

## Tax Advisory

### The Spanish Tax Directorate General for Taxation clarifies the sanctioning regime for Model 720

6 July 2017

#### **By means of Binding Consultation V1434/2017, the queries have been dissipated in relation to the late presentation of Model 720 without prior notice from the Administration**

On 6 June 2017, the Spanish Tax Directorate issued a consultation in which, having posed the question regarding the consequences derived from presenting Model 720 out-of-term without prior notice from the Administration, concludes that the 150% sanction foreseen by the Additional Provision 1 of Law 7/2012 will not be applicable.

It should be noted that Model 720 has its own regulation for the purpose of sanctions derived from its inaccurate presentation or presentation out-of-term (with or without prior notice from the Administration).

In so far as the regulation of PIT (personal income tax return), article 39.2 of Law 35/2006, indicates that an unjustified capital gains is considered to be the late declaration of assets and rights in Model 720, unless the taxpayer certifies that the ownership of the assets and rights corresponds to the declared income or to income obtained during tax periods in which said taxpayer was not considered for the purpose of PIT.

In the aforementioned consultation, the consultant had presented Model 720 out-of-term, incurring in the alleged unjustified capital gains in relation to PIT. The Spanish Tax Directorate informs that the 150% sanction shall not apply, but taxpayers will be liable for payment of the corresponding surcharges for late presentation without prior notice from the Administration regulated by article 27 of the General Tax Law.

The following table summarises the applicable sanctions for cases of late presentation of Model 720:

MODEL 720		PIT			
		Ownership of assets and rights corresponds with declared income, or with income obtained from periods in which the taxpayer was not considered a taxpayer for PIT?	Unjustified gains in PIT?	Surcharge 5%/10%/15%/20% art. 27 LGT?	150% sanction A.P. 1 of Law 7/2012?
Presentation out of term without prior notice	100 euros/data, with minimum 1.500 euros	YES	NO	NO	NO
		NO	YES	YES	NO
Presentation out of term with prior notice	5.000 euros/data, with minimum 10.000 euros	YES	NO	NO	NO
		NO	YES	NO	YES

For further information, please contact

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