

TAX ALERT**ROYAL DECREE-LAW
13/2011 OF 16TH
SEPTEMBER.**

The last 18th September entered into force the Royal Decree-Law 13/2011 of 16th September, which restores temporarily the Wealth Tax for the fiscal years 2011 and 2012.

The new Wealth Tax has a numerous important modifications:

- a) Taxpayers are required to submit the tax form when the tax rate, after applying the corresponding deductions or bonus, result to pay, or when the value of the assets or rights of such taxpayer exceeds 2,000,000 €.
- b) Increase the limit of the exemption for the usual residence to 300,000 €.
- c) The taxpayers not residing in Spain shall be obliged to appoint a representative before the Spanish Authorities in connection with their tax obligations, when operating through the intermediary of a permanent establishment or when the amount and characteristics of the assets comply with the requisites determined by Spanish Authorities, must inform such appointment, duly accredited before the expiration of the term to submit the tax form.
- d) In the case of personal obligation, the tax base is reduced, as minimum exemption, in the amount that shall be approved by each Autonomous Community. In the absence of such regulation, the tax base is reduced by 700,000€.
- e) The bonus of the tax rate in Ceuta and Melilla is 75%.
- f) Through this Royal Decree-Law new articles related to tax submission people required to submit the declaration and declaration, itself are added to the regulation.

Respecting to the corporate assets and participation in entities, we would like to remind that in order to increase the investment in small and medium companies, the work equipment and investments in companies are exempt from this tax, as long as they comply with certain requirements and conditions.

So, the properties and rights of individuals necessary for the development of their business or professional activity are exempt, like the marital assets and rights, when they are used in the development of the business or professional activity of any of the spouses.

The participations in companies are exempt in respect to the full ownership, bare ownership

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and the usufruct right, with or without quotation on organized markets, provided that the taxpayer:

- a) Holds a shareholding equal or higher than 5% of capital.
- b) Effectively exercises leadership roles in the investee and therefore receives a fee that represents more than 50% of their total income from his/her work and economic activities.
- c) When a person participates in several companies, fulfilling the other requirements for exemption, the calculation of the percentage of ownership must be carried out separately for each, excluding from the calculation the percentage of salaries the amounts received from the management functions in the other companies.
- d) The company owned, cannot be mainly focused in managing a movable or real estate assets.
- e) The exemption is calculated as follows:

Value of share (according to Wealth Tax standards) x [(value of assets-liabilities of the activity) / net assets of the entity].

The tax payable is obtained by applying to the tax base the progressive scale adopted by each Autonomous Community. There is a limit for the sum of the Wealth Tax and the Income Tax quotas, since their total amount cannot exceed 60% of the amount of personal income tax bases of the current exercise. When the quotas exceed such amount, they must be reduced to comply with such limit.

On the other hand, there is a limit to the reduction of the Wealth Tax quota: if the joint quotas (Income Tax and Wealth Tax) exceed the abovementioned 60%, the Wealth Tax quota should be reduced to that percentage, but the reduction may not exceed 80 % of the quota itself.

To determine the limit of 60% of the total tax payable should not be taken into account:

-The part of the tax base resulting from gains and losses resulting from the transmission of assets or improvements made more than one year prior to the date of transmission;

-The amounts paid in Income Tax corresponding to the base related to savings.

- The part of the tax base of the Wealth Tax that corresponds to goods which by their nature or purpose are not capable to produce income taxed by the income tax.

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