

Informative Note

Main measures of Royal Decree Law 19/2020 on tax and corporate matters in relation to COVID-19

27th May 2020

Regarding 26th May Royal Decree-Law 19/2020, adopting supplementary measures in the agricultural, scientific, economic, employment and social security and tax areas to alleviate the effects of COVID-19

The 26th May Royal Decree-Law 19/2020, of, which adopts complementary measures in agricultural, scientific, economic, employment and social security and tax matters to alleviate the effects of the COVID-19, has added new measures that complement those approved to date as a result of the health crisis caused by the COVID-19.

Commercial measures

On 17th March, Article 40 of Royal Decree Law 8/2020 modified the ordinary legal deadline for the preparation and subsequent approval of the annual accounts for the last financial year, establishing a new maximum period for their preparation of three months from the end of the state of alert, and a period of another three months for their approval by the General Meeting.

Notwithstanding the foregoing, and surely in order to try to fit the maximum periods for approval of the annual accounts with the new deadline set for the final settlement of corporate income tax for 2019 (30th November 2020 as detailed later in this note), our Government has proceeded to approve a new modification of the aforementioned maximum periods for the formulation and approval of the annual accounts, and has done so by means of the eighth Final Provision of Royal Decree Law 19/2020, by virtue of which, the calculation of the periods of the end of the validity of the alarm state is now totally dissociated, and it is established that the obligation to formulate the annual accounts will be resumed on 1st June 2020, for a period of another three months from that date, reducing the maximum period for the approval of those accounts by the General Meeting, which goes from three to two months, from the end of the period for their execution.

Tax measures

Deadline for filing a corporate income tax return

As a result of changes in the deadlines for the preparation, verification and approval of the financial statements of legal entities, there may be cases in which a company must file a corporate income tax return without having approved the financial statements for the year.

Therefore, since the accounting profit is the starting point for determining the tax base for corporate income tax purposes, taxpayers who have not been able to approve their financial statements before



the end of the tax return period are entitled to file a tax return with the financial statements available at that time.

For these purposes, available annual accounts are understood to be the audited annual accounts or, in their absence, the annual accounts prepared by the corresponding body, or in the absence of the latter, the available accounts carried out in accordance with the provisions of the Commercial Code or with the rules governing them. In the case of listed companies, the available annual accounts will be understood as the audited annual accounts referred to in paragraph 1(a) of Article 41 of Royal Decree Law 8/2020.

As mentioned above and taking as an example a company with a fiscal year that coincides with the calendar year, the deadline for formulating would be September 1st, and the deadline for approving the accounts would be November 1st. To the extent that the deadline for filing the corporate income tax return remains unchanged on 27th July, the financial statements taken into account for filing the return may not coincide with those approved, due to audit adjustments or other reasons.

Subsequently, when the accounts have been approved in accordance with the law and the accounting profit is definitively known, a second self-assessment will be submitted with a deadline of 30th November 2020, with the following effects:

- If the amount to be paid is higher: the second self-assessment will be considered complementary, with the accrual of interest for late payment but without the application of surcharges for late declaration without prior request.
- If the amount to be returned is lower: the second self-settlement will be considered supplementary.
- In the rest of the cases, this second self-assessment will have the character of a rectification of the first one, producing effects by its mere presentation, without the need of a resolution of the Tax Administration on the origin of the same one.

It is established that the limitations on the rectification of the options referred to in paragraph 3 of Article 119 of the General Tax Law will not be applicable to the new self-assessment.

Tax debt deferrals: extension of the interest-free period to four months

Articles 14 of Royal Decree Law 7/2020 and 52 of Royal Decree Law 11/2020 regulated a deferral of tax and customs debts for a period of six months, without accruing interest during the first three months.

The new measure consists in extending to four months the period of non-accrual of interest on arrears for deferrals under Article 14 of Royal Decree Law 7/2020 of 12th March adopting urgent measures to deal with the economic impact of COVID-19 and Article 52 of Royal Decree Law 11/2020 of 31st March adopting additional urgent measures in the social and economic field to deal with COVID-19.

Other tax measures

- Publication of the list of debtors on 31st December 2019 who owe money to the Treasury: the publication deadline, which was scheduled for the first half of the year, is extended to 1st October 2020.
- A new exemption from Transfer Tax and Stamp Duty is established for drafting deeds formalising the moratoriums provided for in Article 13.3 of Royal Decree Law 8/2020 of 17th March on urgent exceptional measures to deal with the economic and social impact of COVID-19, and in Article 24. 2 of the 31st March Royal Decree-Law 11/2020, adopting additional urgent measures in the social and economic sphere to deal with the COVID-19, and the conventional moratoriums granted under sectoral framework agreements adopted as a result of the health crisis caused by the COVID-19, as provided for in Article 7 of 26th May Royal Decree-Law 19/2020.

We hope the information is useful and of your interest. At Andersen Tax & Legal we have created a multidisciplinary team to attend to all the questions that may arise on this aspect or in relation to the COVID-19.

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