Recent changes in Spanish corporate taxes

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Recent changes in Spanish corporate taxes

-**Introduction**

- Due to the public deficit problems in Spain, government has increased almost all taxes: personal income tax, value added tax, corporate tax, municipality taxes, etc.

- In some cases tax increases were enforced by means of an increase of the tax rate (e.g. VAT-rate was increased from 18% to 21% from September 2012).

- In the case of corporate tax, the increase was enforced by reducing deductible expenses and other tax benefits.

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Tax deductible depreciation of goodwill

- Goodwill was acquired by means of a onerous transaction.
- Goodwill was not acquired from any other company of the group (related company).
- No need of posting the depreciation in the profit and loss account, but the company must provide a reserve in its balance sheet of the same amount that the tax deductible depreciation.

- The tax deductible depreciation rate was 5% until 2011. For the years 2012 and 2013 the tax deductible rate has been reduced to 1%.

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Tax deductible depreciation of immaterial assets without a definite useful live.

- Immaterial asset was acquired by means of a onerous transaction.
- Immaterial asset was not acquired from any other company of the group (related company).
- The immaterial asset does not have a definite useful live.

- The tax deductible depreciation rate was 10% until 2011. For the years 2012 and 2013 the tax deductible rate has been reduced to 2%.

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Non tax deductible financial expenses (part 1)

Financial expenses (interests) are not any more tax deductible if the following conditions are met:

a) The financial expenses are paid to another company of the group (related company).

b) The loan was used to

i) acquire a share in another company and the participation was sold by another company of the group, or

ii) The loan was used to increase the capital of another company of the group.

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Non tax deductible financial expenses (part 2)

- Net financial expenses are tax deductible only to a limit of 30% of the operating profit.
- Net financial expenses are the difference between financial expenses and financial income.
- Operating profit is the result of the following calculation:

+	EBIDTA
-	Public grants
-	extraordinary result from sale of fixed assets
+	dividends and similar income obtained from controlling participations

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Non tax deductible financial expenses (part 3)

- Net financial expenses are however tax deductible if they do not exceed 1.000.000 €.

- Net financial expenses non deducted because they exceed the limit of 30% of operating profit, can be deducted in the following 18 years, but respecting the same limit.

- In case that the company is taxed within a consolidated group, than the calculation must be done for the whole group.

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Non tax deductible financial expenses (part 4)

Profit and loss account	EUR		Calculation of tax base	EUR
Sales	15.000.000		**EBIT**	1.700.000
Public grants	200.000		Depreciation	1.500.000
Other income	500.000		**EBIDTA**	**3.200.000**
Total income	**15.700.000**		Public grants	-200.000
			Operating profit	**3.000.000**
Cost of sales	8.000.000			
Personal expenses	2.000.000		Net interests paid	1.200.000
Depreciation	1.500.000		Limit of deductible net	
Other operating expenses	2.500.000		financial expenses	1.000.000
Total operating expenses	**14.000.000**		**Non deductible interest**	**200.000**
EBIT	1.700.000			
Net interests paid	-1.200.000		Profit before taxes	500.000
			Non deductible interest	200.000
Profit before taxes	**500.000**		**Tax base**	**700.000**

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Set off of losses carried forward (part 1)

- Until 2011 the general rule was that tax losses carried forward could be set off with the profits of the following 15 years.

- New limit on the set off of tax losses for large companies depending on their turnover:

turnover < 20 mill	no limitation
turnover > 20 but < 60 mill	limit 50% of profit
turnover > 60 mill	limit 25% of profit

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Set off of losses carried forward (part 2)

turnover > 20 and < 60 mill					
Alternative 1					
Year	**2012**	**2013**	**2014**	**2015**	**Total**
Income from regular activities	-1.000	1.000	2.000	3.000	5.000
Loss from assets disposal	-3.000	0	0	0	-3.000
Profit / loss of the year	**-4.000**	**1.000**	**2.000**	**3.000**	**2.000**
Set off tax losses	0	-500	-1.000	-1.500	-3.000
Tax base	**-4.000**	**500**	**1.000**	**1.500**	**-1.000**
Tax due 30%	**0**	**150**	**300**	**450**	**900**
Alternative 1					
Year	**2012**	**2013**	**2014**	**2015**	**Total**
Income from regular activities	-1.000	1.000	2.000	3.000	5.000
Loss from assets disposal	0	-3.000	0	0	-3.000
Profit / loss of the year	**-1.000**	**-2.000**	**2.000**	**3.000**	**2.000**
Set off tax losses	0	0	-1.000	-1.500	-2.500
Tax base	**-1.000**	**-2.000**	**1.000**	**1.500**	**-500**
Tax due 30%	**0**	**0**	**300**	**450**	**750**

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New limit on tax deductibility of depreciation on material and immaterial assets and on real estate investments.

- Until the end of 2012 the general rule was that depreciations were fully deductible from corporate tax if they did not exceed the percentages established by tax authorities.

- For the years 2013 and 2014 the law has established a limit to the deductibility of depreciation for all companies with a turnover > € 10.000.000.

- The new limit is 70% of the deductible depreciation calculated according to the general rule.

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New Tax on the value of the production of electricity

- This new tax has been established from 1st January 2013.

- Direct tax on the production and incorporation into the electric network of electric energy.

- The tax base is the price received by the producer for the electricity incorporated into the electric network.

- The tax rate is 7%.

- The tax must be paid in four instalments due in May, September, November and February of the following year.

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Revaluation of material assets and real estate investments (commercial and fiscal) – part 1.

- Approved by Law 16/2012 from 27.12.2012.

- Applicable to assets situated in Spain our outside Spain.

- Applicable to assets purchased by means of a financial leasing.

- To be calculated on assets recorded in the first balance sheet closed after the approval of the Law. Normally 31st December 2012.

Recent changes in Spanish corporate taxes

Revaluation of material assets and real estate investments (commercial and fiscal) – part 2.

- The revaluation must be posted on a special reserve called "Revaluation Reserve Law 16/2012 from 27.12.2012"

- The revaluation must be recorded before the approval of the first balance sheet formulated after the approval of the Law. Normally 30th June 2013.

- The revaluation is calculated on the purchase or production costs of the asset and on its depreciations year by year.

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Revaluation of material assets and real estate investments (commercial and fiscal) – part 3.

- Revaluation rates

year	rate	year	rate
before 1984	2,2946	1998	1,2235
1984	2,0836	1999	1,2150
1985	1,9243	2000	1,2089
1986	1,8116	2001	1,1839
1987	1,7258	2002	1,1696
1988	1,6487	2003	1,1499
1989	1,5768	2004	1,1389
1990	1,5151	2005	1,1238
1991	1,4633	2006	1,1017
1992	1,4309	2007	1,0781
1993	1,4122	2008	1,0446
1994	1,3867	2009	1,0221
1995	1,3312	2010	1,0100
1996	1,2679	2011	1,0100
1997	1,2396	2012	1,0000

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Revaluation of material assets and real estate investments (commercial and fiscal) – part 4.

- The new revaluated asset must be depreciated over the remaining useful live. The increased depreciation is tax deductible.

- Companies that make use of the revaluation have to pay a special tax of 5% of the revaluation reserve.

- Once the revaluation has been reviewed by the tax authorities or after a period of three years, the revaluation reserve can be used to set off losses, increase the capital of the company or increase the free reserves (after ten years)

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Revaluation of material assets and real estate investments (commercial and fiscal) – part 5.

Example of revaluation				
		historical		**revaluated**
purchase price	2008	150.000	1,0446	156.690
deprec. 12%	2008	-18.000	1,0446	-18.803
deprec. 12%	2009	-18.000	1,0221	-18.398
deprec. 12%	2010	-18.000	1,0100	-18.180
deprec. 12%	2011	-18.000	1,0100	-18.180
deprec. 12%	2012	-18.000	1,0000	-18.000
net value		**60.000**		**65.129**

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Other fiscal measures

- Increase of VAT rate from 18% to 21% (general rate) and from 8% to 10% (reduced rate).

- New tax on the production of used nuclear fuel and radioactive waste.

- New tax on the storage of used nuclear fuel and radioactive waste.

- Increase o the payments on account for corporate tax.

Thank you for your attention

Lisbon, 18th April 2013