

Resolution dated January 26, 2022, of the Official Tax Administration Authority (AEAT), approving the general guidelines of the Annual Tax and Customs Control Plan for 2022, published in the Official State Gazette on January 31, 2022.

The Annual Tax and Customs Control Plan for 2022 has been published in the Official State Gazette on January 31, including the Tax Agency's general guidelines for preventing and combating tax fraud. In this document, the tax team aims to summarise the most relevant measures.

The Annual Plan for Tax and Customs Control for 2022 (the "Annual Plan") breaks down the actions to be carried out by the Tax Agency during the financial year of 2022, which have a twofold objective: to improve voluntary tax compliance and to strengthen verification and investigation measures, especially in the fight against the most complex tax fraud. Measures adopted for this purpose in the Annual Plan are divided in five pillars:

1. Information and assistance.
2. Prevention of non-compliance.
3. Investigation and verification of tax and customs fraud.
4. Control of fraud in the collection phase.
5. Collaboration between the Tax Agency and the tax administrations of the Autonomous Regions.

1. Information and assistance

To encourage voluntary compliance by taxpayers, the Annual Plan establishes as a priority objective the consolidation and improvement of digital assistance actions for taxpayers, through different digital communication channels, such as Virtual Assistants. Specifically, following the progress made in VAT and the SII, the aim is to make progress in the use of this type of tool in tax returns.

2. Prevention of non-compliance

The Tax Agency's actions to prevent tax non-compliance are focused on the following areas:

- About the census, the objective is to control the census of companies - and entities with other legal forms - derived from the correct completion of forms 036 and 037, with special emphasis on companies that are inactive.
- Based on the previous point, it is intended that actions monitoring compliance with the filing of self-assessments and informative returns be directed at those active taxpayers who have not fulfilled their tax obligations.
- It also aims to improve the quality of international tax information to improve transparency and consolidate the exchange of information with the European Union and the OECD, as well as with the United States on FATCA.
- It also aims to improve preventive measures in the field of customs and excise duties.
- Training measures for civic-tax education are to be strengthened.
- Finally, the importance of preventive measures, including the promotion of Advance Pricing Agreements, in the field of transfer pricing, is highlighted.

3. Investigation and verification of tax and customs fraud

The priority lines of action in this area will be the following:

1. Sources of information and technological developments in risk analysis, building on existing information exchanges ("country by country report", for example), and new ones, such as the exchange of information in relation to cross-border arrangements ("DAC 6"), in force since 2020 but generalised in 2021. New mechanisms will also be introduced, such as the one on reporting on virtual currencies (adopted in July 2021 and entering into force in 2023, in respect of the financial year 2022).
2. Control of internal taxation, based on verification actions of:
 - a. Multinational groups, large companies and tax groups, with a higher priority on companies in sectors less affected by the economic crisis resulting from COVID-19. In addition, implementing a new automated transfer pricing risk analysis system is planned, with the aim of focusing on taxpayers with the most relevant

potential tax contingencies. This type of action will be carried out in direct collaboration with the National Office of International Taxation (ONFI). The main areas of action in this respect will be concentrated on:

- i. Anti-avoidance measures. In particular, the so-called hybrid asymmetries, international tax transparency, deductibility of financial expenses or the abuse of International Agreements.
 - ii. Transfer pricing and transnational transactions.
 - iii. Income taxation of non-residents, with or without a permanent establishment.
 - iv. Non-cooperative jurisdictions and preferential regimes.
 - v. Control of tax groups and entities, both for corporate income tax and VAT.
- b. High Net Worth Individuals, with a special focus on high net worth individuals who pretend to have their tax residence abroad, or tax residents who use opaque structures to hide income and assets. In addition, the High Net Worth Control Unit will focus on the detection of opaque companies holding high-end residential real estate.
- c. Concealment of business or professional activities and misuse of companies. A few measures are put in place to combat the shadow economy, in particular with regard to high-risk business models. Computer systems that allow the alteration of accounting records will also be prosecuted, extending controls to companies involved in their production and marketing. As has become customary, the Tax Agency will pay special attention to the use of interposed professional companies to reduce taxation. Likewise, operations involving the interposition of legal entities will be checked to restore pending distribution of income by operating companies, including the verification of special tax regimes for non-monetary contributions that may have been made.

- d. Control of economic activities, in relation to certain sectors and taxes:
- i. The digital economy and, in particular, e-commerce and cryptocurrencies.
 - ii. VAT, where compliance has improved markedly, four years after the entry into force of the SII.
 - iii. Corporate income tax. In relation to such tax, actions will focus on taxpayers who have repeatedly recorded negative tax bases and deductions not yet applied in their returns. Special attention will also be paid to the use of associative structures, such as Economic Interest Groupings, especially in those cases in which they are used as mere vehicles to transfer tax benefits to third party investors.
- e. Other control actions on compliance with internal regulations, including the control of taxpayers who do not file personal income tax, corporate income tax or VAT returns.

4. Control of fraud in the collection phase

Another of the basic lines of action will affect the collection phase, with the main objective of improving the assessment of collection risk, prosecuting tax crime and smuggling, adopting measures in terms of derivation of responsibility, also adopting precautionary measures, and monitoring apparent insolvencies.

5. Collaboration between the Tax Agency and the tax administrations of the Autonomous Communities

Finally, the Tax Agency intends to strengthen its collaboration with the tax administrations of the Autonomous Regions, especially in the exchange of information with tax implications to improve the fight against tax fraud and the underground economy, among others. In this respect, it is worth highlighting the objective of promoting the regular transmission to the Tax Agency of the information contained in tax returns corresponding to assigned taxes managed by the Autonomous Regions, such as Transfer Tax and IGT, as well as information relating to company dissolution and capital reduction operations with attribution of assets to shareholders, or loan operations between private individuals, among others.

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Our tax team will be pleased to provide you with more information. We are entirely at your service to answer your questions - don't hesitate to contact us:

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