

Resolution on the extension of a special reduction on capital gains obtained by Spanish resident individuals to the sale of shares held in EU companies

The Spanish Tax Authorities have recently published a resolution (Resolución DGT 952/03), which permits the application of the special rate of reduction of 25% to the sale of shares held by individuals in companies resident in a country member of the European Union and which are quoted on the Stock Exchange.

The Spanish Personal Income Tax Act contains in its transitional dispositions number six and nine a special provision, which permits a reduction of 25% (shares held in companies quoted on the Stock Exchange), 11% (real property) and 14,28% (other assets, e.g. shares held in companies not quoted on the Stock Exchange) for capital gains obtained by individuals in the sale of property not affected to economic activities, which has been acquired before 31st December 1994.

The final percentage of reduction is determined by multiplying the respective rate of reduction by the number of years the participation has been hold (calculated from the date of acquisition till the 31st December 1996 and reduced by two years).

Since the 1st January 2003, these reductions are also applicable to shares held in companies resident in the European Union.

For what concerns participations in EU companies quoted on the Stock Exchange it was discussed which rate of reduction could be applied. The Resolution 952/03 now confirms definitely the application of the 25% rate.

The special interest of this provision for the purpose of international tax planning may be shown on the hand of following example: an Italian citizen, who holds participations in EU companies quoted on the Stock Exchange, which have been acquired in 1991, may change his tax residence to Spain and achieve a 100% (25% x 4 years) reduction of the capital gains obtained in the subsequent sale of his shares.