ROYAL DECREE 366/2021, OF 25 MAY, IMPLEMENTING THE PROCEDURE FOR THE FILING AND PAYMENT OF SELF-ASSESSMENTS OF FINANCIAL TRANSACTION TAX AND AMENDING OTHER TAX REGULATIONS.

Law 5/2020, of 15 October, on Financial Transaction Tax, introduced this tax into Spain with the aim of contributing to the aim of consolidating public finances and strengthening the principle of fairness in the tax system.

The application of this law requires certain regulatory clarifications in order to implement some matters contained in it, essentially, the procedure for filing and paying self-assessments of the tax provided in Article 8 of the Tax Law, as this is done either through a central securities depository established in Spain or by the taxpayer.

This Royal Decree comes in answer to these aims; it is organised into ten articles, two additional provisions, two transitional provisions and six final provisions.

The rules contained in this Royal Decree are enabled both by the specific references in the law itself and the general enabling contained in final provision two, and they are issued pursuant to Article 149.1.14 of the Spanish Constitution, which assigns the State the competence over general finances.

Article 1 defines the purpose of the Royal Decree, which is to implement the procedure for filing and paying self-assessments of the tax.

Articles 2 to 6 specify the procedure for the filing and payment of self-assessments through a central securities depository established in Spain, listing the various cases to which this procedure applies, and detailing how information and the amount of the tax debt is channelled from the taxpayer to the Tax Agency.

This is a novel procedure in our tax system, in which the central securities depository will file a self-assessment on behalf of and for each taxpayer and pay the relevant tax debt.

Adopting this procedure is justified by the special circumstances of this tax and it is based on the similar French tax collection system.

A significant percentage of taxpayers will predictably not be resident in Spain, with few ties to the Spanish Tax Agency as they are financial brokers whose activity in many cases is to issue share purchase options on behalf of acquiring clients for implementation by market members.

To facilitate the filing and payment of self-assessments by taxpayers, in general, the law provides for the channelling of the amount to be paid for the tax and the information that must appear in the self-assessment through the parties taking part in the payment and registration of the purchase of the shares that lead to the accrual of the tax.

In this way, a channel is created for the payment of the tax similar to the one used for the purchase of shares, in which the participating entities of the central securities depository are responsible in the final instance for ensuring the flow of data and money to the depository.

In addition, this procedure will lead to the more effective management of the tax by the Tax Agency, as it will permit it to interact with one single interlocutor rather than a number of taxpayers, without prejudice to their tax obligations, and the exercise of the powers of checking that correspond to the Tax Agency.

In light of the preceding considerations, the purpose of the configuration of the various cases for the filing and payment of self-assessments by the central securities depository is to channel the greatest possible number of self-assessments through the depository.

This procedure is therefore mandatory for the cases in which the taxpayer has a direct relationship with the central securities depository or with any of its participating entities, as it is considered that this close relationship makes it possible to use this method.

For all other cases, filing and paying through a central securities depository is optional for the taxpayer, given that in these cases it is possible to require the formalisation of an agreement with a third-party financial intermediary that will serve as a link between the taxpayer and one of the participating entities of the central securities depository.

However, in order for there to be no fragmentation of self-assessments by taxpayer and settlement period, if the taxpayer chooses one of the options or the case of mandatory filing through a central securities depository applies, this same method must be used to file and pay the tax for all acquisitions subject to the tax made in the same period.

In the cases where it is appropriate for a central securities depository to file and pay the self-assessments, the taxpayers must provide the former, either directly if it is a participating entity or indirectly through a participating entity, with the amount of the tax debt and certain information on each acquisition subject to the tax (exempt or non-exempt), in the manner determined by the central securities depository and, in all cases, before the deadline for the filing of the self-assessment and payment of the tax.

After receiving the information and the amount of the tax debt, the central securities depository will file and pay the corresponding self-assessments before the deadlines given in Article 6.

Among the options for filing through a central securities depository in Spain, Article 7 contemplates the possibility that cooperation agreements may be signed between a central securities depository established in Spanish territory and a central securities depository not established in this country so that, under such agreements, the central securities depository established in Spanish territory may file and pay self-assessments on behalf of and for the taxpayer.

Article 8 regulates the filing and payment of tax self-assessments by the taxpayer when it is not appropriate for it to be done by a central securities depository established in Spanish territory.

Article 9 provides the possibility that, for the purposes of the payment of the tax, the taxpayer may opt to use the theoretical settlement date, which will be, in the case of transactions made at trading venues, the second business day after the execution date of the transaction, without taking into account any eventualities that could delay the effective settlement date.

Article 10 introduces an alternative procedure to the one provided for in Articles 126 to 128 of the General Regulation on tax management and inspection actions and procedures and implementing common rules for tax application procedures, which makes it possible to easily correct in the self-assessment any transactions declared incorrectly that led to payments made for a previous self-assessment, without, under any circumstances, the result of the self-assessment in which the correction is made being able to be negative.

Additional provision one refers to the obligations of preserving and placing at the disposal of the Tax Agency information with tax implications regarding this tax that, pursuant to Article 8.5 of the Tax Law, must be met by the central securities depository and its participating entities.

Additional provision two provides that the Tax Agency shall publish, for purely informational purposes, the list of companies whose shares are subject to tax based on the list of companies reported by the Sociedad de Bolsas.

Transitional provision one implements the sole transitional provision of the Tax Law relating to companies whose shares are subject to tax in the first year in which the tax applies, stating that the AEAT shall publish the list of the aforementioned companies, for purely informational purposes, prior to the entry into force of the Tax Law, for the application of the tax in the period between the date on which the Law enters into force and 31 December 2021.

So that all the parties to the self-assessment filing and payment process have a reasonable time to adapt their systems, transitional provision two states that the filing and payment of the first self-assessments of the tax, corresponding to January, February, March and April 2021, will take place before the deadline scheduled for filing and paying the self-assessment corresponding to May 2021.

In addition, final provision one includes two amendments to the Regulation of the Value Added Tax, approved by Royal Decree 1624/1992, of 29 December, for a predominantly technical purpose: to make it possible for taxpayers who sign consignment sale agreements and are entitled to the Immediate Supply of Information to meet the obligation of keeping records in the new section of the register of certain intra-EU transactions provided for in Article 66.3 of the Regulation through the Tax Agency e-Office from the day following the publication of this Royal Decree in the “Official State Gazette”. In this way, on the one hand, the deadline for supplying the information on these transactions is regulated and, on the other, additional required fields are established for entering the information recording the assets.

Final provision two amends the General Regulation on tax management and inspection actions and procedures and implementing common rules for tax application procedures in order to add a new Article 54 ter regulating the obligation to report the transfer of use of property for tourism purposes, in the same terms as the previous Article 54 ter, which was approved in Royal Decree 1070/2017, of 29 December, amending the General Regulations on tax management and

inspection procedures and the development of common rules on tax enforcement procedures, approved by Royal Decree 1065/2007, of 27 July, and Royal Decree 1676/2009, of 13 November, regulating the Taxpayer's Ombudsman.

Supreme Court Judgement number 1106/2020, of 23 July, cancelled and voided the previous Article 54 ter of the regulation as it was not reported as a "technical regulation" to the Commission, during the procedure for Draft Royal Decree 1070/2017, in compliance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

This precept establishes, for the purpose of preventing tax fraud, an obligation of special information for people or entities, especially so-called "collaborative platforms", that mediate in the use of residences for tourism purposes. Excluded from this concept is the leasing or sub-leasing of residences as defined in Law 29/1994, 24 November, on urban leases, and tourist accommodation regulated by its special regulations as hotels, rural accommodations, hostels and tourist campsites, among others. Also excluded is the timeshare right for real estate.

Final provision three amends Royal Decree 1021/2015, of 13 November, establishing the obligation to identify the tax residence of those who hold or control certain financial accounts and to report these accounts in the field of mutual assistance, introducing a new paragraph into Article 4. This amendment obeys the necessity of maintaining the obligation to submit an informative tax return, even when no specific information exists to be reported, in order to facilitate the control of compliance with the obligation to submit the aforementioned informative return.

Final provision four refers to the competence under which this present Royal Decree is issued.

Final provision five enables the Treasury Minister to issue the necessary implementing regulations.

Lastly, final provision six establishes its entry into force on 16 January 2021. However, Section 2 of transitional provision one and final provisions one and three will come into force on the day following the publication of the Royal Decree in the "Official State Gazette", while final provision two will come into force one month after said publication.

This Royal Decree, in accordance with the provisions of Article 129 of Law 39/2015, of 1 October, on the Common Administrative Procedure for Public Administrations, has been drawn up in accordance with the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency.

It therefore complies with the principles of necessity and effectiveness as the regulation contained in the Royal Decree is indispensable and requires its inclusion in legal regulations through legislation with regulatory status.

It also meets the principle of proportionality as it contains the necessary regulations and is limited to achieving the intended objectives of the Royal Decree.

In regard to the principle of legal certainty, it guarantees a clear, certain and consistent regulatory framework for the different taxpayers affected.

Regarding the principle of transparency, the Royal Decree was submitted to the formalities of a public consultation and of a public hearing and information, established in Sections 2 and 6 of Article 26 of Law 50/1997, of 27 November, on the Government.

Finally, in relation to the principle of efficiency, the regulation has been configured so that it creates the least administrative burden for the public and minor indirect costs, by promoting the rational use of public resources and full respect for the principles of budgetary stability and financial sustainability.

Accordingly, at the proposal of the Treasury Minister, in accordance with the Council of State and after deliberation by the Council of Ministers at its meeting on 25 May 2021,

I HEREBY RULE:

Article 1. *Purpose.*

The purpose of this Royal Decree is to implement the procedure for filing and paying self-assessments of the Financial Transactions Tax by taxpayers in accordance with the terms of Article 8 of the Tax Law, both in the cases in which such self-assessments are filed and paid through a central securities depository established in Spanish territory and in those in which they are directly filed with and paid to the Tax Agency by the taxpayers.

Article 2. *Cases for the filing and payment of self-assessments through a central securities depositary (CSD) established in Spanish territory.*

1. The filing and payment of self-assessments of the tax shall be carried out by taxpayers through a central securities depository established in Spanish territory in the cases and with the requirements set out in this article and in Articles 3 and 4.

In particular:

a) When the acquisition of the securities is entered in the accounts of a depository entity that, in turn, keeps these deposited securities, directly or indirectly, in a registration system handled by a central securities depository established in Spanish territory that is charged by the issuing entity with keeping accounting records of said securities or that acts as a depository because of a direct or indirect link with another central securities depository established outside Spanish territory that is charged with keeping said accounting records, in accordance with the provisions of Article 3.

For these purposes, it shall be considered that a depository entity indirectly keeps the securities in a registration system handled by a central securities depository established in Spanish territory when said securities are successively deposited through a chain of financial intermediaries, the last of which keeps them in a central securities depository established in Spanish territory or in one of its participating entities, including those participating entities that are a central securities depository established outside Spanish territory.

b) When the acquisition of the securities is entered in the accounts of a depository entity that in turn keeps said securities, directly or indirectly, in a registration system handled by a central securities depository established outside Spanish territory, unless this latter acts as a participating entity of a central securities depository established in Spanish territory, in accordance with the provisions of Article 4.

2. The filing and payment of self-assessments through a central securities depository established in Spanish territory shall be mandatory for all acquisitions of securities subject to the tax, including those that are exempt, which must be the subject of a self-assessment and the payment of the tax by the taxpayer during the settlement period, when any of the following circumstances applies:

a) Securities coming from one of the acquisitions was recorded in an account of the taxpayer referred to in Point b) of Article 3.

b) The taxpayer chose one of the options for filing and paying self-assessments through a central securities depository established in Spanish territory listed in Point b) of Article 3 and in Article 4.

If the taxpayer did not choose to file through a central securities depository established in Spanish territory any of the acquisitions included within the scope of Point b) of Article 3 or Points a) to c) of Section 1 of Article 4, but, in accordance with the terms of the preceding paragraphs, self-assessment and payment of the tax corresponding to all the acquisitions during the settlement period are mandatory through said central securities depository, the taxpayer must designate as the participating entity for providing information on and making the payment referred to in Article 5 for such acquisitions any of the participating entities to which it provides information on and the payment of the tax for the acquisitions included in Points a) and b) above.

When all acquisitions that correspond to a settlement period are included within the scope of Article 4 and the taxpayer chose only the filing option provided for in Point a) of Section 1 of said article, said taxpayer must designate a participating entity of the central securities depository established in Spanish territory for the purposes of providing information on and making the payment referred to in Article 5 for those acquisitions that are not included within the scope of the aforementioned Point a).

It will not be necessary for taxpayers who have that status to designate the participating entry referred to in the last two paragraphs.

3. When filing and paying the self-assessments, it will be understood that the central securities depository and its participating entities, where appropriate, are acting on behalf of and for the taxpayer.

Article 3. *Filing and payment of self-assessments when the acquisitions of securities are entered in accounts linked with a registration system handled by a central securities depository established in Spanish territory.*

In the cases listed in Point a) of Section 1 of Article 2, the filing and payment of self-assessments of the tax will be performed through the central securities depository established in Spanish territory in the following cases:

a) When taxpayers, acting either on their own behalf or on that of a third party, have an account in the central records of the central securities depository established in Spanish territory or have an account in the detailed records of one of the participating entities of that central securities depository.

b) When the taxpayers not included in Point h) above choose this procedure.

Taxpayers who exercise this option must designate at least one participating entity of the central securities depository for the purposes of providing the information and paying the amount of the tax debt in accordance with the terms of Article 5. Said participating entry shall be the one whose accounts with the central securities depository are part of the chain of custody of the securities acquired.

In the case of securities registered in the accounts of different participating entities, the taxpayer must designate all of them or only one of said entities, at the taxpayer’s discretion, for the purposes of providing all information and making the payment referred to in the aforementioned Article 5.

The option shall be exercised in a notice from the taxpayer to the participating entity designated, made using any method that leaves a record of its receipt, and it will take effect at least in the monthly settlement period following the month in which said notice was sent and in the subsequent monthly periods until its revocation is communicated using the same method.

Article 4. *Filing and payment of self-assessments when the acquisitions of securities are entered in accounts linked with a registration system handled by a central securities depository established outside Spanish territory.*

1. Taxpayers may opt to file and pay self-assessments of the tax through a central securities depository established in Spanish territory in the following cases:

a) When there is an applicable cooperation agreement between a central securities depository established in Spanish territory and a central securities depository established outside Spanish territory in accordance with the terms of Article 7. In this case, taxpayers who exercise the option by virtue of that agreement will continue to use the procedure established in Section 3 of said article for acquisitions that are subject to registration with said central securities depository established outside Spanish territory.

b) In the absence of the cooperation agreement referred to in Point a) above, when the central securities depository established outside Spanish territory is also included in the account of third parties of a participating entity of a Central securities depository established in Spanish territory designated by the issuing entity to keep the accounting records of the securities, and there is a previous agreement regarding filing and paying self-assessments of the tax through the central securities depository established in Spanish territory between the central securities depository outside Spanish territory and the aforementioned participating entity.

In this case, taxpayers who, whether acting on their own behalf or that of a third party, have an account at a central securities depository established outside Spanish territory may opt to file and pay self-assessments of the tax through the central securities depository established in Spanish territory in application of said agreement, for acquisitions that are the subject of registration with the central securities depository established abroad.

The exercise, revocation and duration of the option shall be governed by the terms of Article 3.

c) When taxpayers expressly agree with a participating entity of a central securities depository established in Spanish territory to file and pay the self-assessments corresponding to all acquisitions subject to the tax included in the scope of application of this article through said central securities depository.

Notwithstanding the above, acquisitions for which the taxpayer has exercised the option of filing the self-assessment and paying the tax in accordance with the terms of Points a) and b) of this article shall be excluded from this agreement, unless said taxpayer decides to include them in this option and notifies the corresponding entities.

The provision in Point c) shall also apply when the taxpayer is a participating entity of a central securities depository established in Spanish territory, in which case the agreement referred to in paragraph one will not be necessary.

2. In the cases given in Points b) and c) of the preceding section, self-assessments must be filed and paid in accordance with the terms of Articles 5 and 6.

For these purposes, the designated participating entity must be the one in which the central securities depository established outside Spanish territory has an account, in the case of Point b), and the one with which the taxpayer has signed an agreement, in the case of Point c).

Article 5. *Provision of information by the taxpayer to the central securities depository and payment of the tax debt by the taxpayer to the participating entity.*

1. In the cases in which it is appropriate for a central securities depository established in Spanish territory to file and pay the self-assessments, taxpayers shall provide the former, either directly, if it is a participating entity, or through the participating entity in whose detailed records it has an account or that they designated, with the information shown in Section 2 of this article regarding acquisitions subject to the tax that have been made, in the manner determined by the central securities depository and, in all cases, before the start of the period for filing the self-assessment and paying the tax.

In addition, taxpayers that are not participating entities of the central securities depository may pay the tax debt to the participating entity in whose detailed records they have an account or that they have designated, prior to the start of the period for filing the self-assessment or paying the tax.

2. Taxpayers must send in the following information regarding each subject and non-exempt or exempt transaction:

a) First name and family name(s) or registered name or full company name, tax identification number, if they have one, and LEI code or, in its absence, BIC code and tax address of the taxpayer.
   In addition, if the taxpayer does not have a Spanish tax identification number, the following must be sent in for the purposes of obtaining the individual identification code referred to in Article 6.1, when the taxpayer is an entity, the date of incorporation, date of registration or date of the agreement, as appropriate, the country or territory of incorporation, residence in Spain or abroad and type of entity, and, if the taxpayer is a natural person, the date and country of birth, gender and residence in Spain or abroad.
b) Settlement period and financial year in question.
c) Unique reference number that permits the transaction to be identified.
d) Case of those listed in Articles 2.2, 3 and 4, under which the taxpayer is filing the self-assessment through the central securities depository.
e) Indication of whether the taxpayer is acting on their own behalf or on behalf of a third party in the acquisition.
f) Determination of whether the transaction is subject and non-exempt or subject and exempt.
g) Number of securities acquired, ISIN code identifying them and tax identification number or, in its absence, LEI code of the issuer of the securities. In the event that the rule for determining the taxable base set out in Section 3 of Article 5 of the Tax Law is applicable, the preceding data shall refer to the net securities acquired and must also indicate the execution date of the transactions.
h) Settlement date or, in the case of a transaction carried out outside a trading centre, the registration date.
i) In the case of a subject, non-exempt transaction, rule determining the applicable taxable base.
j) Taxable base of the subject, non-exempt acquisition, and for cases in which the taxable base of the acquisition is calculated in accordance with Section 3 of Article 5 of the Tax Law, an indication of the number of securities acquired and sold and the total of the considerations for the corresponding acquisitions.
k) For each exempt acquisition, the amount of the acquisition and the reasons, or reasons, for the exemption that apply.
l) Tax payable for the transaction.

Article 6. *Filing and payment of self-assessments by the central securities depository with the Tax Agency.*

1. The central securities depository must file a self-assessment of the tax in the manner determined by the Treasury Minister, within the period between the 10th and 20th of the month following the corresponding monthly settlement period, on behalf of and for each taxpayer who completed the notification and payment referred to in Article 5.

The self-assessment shall include the information referred to in Article 5.2, in addition to, in the case in which the taxpayer does not have a tax identification number, the individual tax identification code assigned by the Tax Agency for the sole purpose of filing and paying the self-assessment and, in all cases, the date on which the taxpayer reported the information referred to in Article 5.1 to the central securities depository and on which the amount of the tax debt was paid to the participating entity. For these purposes, the participating entity must inform the central securities depository of said dates in time for it to report the information referred to in Article 5.2.

The information included in the self-assessment shall be filed individually for each transaction or in aggregate form for a set of transactions, in the terms determined by the Treasury Minister.

2. Before the deadline given in Section 1 above, the central securities depository shall pay the tax debt corresponding to the self-assessments in the terms determined by the Treasury Minister.

Article 7. *Cooperation agreements with other central securities depositories.*

1. In the case referred to in Point k) of Section 1 of Article 4, the filing and payment of self-assessments of the tax may be performed through a central securities depository established in Spanish territory when this depository signs a cooperation agreement with a central securities depository not established in Spanish territory for these purposes and under the terms set out in this article.

2. Cooperation agreements may be signed with central securities depositories not established in Spanish territory when the following conditions apply:

a) They are established in the European Union or in a third State recognised to provide services in the European Union.

b) They do not have a direct link with a central securities depository established in Spanish territory

c) Entries of transactions for securities subject to the tax are recorded in their registration systems, when they have been appointed by the issuer to keep the accounting records of the securities or when they have a link, direct or indirect, with the central securities depository designated by the issuer.

3. As of the date on which said agreements are applicable, self-assessments shall be filed and paid in accordance with the terms of Articles 5 and 6, with the following special features:

a) The application of this procedure shall be optional for the taxpayer.

b) The taxpayer must report the information and make the payment of the tax debt referred to in Article 5 to the non-established central securities depository, and the latter in turn to a central securities depository established in Spanish territory in the manner determined by the latter central securities depository and, in all cases, before the start of the period for filing the self-assessment and paying the tax.

Article 8. *Filing and payment of a self-assessment by the taxpayer.*

In the cases in which it is not appropriate for a central securities depository established in Spanish territory to file and pay the self-assessment on behalf of and for the taxpayer, the taxpayer must file a self-assessment of the tax and pay the tax debt in the manner determined by the Treasury Minister within the period between the 10th and 20th of the month following the corresponding monthly settlement period.

The self-assessment shall include the information referred to in Article 5.2, in addition to, in the cases in which the taxpayer does not have a tax identification number, the individual identification code assigned by the Tax Agency for the sole purposes of the filing and payment of the self-assessment, with the special features that, where appropriate, are established by the Treasury Minister.

Article 9. *Settlement date of transactions.*

For the purposes of the settlement of the tax, it shall be considered that the settlement date of the transactions is the effective settlement date. However, taxpayers may opt to consider as the settlement date the theoretical settlement date, which will be, for transactions performed through trading venues, the second business day following the execution of the transaction, subject to any adjustments that may be required if, as a result of a failure to settle the securities, the transactions are not settled.

The option to use the theoretical settlement date must be made in the first self-assessment to be submitted by the taxpayer in each calendar year and will be effect at least during that year, and during subsequent years, provided that it is not waived.

Waiving the option to use the theoretical settlement date may be done only in the first self-assessment that must be submitted by the taxpayer in each calendar year.

In cases in which it is appropriate to file and pay the self-assessment through a central securities depository established in Spanish territory, the option or waiver referred to in the preceding paragraphs must be communicated by the taxpayer through, where appropriate, the participating entities, to said central securities depository in the manner determined by this latter, and, in all cases, before the start of the period for the filing and payment of the self-assessment in which said option or waiver must be stated.

The exercise of the option to use the theoretical settlement date or its waiver shall under no circumstances mean that any transaction is not calculated or is calculated on more than one self-assessment.

Article 10. *Special procedure for correcting transactions declared in previous self-assessments.*

When the taxpayer realises that there has been an error in a transaction which led to the payment of a tax liability for this tax or other circumstances that require correction and because of this an inappropriate or excessive payment has been made for that transaction, the taxpayer may correct the transaction in any self-assessment tax return that is filed within the four years following the payment of the aforementioned tax liability, by deducting said payment or excess amount from the tax liability to be paid for the self-assessment in which the correction is made, without, under any circumstances, the result of the latter self-assessment being able to be negative. The Treasury Minister shall determine the information that must be included in the self-assessment relating to the transaction that is corrected.

The procedure for correcting transactions referred to in the preceding paragraph shall be understood to be without prejudice to the powers of checking that correspond to the Tax Agency aimed at determining the correct payment of the tax.

The corrections made in accordance with the provisions in paragraph one of this article shall be incompatible with the request to correct self-assessments provided for in Articles 126 to 128 of the General Regulation on tax management and inspection actions and procedures and implementing common rules for tax application procedures, approved by Royal Decree 1065/2007, of 27 July, for the same facts and circumstances that justified the correction referred to in paragraph one of this article.

Additional provision one. *Preservation of information with tax implications.*

In accordance with the terms of Article 8.5 of the Tax Law, the central securities depository and its participating entities must preserve and keep at the disposal of the Tax Agency all documentation containing the information provided for in Article 5 and that which offers proof of all the payments that have been made by all the parties to the self-assessment filing and payment process, before the deadline given in Article 70.2 of Law 58/2003, of 17 December, on General Taxation.

Additional provision two. *Publication of a list of companies whose shares are subject to tax.*

The AEAT shall publish a list of companies whose shares are subject to tax in accordance with the terms of Points a) and b) of Section 1 of Article 2 of the Tax Law on its e-Office in December of each year, for purely informational purposes for the application of the tax in the immediately following year. Said list shall merely be indicative, and the absence from it of a company that meets the conditions referred to in said points shall not exclude the application of the tax.

For the purposes of the preceding paragraph, the Sociedad de Bolsas must provide the Tax Agency within the first ten calendar days of December each year with a list of the Spanish companies quoted on the official Spanish secondary markets whose market capitalisation of over 1 billion euros.

This communication shall be made through the AEAT e-Office and it shall include the full company name or registered name of the company, its tax identification number, ISIN code of each class of shares and the stock market value of the company on 1 December.

Transitional provision one. *First tax self-assessments.*

The filing of the self-settlements corresponding to January, February, March and April **2021**, and the payment of the corresponding tax debts shall be carried out during the period for the filing and payment of the self-assessment corresponding to May 2021.

Final provision one. *Amendment of the Regulation of the Value Added Tax, approved in Royal Decree 1624/1992, of 29 December.*

The following amendments are introduced into the Regulation of the Value Added Tax, approved in Royal Decree 1624/1992, of 29 December.

One. Point B) of Section 2 of Article 66 is amended and is now worded as follows:

“B) in regard to the transactions referred to in number 3 of the preceding section:

a) The seller must provide the following information:

1. The member state from which the goods were dispatched or transported and the date of dispatch or transport of the goods.

2. The Value Added Tax identification number of the business person or professional for whom the goods are intended, assigned by the Member State to which the goods are dispatched or transported.

3. The Member State to which the goods are dispatched or transported, the Value Added Tax identification number of the custodian of the goods when this is different from the business person or professional mentioned in number 2 above, the address of the warehouse in which the goods are stored after their arrival and the arrival date of the goods at the warehouse.

4. The value, description and quantity of the goods that arrived at the warehouse.

5. The Value Added Tax identification number of the business person or professional referred to in Section 3, Paragraph 2, Point a) of Article 9 bis of the Tax Law, who replaces the business person or professional for whom the goods were originally intended and the date on which the substitution took place.

6. Description, taxable base determined in accordance with Articles 78 and 79 of the Tax Law, quantity and unit price of the goods delivered under the conditions set out in point one of Section 2 of Article 9 bis of the Tax Law, date of said delivery and the VAT identification number of the business person or professional who is the purchaser.

7. Description, taxable base determined in accordance with Articles 78 and 79 of the Tax Law, quantity and unit price of the goods transferred under the conditions set out in paragraph one of Section 3 of Article 9 bis of the Tax Law, the date on which the conditions that led to said transfer of the goods took place and the reason for which it occurred.

8. Description, amount and value of the goods returned under the conditions set out in Section 3, paragraph 2, Point b) of Article 9 bis of the Tax Law, and the return date.

b) The business person or professional for whom the goods are intended and those who replace this person must provide the following information:

1. The VAT identification number of the seller who transfers the goods under a consignment sale agreement.

2. The description and amount of the goods sent to be made available to them.

3. The arrival date at the warehouse of the goods sent to be made available to them.

4. Description, taxable base determined in accordance with Articles 78 and 79 of the Tax Law, quantity and unit price of the goods purchased and date on which the Intra-EU goods acquisition provided for in point two of Section two of Article 9 of the Tax Law took place.

5. Description, quantity and value of the goods that are removed from the warehouse by the seller and are no longer available, as well as the date on which they are removed.

6. Description, quantity and value of the goods destroyed or missing from the warehouse and the date on which this occurs or the destruction, loss or theft of the goods is discovered.

However, this business person or professional must only enter the information listed in numbers 1, 2 and 4 above when the goods are dispatched or transported for storage with another business person or professional."

2. Point c) of Section 1 of Article 69 bis is amended and is now worded as follows:

"c) Information on the transactions referred to in Article 66.1, Numbers 1 and 2 of this Regulation, within the term of four calendar days from the start of the dispatch or transport, or, where appropriate, from the time of the receipt of the goods referred to.

The information on the transactions referred to in Article 66.1, Number 3 of this Regulation before the 16th of the the month following the arrival date of the goods at the warehouse, of the availability to the purchaser or the transaction that must be registered."

Final provision two. *Amendment of the General Regulation on tax management and inspection actions and procedures and implementing common rules for tax application procedures, approved by Royal Decree 1065/2007, of 27 July.*

A new Article 54 ter is included in the General Regulation on tax management and inspection actions and procedures and implementing common rules for tax application procedures, approved by Royal Decree 1065/2007, of 27 July, with the following wording:

"Article 54 ter. *Obligation to report the transfer of use of residences for tourism purposes.*

1. The persons and entities who act as intermediaries between the assignors and assignees of the use of residences for tourism purposes located in Spanish territory under the terms set out in the following section shall be obliged to submit a regular informative tax return for the transfers of use in which they act as intermediaries.

2. For the exclusive purposes of the informative return provided for in this article, the transfer of use of residences for tourism purposes is understood to be the temporary transfer of the use of the whole or part of a residence furnished and equipped for immediate use, whatever the channel on which it is marketed or advertised and whether free of charge or for a consideration.

In all cases, the following are excluded from this concept:

a) The leasing of housing as defined in Law 29/1994, of 24 November, on urban leases, and the partial sub-leasing of housing referred to in Article 8 of the same law.

b) Tourist accommodations, which are governed by their own special regulations.

The temporary transfers of use of residences referred to in Article 5.e) of Law 29/1994 of 24 November, on Urban Leases, shall not be considered to be excluded, regardless of their

compliance or not with a special system arising from the sectoral regulations to which they are subject.

c) Timeshare rights to real estate.

d) The uses and contracts in Article 5 of Law 29/1994, of 24 November, on Urban Leases, except for the transfers referred to in Point e) of this article.

3. For the purposes set out in Section 1, all persons or entities who provide the service of mediation between an assignor and assignee of the use referred to in the previous section, whether for a consideration or free of charge, shall be considered to be intermediaries.

In particular, persons or entities that, when constituted as collaborative platforms, serve as intermediaries in the transfer of use referred to in the preceding section and are considered information society service providers in the terms referred to in Law 34/2002, of 11 July, on information society and e-commerce services, regardless of whether or not they provide the underlying service that is the object of intermediation or impose conditions on the assignors and assignees, such as price, insurance, deadlines or other contractual conditions, shall be considered thus.

4. The informative tax return shall contain the following information:

a) Identity of the residence transferred for tourist purposes and of the owner of the right under which the residence is transferred for tourist purposes, if they are different.

Identification will be by first name and family name(s) or registered name or complete name of the company, and tax identification number or in the terms of the Ministerial Order approving the corresponding tax return template.

For these purposes, the holders of the right of transfer shall be considered to be those who are such because of the right of ownership, partial ownership contracts, part-time ownership or similar formulas, leasing or sub-leasing or any other right of use or enjoyment over the residences transferred for tourist purposes, who are the assignors, in the final instance, of the use of the aforementioned residence.

b) Identification of the property specifying the property register reference number or in the terms of the Ministerial Order approving the corresponding tax return template.

c) Identity of the assigning persons or entities and the number of days of enjoyment of the residence for tourist purposes.

Identification will be by first name and family name(s) or registered name or complete name of the company, and tax identification number or in the terms of the Ministerial Order approving the corresponding tax return template.

For these purposes, the assignors of the use of the residence for tourist purposes must preserve a copy of the identity document of the persons benefiting from the service, mentioned above.

d) The amount received by the owner transferring the use of the residence for tourist purposes or, where appropriate, an indication that it was free of charge.

5. The Ministerial Order approving the corresponding tax return template shall establish the deadline for submission and it will contain the information referred to in the preceding section, in addition to any other important information required to specify that information."

Final provision three. *Amendment of Royal Decree 1021/2015, of 13 November, establishing the obligation to identify the tax residence of those who hold or control certain financial accounts and to report these accounts in the field of mutual assistance.*

Article 4 of Royal Decree 1021/2015, 13 November, establishing the obligation to identify the tax residence of those who hold or control certain financial accounts and to report these accounts in the field of mutual assistance, is amended and is now worded as follows:

"Article 4. *Reporting obligations.*

In accordance with Article 30.2 of the General Regulation on the actions and procedures for tax management and inspection and for the development of the common rules on the procedures for applying taxes approved by Royal Decree 1065/2007, of 27 July, financial institutions shall be obliged to present an informative tax return when the persons who hold the ownership or control of the financial accounts are tax residents in any of the following countries or jurisdictions:

a) Another member state of the European Union, any territory to which Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation is applicable, or any other country or jurisdiction with which the European Union has signed an agreement under which the country or jurisdiction must provide the information specified in Article 5 of this Royal Decree.

b) Another country or jurisdiction affected by the Multilateral Agreement between Competent Authorities on the Automatic Exchange of Information on Financial Accounts with which there is a reciprocal exchange of information.

c) Any other country or jurisdiction with which Spain has signed an agreement under which the country or jurisdiction must provide the information specified in Article 5 of this Royal Decree pursuant to this Royal Decree, with which there is a reciprocal exchange of information

This informative tax return will be annual and will be made in the form, place and term determined by order of the Treasury Minister, in which the list of countries or jurisdictions referred to in Points a), b) and c) of this article will be included, as well as those that are considered participants for the purposes of the provisions of this Royal Decree.

However, financial institutions will also be obliged to submit the aforementioned informative tax return, even when, after the application of the rules on due diligence contained in the annex to this Royal Decree, they conclude that there are no accounts subject to information reporting in accordance with Section D of Section VIII of said annex, in the terms and in the manner established in the aforementioned order.

Final provision four. *Competence.*

This Royal Decree is approved pursuant to the terms of Article 149.1.14 of the Spanish Constitution which assigns the State the competence over general finances.

Final provision five. *Authorisation for the Treasury Minister.*

The Treasury Minister is authorised to issue the provisions required for the application of this Royal Decree.

Final provision six. *Entry into force.*

1. This Royal Decree will come into force on the day following its publication in the "Official State Gazette" with effects from 16 January 2021.

2. Notwithstanding the provisions in Section 1 above:

a) Final provision one will come into force on the day following the publication of this Royal Decree in the "Official State Gazette".

b) Final provision two will come into force on the month following the publication of this Royal Decree in the "Official State Gazette".

c) Final provision three will come into force on the day following the publication of this Royal Decree in the "Official State Gazette" and it will apply to informative tax returns containing the information for the immediately preceding year that must be submitted starting on 1 January 2022.en relación con la información financiera relativa al año inmediato anterioren relación con la información financiera relativa al año inmediato anterioren relación con la información financiera relativa al año inmediato anterior