

# SPANISH COMPANIES BIGGEST BENEFICIARIES OF FISCAL REFORM - ROCA JUNYENT

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## **Changes to the corporate tax regime and an increase in inspections by the tax authorities will lead to an increase in work for law firms**

Spain's fiscal reform, which took effect at the beginning of 2015 and lowers income and corporate taxes, will, above all, benefit Spanish holding companies, according to Juan Alberto Urrengoechea, a partner in tax law at Roca Junyent in Madrid.

The reform will lower the top rate of income tax depending on the autonomous region where the individual is resident. In Madrid, the top rate will drop from 52 per cent to 44.5 per cent this year, with the bottom rate falling to 21.2 per cent, meaning taxpayers will pay an average 12.5 per cent less on their income.

Corporate tax will be reduced from 30 per cent to 28 per cent this year, and to 25 per cent in 2016. Meanwhile, start-ups will benefit from a corporate tax rate of 15 per cent (limited to two fiscal years).

Under the new laws, which bring Spain in line with the Organisation for Economic Co-operation and Development's (OECD's) base erosion and profit shifting (BEPS) project, Spanish firms will no longer, for example, be penalised by being taxed twice when selling a stake in another company. "This is a hugely positive development," Urrengoechea says.

### **Tax revenue problems persist**

But while the reform is good for business, it will not solve Spain's problem of raising tax revenues, leaving it to rely on its much-maligned measure of hiking VAT, which is currently at 21 per cent but only accounted for 5.5 per cent of the country's GDP in 2012.

The reform, which ushers in more cohesion among corporate income tax regimes at an international level, ensures greater transparency and eliminates double taxation. "This implies a big change, albeit not a necessary one," Urrengoechea says.

He adds: "The new law on companies provides a legal framework applicable to Spanish companies and foreign companies operating in Spain, while the second big impact is the OECD's BEPS project. The idea behind the BEPS project is to limit aggressive fiscal practices and the artificial transfer of benefits from one country to another."

The reform will also help to increase transparency and certainty among investors by reducing disputes relating to international tax rules, as well as guaranteeing that a company's profits are taxed where the economic activity generating that profit takes place.

But the reform has positive and negative aspects, Urrengoechea says, as there will now be fewer opportunities for tax deduction, while the effect on foreign investors in Spain will be negligible.

"Other legislative changes (that is, the Companies Act) mean that a board of directors will be responsible for a listed company's fiscal policies, which will lead to greater transparency and supervision, while implying an additional source of work for law firms counselling companies that require their fiscal policies to be in line with Spain's new legislation," he adds.

Urrengoechea argues, however, that the reform was not entirely necessary and that a partial modification of the laws would have sufficed. "But all fiscal reform is an instrument of political and economic legislation exercised by the government, and all the recent governments of Spain have wanted to leave their footprint in the form of a fiscal reform, which is why Spain undergoes a reform every few years."

Urrengoechea describes the latest fiscal reform as "the big one", and predicts it will create new opportunities for law firms.

The modifications to the country's legal framework mean that companies must adapt and seek legal advice, while the increase in foreign investment in Spain will likely translate into an increase in the number of mergers and acquisitions, which will in turn bring more clients to law firms.

The other opportunity for law firms is in litigation, he says. The country's fiscal authorities have increased their inspections, which will result in more litigation against the authorities with law firms needed to defend their clients' interests.