

# newsletter

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## 01

### COMPILATION OF FISCAL CASE-LAW AND JURISPRUDENCE

**PRIOR INDIVIDUAL NOTIFICATION IS REQUIRED FOR INCLUSION IN THE TAX AUTHORITY'S COMPULSORY ELECTRONIC NOTIFICATION SYSTEM**

In its ruling on case 61/2020 of 4<sup>th</sup> November 2020, the High Court of Justice of the Valencian Community ruled that, in order for the electronic notification system to be valid, individuals must be notified in advance of their inclusion on the system.

**THE STATUTE OF LIMITATIONS FOR INHERITANCE AND GIFT TAX IS COUNTED FROM THE DATE OF THE BANK TRANSFER**

In its ruling of 30<sup>th</sup> November 2020, the Chamber for Contentious Administrative Proceedings of the High Court ruled that, in the case of a gift that is only accredited by a bank transfer, the statute of limitations for the purposes of gift tax is counted from the date of the bank transfer.

This ruling contrasts to the provisions of Article 48.2 of the Inheritance and Gift Tax Regulations, which states that the statute of limitations for the gift is counted from the date on which it is registered in a public record, the death of one of the parties or the date of disclosure to a civil servant acting in a professional capacity.

**IN THE CASE OF INCOME FROM REAL ESTATE ASSETS, EXPENSES ARE NOT DEDUCTIBLE FOR THE PROPORTIONAL PART FOR WHICH THE PROPERTY IS NOT LET**

In its ruling on case 1302/2020 of 25<sup>th</sup> February 2021, the High Court ruled that incomes from real estate assets that are not let, but are intended to be so, must be taxed as imputed income. Moreover, the expenses associated with such real estate assets can only be deducted for the period in which the property is let and generates income, in the corresponding proportion.

**APPLICATION OF THE HISTORICAL COST OF INHERITED REAL ESTATE FOR CALCULATING AMORTIZATION FOR THE PURPOSES OF PERSONAL INCOME TAX**

In its ruling of 11<sup>th</sup> December 2020, the Regional Economic Administrative Court of Andalusia ruled that, to calculate amortization for the purpose of Personal Income Tax when a real estate asset has been inherited or acquired free of charge, the value determined for the purposes of Inheritance and Gift Tax corresponding to the building shall apply, even though it has not been paid as, logically, it was a free acquisition.

## 02

### WORLD SPORT PROGRAMME (MOSCOW UNIVERSITY)

On 27<sup>th</sup> March, our Partner and Director Jordi López Batet and our President José Juan Pintó Sala took part as lecturers at the World Sport Programme organized by Moscow

University (MGIMO), giving a class on athlete transfers to various Presidents, General Secretaries and Senior Executives of the leading Russian sports federations.

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## 03

## CAPITAL COMPANIES ACT

Law 5/2021, of the 12<sup>th</sup> April and coming into force on 3<sup>rd</sup> May, aims to transpose Directive (EU) 2017/828 of the European Parliament and of the Council, of 17<sup>th</sup> May 2017, amending Directive 2007/36/EC regarding the promotion of long-term shareholder engagement in listed companies, into the Spanish legal system.

When Law 5/2021 comes into force, as well as the Capital Companies Act (CCA), amendments will also be made to the Stock Market Act, the Account Auditing Act, the Mutual Funds Act and the Venture Capital Act.

With respect to the amendments to the CCA, firstly, Article 182 is modified to extend to limited companies the same rules that apply to joint-stock companies with respect to possibility of holding shareholder meetings digitally on the condition that the company's bylaws expressly allow this. In addition, the new Article 182 has been introduced to regulate the possibility of exclusively digital shareholder meetings. With respect to related-party transactions, the definition specified in the International Financial Reporting Standards (Regulation (EC) is adopted, thereby expanding the list of people considered related parties and modifying Article 231 of the CCA. In Section XIV, focusing on publicly listed companies, the new Law 5/2021 also introduces the new Chapter VII bis, entirely dedicated to the regime for related-party transactions.

With respect to listed companies, the new Law modifies the regime regarding the administrators' power to increase capital when pre-emptive subscription rights are excluded, with the limit now set at twenty percent of the capital at the time of authorization.

In addition, the minimum period for exercising pre-emptive subscription rights has also been reduced to fourteen days, thereby amending Article 503 of the CCA.

Furthermore, the Law establishes the validity of the capital increase regardless of whether or not the increase has been fully subscribed, on the condition that the agreement does not expressly stipulate the contrary, thereby also amending Articles 507 and 508 of the CCA.

Moreover, for the first time in Spanish company legislation, the Law also introduces "loyalty shares" with an extra vote, enabling listed companies to regulate such shares in their bylaws.

Likewise, the amendments arising from the Law enact a series of modifications to the CCA itself, with the primary aim of making capital acquisition processes in the market simpler and more streamlined for listed companies and companies with shares traded on multilateral trading facilities.

With respect to the General Shareholders' Meetings of listed companies, in Article 521, an obligation is added to issue a notarial record of meetings held in an exclusively digital format. Articles 512 and 524 of the CCA have also been modified and the new Articles 520 bis, 520 ter, 524 bis, 524 ter and 527 bis have been introduced.

With respect to the regime regulating Boards or Directors, the functions of the Audit Committee have been expanded and the legal regime for the remuneration policy has been modified, enabling the Board to reject the new remuneration policy and giving the option to establish "temporary exceptions" to the approved policy.

Lastly, as well as making it compulsory to include the Annual Directors' Remuneration Report in the Management Report (Article 538), the reforms expand the content of this report in accordance with provisions of the European directive.

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## 04

## FIFA ANNOUNCE A MODERNIZED TRAINING COMPENSATION SYSTEM

On 26<sup>th</sup> March, FIFA published Circular n° 1752, in which it announced certain aspects of the new modernized FIFA training compensation system (“Training Compensation 2.0”), which was approved by the FIFA Council on 25<sup>th</sup> June 2020 since which it has been refined and developed. Training Compensation 2.0 aims to implement a new process for categorizing clubs and calculating training costs using certain financial data from the clubs.

Specifically, FIFA will no longer categorize clubs by the national competition in which they participate and will instead categorize them individually based on their gross revenue, thereby preventing an unbalanced system like the one in place to date. Moreover, FIFA will calculate the training costs assigned to the categories of each confederation based on objective financial data, such as their gross business revenue and expenditure on youth development, to be submitted by all clubs previously affiliated to FIFA.

## 05

1<sup>ST</sup> APRIL MARKED THE 25<sup>TH</sup> ANNIVERSARY OF THE FIRST EU TRADE MARK APPLICATION

On 1<sup>st</sup> April 1996, the International Association for the Protection of Intellectual Property (AIPPI) submitted the first application for a trade mark with European Union protection to the European Union Intellectual Property Office (EUIPO), formerly known as the Office for Harmonization in the Internal Market (OHIM).

At the time, the EUIPO team was made up of just a few employees and the trade marks applications were submitted on paper or by fax. Things have changed a great deal since then and, nowadays, the EUIPO has a team of over 1,000 professionals and 99.9% of applications are submitted electronically via the Office’s website.

Over the course of these 25 years, European Union trade mark applications have increased at a rapid and constant pace, with an average annual growth of 5%. Discussing the Anniversary, Christian Archambeau, Executive Director of the EUIPO, explained that, “twenty-five years ago, the EUIPO received its first trade mark applications. Since then, we have processed more than 2.2 million trade marks. The growth in filings over the years and especially during the latest months is remarkable by any standards and it does confirm the success of the EU trade mark”.

In 2020, despite the strong initial downturn due to the Covid-19 pandemic, by the end of the year, a record number of applications had been received, for a total of 177,000 trade marks. Moreover, the demand for European Union trade marks has continued to grow in the first few months of 2021.

The European Union trade mark is a particularly interesting option for companies operating in more than one Member State because, with just a single streamlined, efficient and relatively economical procedure, they can gain protection throughout a market of almost 500 million consumers, in both the current and future Member States of the European Union, gaining an exclusive right that remains in force for ten years and which can be renewed indefinitely for successive ten-year periods. With all this in mind, we expect to see another 25 years of growth, success and support for the economic development and legal certainty of the Eurozone.

Pintó Ruiz & Del Valle is honoured to have witnessed and formed part of this journey right from the start, offering its services to protect industrial property interests in markets that strive to achieve uniformity and universalization through effective tools such as those offered by the EUIPO.