deduction of the Plastic Packaging Tax

The General Directorate of Taxation has issued binding ruling V0924-25, in which it analyses whether a Spanish company may deduct the Special Tax on Non-Reusable Plastic Packaging (IEEPNR) in export operations carried out under FCA (Free Carrier) conditions.

The consulting company exports goods outside Spain and, although the transport is organised by the buyer, it is the seller who carries out the customs formalities. The question raised is whether it can deduct the tax borne on the packaging used in such exports.

The response is based on Article 80 of Law 7/2022, which allows deduction of the IEEPNR when the products are sent outside the territory of application of the tax, provided that both the payment of the tax and the effective exit of the packaging are proven. This deduction must be applied in the self-assessment corresponding to the period in which the export takes place.

The GDT clarifies that the use of the FCA Incoterm does not prevent the deduction. Although the main transport is assumed by the buyer, the seller is responsible for the customs clearance, which enables it to comply with the requirements established by the law. What is relevant is that the shipment outside Spanish territory is carried out by the taxpayer or a third party in its name or on its behalf.

As regards documentary evidence, any legally valid means of proof is accepted, such as invoices, contracts, customs documents or transport records. The burden of proof lies with the taxpayer, who must demonstrate both the payment of the tax and the effective exit of the packaging.

The ruling also recalls that the mechanisms for deduction, exemption or refund of the tax vary depending on the type of operator (manufacturer, importer, intra-Community acquirer), and each must comply with the specific requirements applicable to it.

In conclusion, the GDT confirms that the deduction of the IEEPNR in exports is possible, even under FCA conditions, provided that the legal requirements are met and the appropriate documentation is provided.

V0808-25: Exemption and refund of the Plastic Packaging Tax in transactions with semi-finished products

The General Directorate of Taxation has issued binding ruling V0808-25 in which it analyses the tax treatment of the Special Tax on Non-Reusable Plastic Packaging (IEEPNR) in the case of a company that imports and acquires intra-Community rolls of plastic film (polypropylene, polyester, nylon and polyolefins), intended for different uses.

The consulting company does not directly manufacture the final products, but acts as an intermediary, selling the rolls to third-party manufacturers. Some clients use them for the manufacture of non-reusable packaging subject to the tax, while others use them for products that are not part of the objective scope of the tax. At the time of acquisition, the company cannot know the final destination of the rolls.

Law 7/2022 considers these materials as semi-finished plastic products, included in the objective scope of the tax. However, Article 75.1.g) provides for an exemption for those semi-finished products that are not intended for the manufacture of packaging subject to the tax, provided that a prior declaration is obtained from the purchaser indicating the actual destination of the products. This declaration must be kept for the statute of limitations period of the tax.

In the event that the destination cannot be proven at the time of importation or intra-Community acquisition, the consulting company may not apply the exemption. However, its clients (the purchasers) may request a refund of the tax pursuant to Article 81, if the products are ultimately not used for the manufacture of taxable packaging.

The ruling also warns about the penalty regime: the undue enjoyment of the exemption by purchasers constitutes a tax infringement under Article 83 of the Law.

In summary, the company may apply the exemption at the time of acquisition if it can document that the products will not be used for packaging subject to the tax. Otherwise, it will be the purchasers who may request the refund, provided that they comply with the legal and documentary requirements established.

V0929-25: Intra-Community acquisition and taxpayer of the Plastic Packaging Tax

The General Directorate of Taxation has issued binding ruling V0929-25 in which it analyses a commercial transaction between three related entities of a multinational group: one based in Poland, another in Germany and a subsidiary in Spain. The case raises doubts as to who should be considered the taxpayer of the Special Tax on Non-Reusable Plastic Packaging (IEEPNR).

The Polish entity sells products subject to the tax to the German entity, and the latter sells them to its Spanish subsidiary. Although the goods are transported directly from Poland to the warehouse of the Spanish subsidiary, ownership of the products is not transferred until the subsidiary withdraws them from the warehouse. However, the Spanish subsidiary assumes the risk of





loss from an unspecified moment, which introduces some legal complexity regarding when the power of disposal is acquired.

For VAT purposes, the transaction is broken down into three taxable events:

- ▶ Intra-Community supply exempt in Poland.
- ▶ Intra-Community acquisition in Spain by the German entity (identified for VAT purposes in Spain).
- ▶ Local supply in Spain from the German entity to the Spanish subsidiary.

Law 7/2022, which regulates the IEEPNR, establishes that the tax applies to the use of non-reusable plastic packaging in Spanish territory, and that the taxable events are the manufacture, import or intra-Community acquisition of the products included in its scope. Article 71 defines the latter as the acquisition of the power of disposal over the products transported to Spain from another Member State, destined for the purchaser.

In this context, the GDT concludes that the German entity is the one that carries out the intra-Community acquisition in Spain, since it is the first to obtain the power of disposal over the products in Spanish territory, before their delivery to the subsidiary. Therefore, the German entity is the taxpayer of the IEEPNR in this transaction.

This criterion is based on the joint interpretation of Articles 71 and 76 of Law 7/2022, and on the logic of the taxable events declared for VAT purposes. The ruling does not assess whether the German entity has a permanent establishment in Spain, nor other additional circumstances, focusing exclusively on the transaction described.

V0985-25: Release of co-debtor in a mortgage loan and subjection to the ITPAJD

The General Directorate of Taxation has issued binding ruling V0985-25 in which it analyses the taxation of a transaction involving the release of a co-debtor in the context of the dissolution of co-ownership of a property encumbered with a mortgage.

In the case raised, in 2017 the dissolution of co-ownership was formalised by public deed, with the property being awarded to the applicant, who assumed the mortgage loan in its entirety. Years later, the applicant requested the bank to formalise by public deed the release of the other co-debtor, without modifying the terms of the loan.

The question is whether this release is subject to the modality of stamp duty (AJD) of the Transfer Tax and Stamp Duty (ITPAJD), regulated by Royal Legislative Decree 1/1993.

The GDT recalls that, although in previous resolutions it was considered that the subrogation of the debtor was not subject to AJD if it did not involve a different registration entry, this doctrine has been modified by Supreme Court Judgment 521/2020, which establishes that the release of co-debtors in a public deed is indeed subject to AJD.

With regard to the taxpayer, Article 29 of the TRLITPAJD establishes that, in the absence of a transfer of goods or rights, the taxpayer will be the person who instigates or requests the notarial document. In this case, the applicant—the awardee of the property and the one requesting the release of the other co-debtor—is the one who must pay AJD.

The transaction is not considered as the constitution or extension of a mortgage loan, so the special rule of Article 29 (which attributes taxpayer status to the lender in mortgage loan deeds) does not apply.

As for the tax rate, the one approved by the corresponding Autonomous Community will apply. If no specific rate has been set, a 0.50% rate will apply under Article 31.2 of the TRLITPAJD.

In summary, the release in a public deed of a co-debtor in a mortgage loan is subject to AJD. The taxpayer will be the applicant who requests the deed, and the applicable rate will be that set by the Autonomous Community or, failing that, 0.50%.

V0664-25: Compraventa con condición suspensiva y devengo del ITPAJD.

The General Directorate of Taxation has issued binding ruling V0664-25, in which it analyses the tax treatment of a property sale contract with deferred payment and a suspensive clause, under which the transfer of ownership does not take place until the buyer has paid the full price.

The GDT classifies this clause as a suspensive condition, pursuant to Article 1,114 of the Civil Code, which means that the acquisition of the property is subject to the fulfilment of that condition. This classification has direct effects on the accrual of the Transfer Tax and Stamp Duty (ITPAJD).

According to Article 49.2 of the TRLITPAJD, when the acquisition of goods is subject to a suspensive condition, the tax accrues on the day the condition is fulfilled, that is, when full payment is made and ownership is effectively transferred. Until that moment, the tax does not have to be settled, although the postponement must be recorded in the Land Registry.

The ruling also addresses the possible subjection of the transaction to VAT, depending on the status of the transferor and the nature of the property. If the transferor is a business and the property forms part of its business assets, the transaction may be subject to VAT and not to Transfer Tax under the category of onerous transfers, except in cases of exemption or transfers of business assets not subject to VAT.

As for the stamp duty (AJD) modality, the GDT clarifies that the tax accrues at the time of the public deed, regardless of the existence of a suspensive condition. That is, the condition affects the accrual of Transfer Tax for onerous transfers, but not AJD, which taxes the documentary formalisation of the act.

In summary, if the transaction is taxed under the Transfer Tax for onerous transfers, the tax accrues when the suspensive condition is fulfilled (full payment), and not at the time of signing the contract. If the transaction is subject to AJD, the tax accrues at the time of the public deed, without the suspensive condition affecting accrual. Subjection to VAT or Transfer Tax will depend on the status of the transferor (business or not) and the nature of the property.

Contact



Álvaro Gómez-Elvira
Partner | Tax
alvaro.gomez-elvira@bdo.es
T: +34 689 872 741



Ignacio Porras
Manager | Tax
ignacio.porras@bdo.es



Alberto Alba
Manager | Tax
alberto.cousillas@bdo.es



Andrés Díaz
Manager | Tax
andres.diaz@bdo.es



María González
Associated | Tax
maria.gonzalezr@bdo.es

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