Tax update – May 2025

Proposal for a Law to promote the rental of housing at affordable prices

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On May 22, 2025, the Socialist Parliamentary Group in Congress presented a bill whose main objective is to promote the rental of homes at affordable prices.

According to the explanatory memorandum, it is intended to address the housing crisis that affects society, especially the middle and working classes, and young people seeking emancipation, by introducing measures aimed at guaranteeing legal certainty, the mobilization of empty homes and the affordability of housing to offer citizens more housing for social or affordable rent.

The proposed measures can be classified into two large groups: Tax incentives for renting housing at affordable prices and Increase in the tax burden on certain real estate assets.

Tax incentives for renting housing at affordable prices

Personal Income Tax (IRPF)

Amendments are introduced in the Personal Income Tax Law to encourage the rental and energy rehabilitation of homes

- **Reductions on the positive net yield of leases of real estate intended for housing**

Reductions are established in the positive net yield of leases of real estate intended for housing, with different percentages of reduction depending on the conditions of the contract and the tenant.

- **Deduction for Energy Efficiency Improvement Works**

The deduction for works to improve the energy efficiency of homes is extended until 31 December 2025.

Increase in the tax burden on certain real estate assets.

- **Increase in the taxation of presumed real estate income in Personal Income Tax and NRIT**

In the case of urban real estate, as well as in the case of rural real estate with constructions that are not essential for the development of agricultural, livestock or forestry holdings, not used in both cases for economic activities, nor generating capital income, excluding the main residence and unbuilt land, the amount resulting from applying to the sum of the cadastral values of the properties referred to in this section, the percentages indicated in the following scale.

Sum of cadastral values Until	Imputation of income Euros	Rest of the sum of cadastral values	Percentage
0	0	100.000,00	1,1
100.000	1.100,00	500.000,00	1,5
500.000	7.500,00	1.000.000,00	2
1.000.000	20.000,00	From now on	3

This scale will also be applicable to non-residents in Spain, and taxation will also be increased in this case. Taking into account that a non-resident is taxed at 24%, for investments whose value exceeds €1,000,000, the ownership of real estate will be taxed at 0.72% (3% x 24%). Previously, the taxation per million was 0.00264% (1.1% x 24%).

- **Increase in the taxation of the income of SOCIMIS**

With effect for tax periods beginning on or after 1 January 2025 and which have not ended at the entry into force of the new law, the following amendments are introduced:

The special tax rate of 15% for undistributed profits is raised to 25% when the amount of profits obtained in the year that are not distributed derive from the exercise of the activity of renting homes.

The special tax of 25 per cent shall be reduced:

- by 50% as long as affordable rental housing accounts for more than 60% of the total rental housing stock, or
- by 100 per cent provided that affordable rental housing represents more than 60 per cent of the total rental housing stock and the amount of the profits obtained in the year that is not subject to distribution is reinvested, within three years, in affordable rental housing.

If it is a mixed REIT, 15% will be applied for undistributed profits that correspond to non-rental income, and 25% for undistributed profits that correspond to income derived from leases.

For these purposes, housing intended for rent at an affordable price will be understood as those homes whose rental income does not exceed the Price Index of the Ministry of Housing and Urban Agenda, or failing that, whose rental income does not exceed the amount of 26,400 euros per year, provided that such housing meets certain requirements provided for in the law.

For the purposes of calculating the percentage of 60 per cent, the consolidated balance sheet made up exclusively of the SOCIMIs and the rest of the entities referred to in section 1 of Article 2 of Law 11/2009 will be taken into consideration.

There is a transitional regime to allow SOCIMIS to adapt the composition of the rental housing stock, so that for the tax periods starting in 2025, 2026 and 2027 the percentage of 60% is 20, 35 and 50% respectively.

- **Increase in VAT taxation on tourist rentals**

With effect from the first day of the calendar quarter following the date of entry into force of this law, the following amendments are introduced in the Value Added Tax Law:

In the first place, non-exempt tourist leases are defined as furnished apartment or dwelling leases when any of the following circumstances occur (art.20.One.23º.e´ of the VAT Law):

- The lessor is obliged to provide any of the complementary services typical of the hotel industry, such as restaurant, cleaning, laundry or other similar services.
- Their duration in favour of the same tenant does not exceed 30 nights and they are located in municipalities that have a legal population equal to or greater than 10,000 inhabitants according to the latest Annual Population Census that, on 1 January 2000, has been published by the INE.

These leases will be subject to the rate of 21% (modification of art.91.One.2.2º of the VAT Law).

- **Increase in taxation on municipal capital gains tax**

With effect from the entry into force of this law, the maximum amounts of the coefficients to be applied to the value of the land at the time of accrual will be as follows:

Generation period	Coefficient
Less than 1 year	0.16
1 year	0.15
2 years	0.15
3 years	0.15
4 years	0.16
5 years	0.18
6 years	0.20
7 years	0.22
8 years	0.23
9 years	0.21
10 years	0.16
11 years	0.13
12 years	0.11
13 years	0.10
14 years	0.10
15 years	0.10
16 years	0.10
17 years	0.12
18 years	0.16
19 years	0.22
20 years or more	0.35

- **Introduction of a new indirect tax on acquisitions of immovable property by non-residents of the European Union**

With effect from the entry into force of the new law to promote the rental of housing, a new state tax is created on the transfer of real estate to non-residents in the European Union, with the characteristics and legal regime that appear below.

The tax will be levied on onerous property transfers of real estate located in Spanish territory and the constitution and transfer of rights in rem over them, except for rights in rem of guarantee, in favour of individuals and entities not resident in the European Union.

In the classification of acts and contracts, in the classification of assets and rights and in the concurrence of conventions, the rules contained in the revised text of the Law on Transfer Tax and Documented Legal Acts (ITP) will be applicable.

The taxable event of the tax will constitute the transfer of real estate and the constitution and assignment of rights in rem that fall on them, except for security rights in rem, in favour of natural persons and entities not resident in the European Union.

Transactions will not be subject when the transferors are entrepreneurs or professionals in the exercise of their economic activity and, in any case, when they constitute supplies of goods or services subject to Value Added Tax. However, the transactions will be subject when they are exempt from Value Added Tax.

The deliveries of those properties that are included in the transfer of a business or professional asset will also be subject to the transfer, when due to the concurrent circumstances the transfer of this asset is not subject to Value Added Tax.

The subjective and objective exemptions contained in the Consolidated Text of the Law on Transfer Tax and Documented Legal Acts will be applicable.

Taxpayers are natural persons and entities not resident in the European Union for the acquisition for consideration of real estate located in Spanish territory and for the constitution and assignment of rights in rem that fall on them, except for security rights in rem.

The taxable base is constituted by the value of the transferred asset or the right that is constituted or assigned. Only charges that reduce the value of the assets will be deductible, but not debts, even if they are secured by a pledge or mortgage.

For the purposes of this tax, the value of the goods and rights will be considered their market value. However, if the value declared by the interested parties, the price or consideration agreed upon or both are higher than the market value, the higher of these magnitudes will be taken as the taxable base. Market value shall be understood as the most probable price for which an asset could be sold, between independent parties, free of encumbrances.

As it is real estate, its value will be the reference value provided for in the regulations governing the real estate cadastre, on the date of accrual of the tax. However, if the value of the property declared by the interested parties, the price or agreed consideration, or both are higher than its reference value, the higher of these magnitudes will be taken as the taxable base.

When there is no reference value or it cannot be certified by the General Directorate of the Cadastre, the taxable base, without prejudice to administrative verification, will be the greater of the following magnitudes: the value declared by the interested parties, the agreed price or consideration or the market value.

The same special rules that the ITP provides for are applied to value temporary usufruct, lifetime usufruct and rights of use and habitation, consolidation of ownership, promises and options, etc.

The tax will be due on the day on which the taxed act or contract is carried out.

The full amount will be obtained by applying the tax rate of one hundred percent (100%) to the taxable base.

The tax liability for Transfer Tax and Stamp Duty effectively paid for the transaction subject to settlement will be deducted from the net tax liability.

The regulation is scheduled to enter into force the day after its publication in the BOE.

As can be seen, this Tax is compatible with the ITP, in its modality of Onerous Property Transfers, and incompatible with Value Added Tax.

Obviously, this regulation requires a careful analysis of the acquisition of real estate in Spain by non-residents of the European Union.

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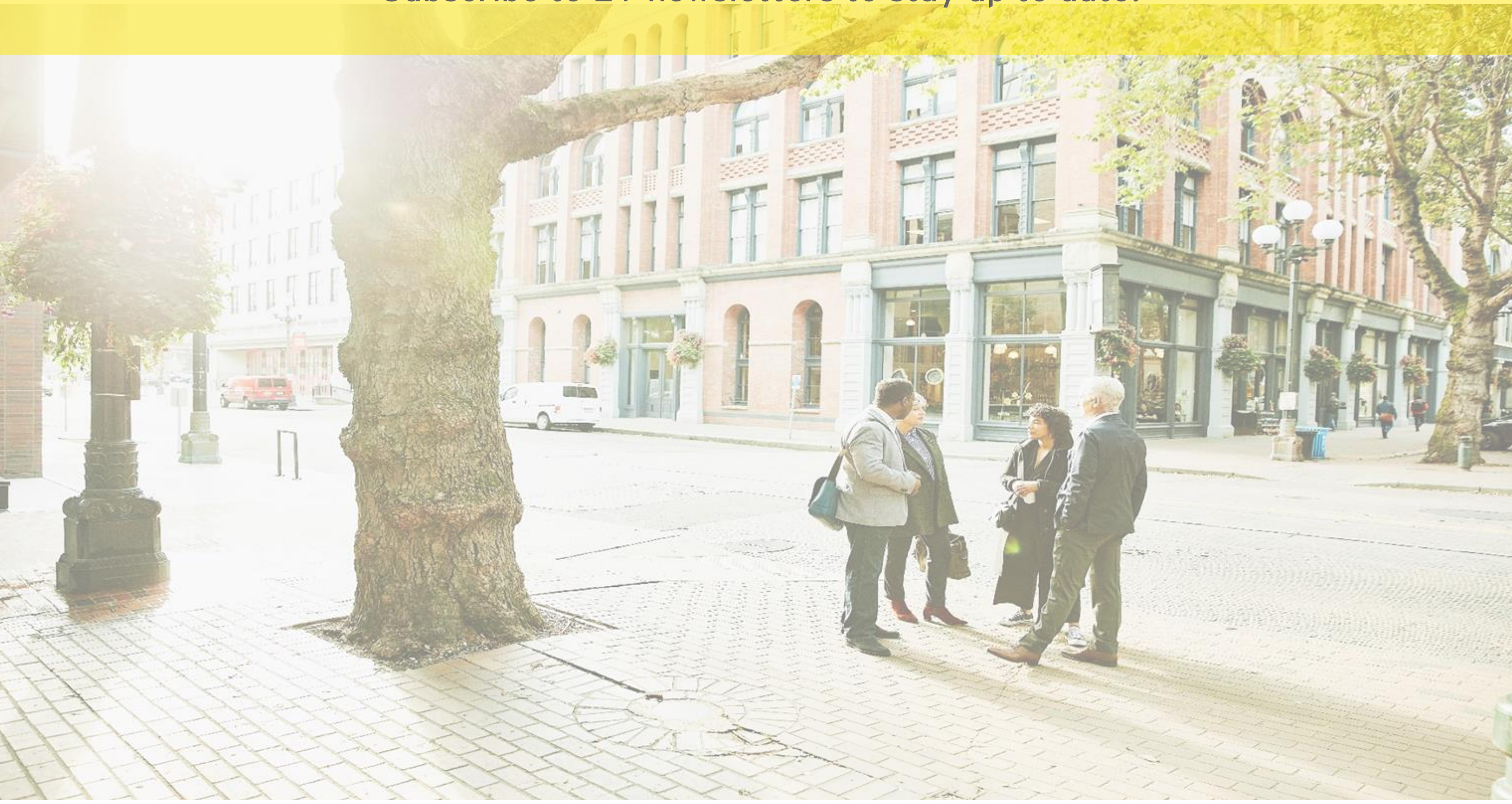

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