

The Tax Department of Augusta Abogados would like to share with you the following alert related to the modifications of the Corporate Income Tax Law that, presumably, will enter in force next January 1st of 2021.

In this sense, the Spanish government introduced the Spanish Budget Bill for 2020. This Bill, as a result of the budgetary crisis due to the Covid-19 situation, modifies some of the most relevant taxes. Related to the Corporate Income Tax, the most controversial modification establishes a limitation to the participation exemption regime.

In this regard, if the draft of the Spanish Budget Act is approved without amendments, the following aspects of the participation exemption regime would be modified:

Dividends and capital gains derived from qualified participations (more than 5% in resident and non-resident entities), would be 95% exempt (instead of the 100% exemption currently in force). Consequently, 5% of the dividends and capital gains would be taxed at a 25% tax rate. This means an effective taxation of 1.25% on dividends distribution and capital gains arising from the transfer of shares. This limitation of the participation exemption regime also applies to the tax consolidated groups. This means intra-group dividends would be just 95% eliminated.

Along with the participation exemption regime, the deduction to avoid international economic double taxation for dividends and capital gains has been modified in the same terms. This means that, 5% of the dividends and capital gains of foreign source entities would not be included in the computation of the deduction.

Therefore, since the modification of the participation exemption regime would presumably enter in force next January 1st, 2021, the Tax Department of Augusta Abogados would like to propose the following recommendations:

- To anticipate any possible dividend distribution to 2020.
- A modification of the financial year during 2020 could result in having 11 additional months to distribute dividends without the limitation of the participation exemption regime. This modification would need to be further analyzed.

Please do not hesitate to contact us should you have any doubt or need some advice regarding a particular situation.