

## Considerations on the payments in kind and on the payments disbursed to Managers

The first quarter of the fiscal year is the moment on which the taxpayers, mainly companies and businessmen, undergo the financial year-end of 2017, as well as the main policies that will govern the subsequent fiscal year are identified.

In this sense, the present Tax Newsletter aims at analyzing the novelties relating to the valuation of the payments in kind. Also, this Newsletter analyzes the fiscal treatment of the remuneration of the managers or members of the Management Board.

The issues analyzed in this Tax Newsletter are as follows:

- Valuation rules applicable to the payments in kind established by The Tax and Borders Department in the Technical Statement published on 22 September 2017.
- Analysis of the particularities of the managers remuneration, from the point of view of the following tax figures:
  - Personal Income Tax (henceforth, PIT);
  - Corporate Income Tax (henceforth, CIT);
  - Value-Added Tax (henceforth, VAT); and
  - Formal Obligations.

## 1. Preliminary Considerations

In the Andorran business network, it is possible to identify different situations relating to the remuneration paid to natural persons, either because of the development of their work or as a result of their functions a manager (or member of the Management Board).

In this regard, the regulations in force on the PIT set forth that the remuneration received by natural persons who are tax residents in the Principality of Andorra are taxed in this State, regardless of the State in which the payer resides. Therefore, the remuneration received has to be included in the tax base of the corresponding tax according to the type of remuneration, notwithstanding their sort (in cash or in kind).

- Income in kind

The PIT Law lays down that the use, consumption or collection, for private purposes, of goods, rights or services free of charge or for a price (or value) lower than the market price shall be considered as an income in kind, even if it is not a real expense for those who accord it. Thus, the taxpayers are instructed to incorporate in their tax base both the income received in kind and the income earned in cash.

In the Section 2 of this Newsletter thoroughly analyzes the different criteria set forth by the Tax and Borders Department that need to be considered when quantifying this type of income.

- Income from related entities

The Andorran regulation qualifies as a related-party transaction, the operations carried out between an entity and its advisors or managers in *de facto* or *de jure*.

It is necessary to remind that the income perceived from persons or related entities shall be assessed in the light of its market value, which, for this purpose, is the value that independent parties would agree on in similar situations.

Consequently, the valuation of income in kind received by managers or members of the Management Board of a company would involve the application of a set of criteria that, due to its particularities, requires of a specific analysis for each type of operation.

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