

Tax Remark

Tax measures introduced in Law 6/2017 on urgent reforms to self-employment

30th October 2017

Law 6/2017, of 24 October, on urgent reforms to self-employment, introduces a series of amendments to the law on personal income tax (hereinafter referred to as the "LIRPF") that will enter into force on 1 January 2018.

Title V of the law amends Article 30 of the LIRPF, introducing changes to expenses that can be deducted from income on direct estimation: outgoings on electricity, gas, water and telecommunications (when the entrepreneur or professional carries out their activities in their usual place of residence) and the maintenance costs of the entrepreneur or professional engaged in the activity.

The first measure establishes the deductibility of expenditure on items such as water, gas, electricity, telephony and internet when the entrepreneur or professional uses some of their usual place of residence for their economic activities. The deductible percentage of said expenses will be calculated as 30 per cent of the percentage of the total area of the home used for the economic activity, unless it is proven that a different percentage is used.

In this respect, the Administration has allowed the deductibility of expenses derived from home ownership or rental, such as mortgage repayments and rent, real estate tax (IBI), residents' association charges, etc., in proportion to the part of the home used for professional activities. However, it has refused to allow the deductibility of the cost of supplies for a number of years due to a view that, given their nature, a criterion for distribution was not applicable, with deduction allowed only for costs that been proven to be associated exclusively with the economic activity in question.

After several legal judgements expressing their disapproval of this situation, the Dirección General de Tributos (the Spanish tax office) amended the criterion applicable up until that point, allowing this expenditure to be tax-deductible but limited not only to the area used for professional activities, but also to the number of business days and hours this area is used for such purposes. This change has resulted in deductible expenditure being calculated at 30 per cent of the percentage of the home used for professional purposes.

This amendment to the LIRPF creates a substantial difference in the VAT treatment of this expenditure, given that this expenditure will not be deductible for VAT purposes under any circumstances.

The second measure classifies maintenance expenses incurred by the taxpayer in the course of their activities as deductible, provided that they are incurred at hotels and catering establishments and are settled using an electronic means of payment. Such expenses are limited to the amounts provided for in regulations for exempt travel allowances for employees.

The novelty of this measure lies not in the deductibility of this type of expenditure: entrepreneurs and professionals already deduct such expenditure, not without great conflict with the Administration due to the difficulty of



proving the link between expenditure and the activity in question. The main changes made are the requirement that deductions be subject to compliance with a series of requisites and limits on the deductible amount.

As pointed out above, the requirements are that said expenditure be incurred at hotels and catering establishments and settled using an electronic means of payment. The limit on deductible expenditure on this item will be set at 26.67 per day within Spain or 48.08 euros overseas. If travel leads to overnight stays, these limits will be doubled.

These limits will have repercussions for VAT: regulations state that VAT on expenditure at restaurants is tax-deductible, provided that said expenditure can be deducted from IRPF or IS (corporations tax). As a result, the share of VAT borne will also be affected by the limit set.

As can be seen from the above, the tax reform included in the law on self-employment is very limited, given that the measures that would have had the greatest impact, such as the alignment of the VAT and IRPF treatment given to expenses relating to the purchase/hire of saloon vehicles, were eliminated from the initial proposal.

Thus, this amendment to regulations is incomplete and, despite clarification of the deductibility of certain expenses incurred by the self-employed in the course of their activities, has imposed substantial limitations on the amounts that can be claimed as tax deductions.

For your information and reference, consult Law 6/2017, of 24 October, on urgent reforms to self-employment using this [link](#).

For further information, please contact:

[María Olleros](#)
maria.olleros@AndersenTaxLegal.es

[Celia Gallach](#)
celia.gallach@AndersenTaxLegal.es