

LEGISLATIVE DEVELOPMENTS 2005

I.- DEVELOPMENTS IN TAX LAW

We are unable to speak of any developments of substance for the coming year due to the government's decision to eliminate the Measures Act ("*Ley de Medidas Fiscales, Administrativas y del Orden Social*", typically known as the "*Ley de Acompañamiento*"), in which they tended to introduce such topics for the coming fiscal year.

However, Law 2/2004 dated December 27th of the 2005 Budget Act ("*Ley de Presupuestos Generales del Estado para el año 2005*") introduces certain adjustments that affect the performance of various taxes, which we subsequently analyze.

- **Personal Income Tax** (*Impuesto sobre la Renta de las Personas Físicas*)

The majority of the changes pertain to areas in which the Personal Income Tax Code cedes to compulsory annual updates set forth in the 2005 Budget Act.

Sales of Real Estate – Adjustment for Inflation

The indexation rates utilized in computing acquisition cost for purposes of capital gains calculations in the event of sale/transfer in 2005 of real state have been adjusted to account for inflation.

Personal Income Tax Scale

State and regional personal income tax brackets have been reduced by 2% in order to relieve real tax burdens brought on by inflationary pressures. The scale had not been adjusted since the year 2000.

- **Corporate Income Tax** (*Impuesto sobre Sociedades*)

As in the case of the Personal Income Tax, the changes introduced reflect adjustments stipulated in the 2005 Budget Act and are principally annual in nature.

Sales of Real Estate Assets – Adjustment for Inflation

The indexation rates utilized in computing acquisition cost for purposes of capital gains calculations in the event of sale/transfer in 2005 of real estate assets have been adjusted to account for inflation.

Advance Payments of Corporate Income Tax

During the fiscal year Spanish companies must make three prepayments, calculated on the preceding year's tax data, towards the corporate income tax due at year's end. The advance payments for the year 2005 are regulated in the Budget Act.

Small to Medium-Sized Businesses

The maximum allowable annual turnover figure for tax consideration purposes for small to medium-sized businesses has been raised from six to eight million Euros.

The principal benefit of this tax regime is the application of a 30% tax rate, in lieu of the general rate of 35%, to the first 120.202,41 Euros of taxable income, a substantial increase over last year's figure.

Similarly, the maximum permissible investment amount that qualifies under the Free Depreciation Regime has been raised from 90.151,00 to 120.000,00 Euros.

Furthermore, the amortization of both fixed tangible and intangible assets has become more financially attractive with an increase in the amortization rate from 1,5 to 2. This change was made in hopes of providing investment incentives for these businesses.

- **REAL ESTATE TAX** (*Impuesto sobre Bienes Inmuebles*)

Update of Cadastral Values

Cadastral values have been updated applying the rate 1,02.

- **OFFICIAL INTEREST RATES**

The state established Legal Interest Rate (*Interés Legal del Dinero*) has been fixed at 4% for the coming year, while the state established Interest Rate (*Interés de Demora*) for Late Payment stands at 5%.

II.- DEVELOPMENTS IN OTHER FIELDS

In regards to other legal fields of interest, the Council Regulation (EC) 2157/2001 of October 8th, 2001 has come into effect and, consequently, the approval of the Statute of the **European Company** has arrived.

With foresight to the previous, on October 23rd of last year the Spanish Council of Ministers drafted a bill concerning European Companies to be headquartered in Spain. The approval of this bill, which will bring with it a new chapter in Corporate Law, begins the process of adaptation and implementation of the Council Regulation 2157/2001.

The European Corporation represents a new type of corporate structure whose regulation will be divided between the European Community and national regulators.

This type of corporate body will facilitate, through two alternative mechanisms, the reorganization of business activities of existing corporations with branches in various Member States. The first approach facilitates the change of legal corporate residence from one Member State to another without altering the corporation's legal status, and hence, without its dissolution. Alternatively, the second relaxes the European-wide regulatory environment of acquisitions, mergers, takeovers, restructuring and consolidations.

Ultimately, the goal of such changes is to facilitate company movement and expansion by presenting a common corporate structure that circumvents the obstacles presented by the assorted controls of the 25 different legal systems.

In other areas, on March 26, 2004, Law 60/2003 concerning **arbitrage**, drafted the 23rd of December, took effect. This new law consolidates the development of both international and national arbitration and promotes the development of the former in Spain. Additionally, new elements included in the Law of Arbitration, enacted December 5, 1988, have improved the effectiveness and speed of arbitration through the elimination of formalities.