

Informative Note

Tax developments contained in Royal Decree Law 11/2020 to address COVID-19

1st April 2020

31st March Royal Decree-Law 11/2020, adopting additional urgent measures in the social and economic field to deal with COVID-19

Royal Decree Law 11/2020 of 31 March adopting urgent supplementary measures in the social and economic field to deal with COVID-19, which comes into force the day after its publication in the Official State Gazette on 1 April 2020, contains a series of measures that complement those already adopted previously by the executive and, specifically, those included in Royal Decree Law 8/2020 of 17th March, some of which it profoundly modifies.

The main measures included in the aforementioned Royal Decree-Law 11/2020 on tax matters are set out below.

Deferment of debts arising from customs declarations

Article 52 of the new rule provides for the **possibility of applying for deferment of customs and tax debts corresponding to customs declarations** lodged from the date of its entry into force up to and including 30 May, provided that applications lodged up to and including 30 May meet the following conditions:

- i. The recipient of the imported goods must be a person or entity with a volume of operations not exceeding 6,010,121.04 euros in the year 2019; and,
- ii. The amount of the customs debt incurred may not be less than 100 euros or more than 30,000 euros.

This **deferral will not be applicable** to those entities that settle **VAT on imports** using the **deferred VAT system** regulated by Article 167. Two of Law 37/1992, of 28 December, on Value Added Tax. In these cases, these entities will be obliged to include the import VAT payments in their periodic returns-settlements (form 303).

In order to obtain the deferral, the presentation of the corresponding guarantee by the importer is required, which will affect the payment of the customs and tax debt. In this sense, it is allowed that this guarantee is the guarantee of release that normally is provided by the customs representative, in which case this guarantee will be blocked until the moment in which the amount of the customs debt deferred is completely paid.

By way of derogation, the rule enables the customs authorities to refrain from requiring the guarantee where it is established, on the basis of the situation of the debtor, that this could lead to serious



economic or social difficulties, in accordance with Article 112(3) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 establishing the Community Customs Code.

In order to obtain the postponement, the presentation of the corresponding guarantee by the importer is required, which will affect the payment of the customs and tax debt. In this regard, it is permitted that this guarantee be the guarantee of release normally provided by the customs representative, in which case this guarantee will be blocked until the amount of the customs debt deferred is paid in full. However, the rule **enables the customs authorities to refrain from requiring the guarantee** where it is established, on the basis of the situation of the debtor, that this would create serious economic or social difficulties, in accordance with Article 112(3) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 establishing the Union Customs Code.

As regards the procedure for **requesting deferment**, this will be requested in the customs declaration itself and will allow for a deferment of payment of the customs debt for six months, starting from the date on which the period of entry of the customs debt ends. The authorisation of the deferment shall be notified together with the settlement of the customs debt, i.e. on form 031, and no default interest shall be due during the first three months of the deferment.

Suspension of deadlines in the area of taxation of Autonomous Communities and Local Entities

The suspension of time limits in the tax area introduced by Royal Decree Law 8/2020 is extended to the actions, procedures and formalities governed by the General Tax Law and its implementing regulations, processed by the tax administrations of the Autonomous Communities and Local Entities. With respect to the latter, it also extends to the procedures and formalities governed by the Law Regulating Local Treasuries.

Remember that this suspension of deadlines, which [we commented on at the time](#), affects the following obligations and procedures:

We remind you that this suspension of deadlines, which affects the following obligations and formalities

- Payment of the tax debt.
- Expiry of terms and fractions of the agreements of postponement and fractioning granted.
- Deadlines for making electronic bids in auctions and for different procedures related to the awarding of goods.
- Attention to requirements, seizure proceedings and requests for information with tax implications.
- Formulation of allegations in procedures for the application of taxes, penalties, declaration of nullity, return of undue income, correction of material errors and revocation.
- Attention to requirements and requests for information formulated by the General Directorate of Cadastre.

Extension of time to appeal

The period for lodging an appeal for reversal or economic and administrative claims will commence on **30th April 2020** in the following cases:

- In the case of appeals for replacement or economic-administrative claims governed by Law 58/2003 of 17 December, the General Taxation Act and its implementing regulations.
- In the case of appeals for reversal or claims governed by the Revised Text of the Law Regulating Local Treasuries, approved by Royal Legislative Decree 2/2004, of 5th March.
- When the period for appeal of one month from the day following notification of the contested act or resolution has commenced and the period has not expired on 13 March 2020
- In cases where the administrative act or decision that is the object of the appeal or complaint has not yet been notified.

Outside this provision, possibly due to involuntary omission, are the incidents foreseen in the economic/ administrative procedure (of enforcement, of waiver...), whose term of presentation is fifteen days, as well as appeals and of annulments (whose terms of presentation are one month and fifteen days, respectively).

Enforcement of economic/ administrative judgements

The period between the effective date of Royal Decree 463/2020, i.e. 14th March 2020, and 30th April 2020 will not be counted towards the maximum duration of the period for execution of the economic-administrative judgements. During this period, furthermore, the periods of prescription and expiry of any actions and rights provided for in the tax regulations are suspended.

This provision affects the procedures, actions and formalities governed by the General Tax Law and processed by the AEAT, the Ministry of Finance, or the tax administrations of the Autonomous Communities or Local Entities.

Exemption in the Stamp Duty for contractual novation of loans and mortgage credits

Royal Decree Law 8/2020 introduced a new case of exemption from the duty of notarial documents of the modality of stamp duty (AJD), corresponding to the deeds of formalization of contractual novation of loans and mortgage credits that occur under the protection of Royal Decree Law 8/2020.

The new Royal Decree-Law adds that this exemption is limited to those cases that are based on the moratorium on mortgage debt for the acquisition of a primary residence. This moratorium applies to loan or mortgage credit contracts secured by a real estate mortgage whose debtor is in the financially vulnerable situation provided for in Royal Decree Law 8/2020.

Suspension of the obligation to pay VAT, Special Tax on Electricity and Special Tax on Hydrocarbons arising from the suspension of invoices for certain energy supplies

The self-employed and SMEs can ask their electricity, natural gas, manufactured gas and liquefied petroleum gas supply marketer or distributor to suspend payment of invoices for billing periods containing days included in the alert state.

As a result, electricity and natural gas retailers and distributors of manufactured gases and liquefied petroleum gases by pipeline will also be exempted from the payment of VAT, the Special Tax on Electricity, where applicable, and the Special Tax on Hydrocarbons, where applicable, corresponding to invoices whose payment has been suspended under this measure, until the consumer has paid them in full, or six months have passed since the end of the alert state.

We hope that these comments will be useful and, in any case, the tax team at **Andersen Tax & Legal**, is at your disposal to clarify any doubts you may have in this regard.

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