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**RE: Comments on Ministerial Order HFP/417/2017 and Immediate Supply of Information System Reporting Requirements**

Dear Sir or Madam:

We write to comment on Ministerial Order HFP/417/2017 of 12 May 2017 (Order) published in the Official Gazette of 15 May 2017, which regulates the legal and technical specifications for taxpayers to maintain value-added tax (VAT) registers in the Spanish Tax Agency's website (the Immediate Supply of Information System or SII). Tax Executives Institute (TEI) is concerned about the short period provided to implement the reporting requirements contained in the Order. We welcome the opportunity to speak with you regarding the comments and recommendations contained in this letter.

## About Tax Executives Institute

TEI is the preeminent association of in-house tax professionals worldwide and was founded in 1944 to serve the professional needs of business tax professionals. TEI espouses organizational values and goals that include integrity, effectiveness, efficiency, and dedication to improving the tax system for the benefit of taxpayers and tax administrators. TEI believes it is critical to maintain a dialogue between businesses and revenue authorities when developing VAT rules to ensure such rules are workable and not overly burdensome on business or tax authorities.

TEI's approximately 7,000 professionals manage the tax affairs of over 2,800 companies across all industry sectors around the world. TEI's members are accountants, lawyers, and other corporate and business employees responsible for the tax affairs of their employers in an executive, administrative, or managerial capacity, and continually monitor consumption tax developments around the world. Many of these members' companies have a business presence and/or sell into Spain.

## Background

The Order provides details necessary to implement Royal Decree 596/2016 of 2 December 2016 (Decree). The Decree introduced the SII, which is the mechanism for taxpayers to maintain VAT records in the Tax Agency's system on an almost real-time basis, effective 1 July 2017.

More specifically, the Order provides details regarding the fields, format, and technology required to electronically transmit VAT information to SII, addresses the information taxpayers must remit retroactively for 1 January 2017 through 30 June 2017, specifies additional fields to be added in the last monthly return for taxpayers transitioning to SII, and makes other modifications to the Decree. Thus, although the Decree provided taxpayers with a preview of the reporting requirements, the Order provided the details needed to enable such reporting.

## Comments

To comply with the Decree and Order, taxpayers must align their Enterprise Resource Planning (ERP) systems and processes with the new requirements. Such information technology (IT) projects generally take at least six to 12 months to implement and cannot be started until the full specifications and requirements are known. The Order containing such details was not issued until the middle of May 2017, thus only providing a two-month implementation period. Moreover, companies wishing to outsource either the reporting or IT changes have been confronted with service providers who do not have the resources to meet these demands in the given limited timeframe. Thus, taxpayers implementing the transition to SII have had much difficulty, at best, meeting the 1 July 2017 deadline imposed under the Order.

The Spanish General Tax act states that taxpayers who are late in complying with the bookkeeping obligations are punishable with penalties of up to 0.5% of the value of the invoices with a minimum of €300 and a maximum of €6,000 per quarter. In addition, taxpayers failing to report the data on a timely basis might lose the right to recover the input VAT. The Tax Agency has not formally addressed how it will respond to taxpayers unable to send SII reports as of 1 July 2017, despite continuous requests from companies and business associations, such as the Spanish Confederation of Employers' Organizations.

TEI urges the Tax Agency to release clear guidelines, informed by challenges associated with the new requirements, to assist taxpayers and tax officials in adapting to the SII requirements. Most importantly, TEI recommends that taxpayers be provided a grace period of at least six months if the taxpayer can demonstrate it is in the process of developing a solution to make its ERP systems compliant with SII, such as showing a copy of the contract with an IT service provider or an internal work plan. Such guidelines would maintain the confidence of taxpayers and further voluntary compliance. TEI welcomes the opportunity to work with the Tax Agency to craft these guidelines and/or participate in meetings with the Tax Agency.

TEI also welcomes and encourages the Spanish Tax Agency to consult with TEI and the broader international business community for practical business input when conducting future initiatives of such scope. Such input is necessary to ensure that the proper balance is kept between safeguarding VAT revenues and minimizing the administrative burdens, costs and risks for both businesses (the tax collectors) and the Tax Agency. Keeping costs low and providing businesses the adequate lead time to implement changes will enable taxpayers to comply in a timely manner and will make Spain a more attractive place to conduct business. TEI welcomes the opportunity to participate in such efforts and coordinate input from the international business community in future initiatives.

### **Conclusion**

TEI appreciates the opportunity to share its suggestions with the Tax Agency regarding the implementation of SII reporting. TEI's comments were prepared by TEI's European Indirect Tax Committee, whose co-chairs are Paula Regales and Gorka Echevarria. If you have any questions about TEI's comments, please contact Ms. Regales at +34 (696) 52 92 44 or paularegales@gmail.com, Mr. Echevarria at +34 (616) 37 60 62 or gorka.echevarria-zubeldia@hpe.com, or Pilar Mata of TEI's legal staff at +1 202 464-8346 or pmata@tei.org.

Respectfully submitted,  
**Tax Executives Institute**



Robert L. Howren  
International President