

August 29, 2014
2014-084

flash International Executive Alert

A Publication for Global Mobility and Tax Professionals by KPMG's International Executive Services Practice

Spain – New Elements of Compensation Now Included in Social Security Tax Base

by Javier Frías Sanz and Juan Rincon Alonso, KPMG Abogados, Madrid (KPMG Abogados in Spain is a KPMG International member firm)

Amendments were enacted by Royal Decree 637/2014 in Spain that expand the scope of the social security contributions base by including more items of employees' remuneration subject to tax.¹

Why This Matters

The new amendments could impact current remuneration plans, as some items of remuneration that have customarily not been subject to Spanish social security contributions are now taxable. As a result, the new rules could have the effect of reducing the employees' net remuneration by bringing more elements of compensation into the social security tax net.

From the employers' perspective, the rules may raise their administrative burdens initially, as they need to make the necessary adjustments to withholdings in respect of the newly-included items of remuneration. In addition, employers may wish to revise their compensation plans, in order to mitigate the impact of the new rules for themselves as well as for their employees.

In terms of cross-border employment costs, the new rules may have the effect of raising employers' compensation-related costs (depending on their taxation and compensation policies) vis-à-vis their international assignees.

Royal Decree 637/2014 of 26 July 2014²

The Decree:

- describes the types of remuneration that are subject to social security taxation, and
- determines the rules for the valuation of different compensation elements received by employees, both cash and in-kind, that will now be included in the contribution base, as follows:
 - ✓ any amounts given to the employee in cash, by check, or through vouchers to purchase any asset, rights, or services;
 - ✓ any shares awarded by employers;
 - ✓ any premiums or contributions paid by the employers to insurance companies to cover the risks (as specified) of their employees; and
 - ✓ any contributions paid by employers on behalf of their employees to employee pension plans.

The benefits-in-kind shall be valued at the average cost to the employer (where that benefit is provided as a concession to the employees), except in the following cases:

- For the provision of education benefit for the children of employees, for free or for

amounts under the normal market price, and for the provision of child-care offered by the company, the valuation is determined according to the marginal costs linked to the “centers” providing such services.

- For the (1) provision of housing allowances or reimbursements, whether that housing is offered by the employer on the employer’s premises or “off site” and (2) use or delivery³ of company-provided vehicles, the valuation is made according to the terms provided for the afore-mentioned benefits in Spain’s tax code.
- Loans granted to workers at below-market interest rates shall be valued at the difference between the interest paid and the legal interest rate in force during the year.

Other items are excluded from the contributions base (see second paragraph of Article 23, according to the provisions of Article 109.2 of the Consolidated Text of the General Law on Social Security).

Deadlines

The new rules stipulate a deadline of September 30, 2014, for charging and collecting the social contributions in respect of the expanded base.

KPMG Note

Social security costs are typically among the main costs for international assignments. Please note, under the new rules, contributions to the system must be made irrespective of the nationality of the employees. However, it is important to analyze each particular situation in light of applicable international social security agreements and EU regulations.

Footnotes:

1 For more information (in Spanish) on *Real Decreto 637/2014, de 25 de julio, por el que se modifica el artículo 23 del Reglamento general sobre cotización y liquidación de otros derechos de la Seguridad Social, aprobado por el Real Decreto 2064/1995, de 22 de diciembre* see the “Novedades” Web page of the Ministerio de Empleo y Seguridad Social at: http://www.seg-social.es/Internet_1/Novedades/index.htm .

Or go the Web site for the *Boletín Oficial del Estado* de sabado, 26 de Julio de 2014, p. 59692 at: <http://www.boe.es/boe/dias/2014/07/26/pdfs/BOE-A-2014-7969.pdf> .

2 The amendments entered into force on the day following the Decree’s publication, and modify article 23 of the General Regulations on contributions and settlement of other rights granted by Social Security, and adapt the changes that were introduced in Article 109 of the General Law on Social Security.

3 The term “delivery” means the vehicle is bought by the employer, granted to the employee, and the employee becomes the owner of the vehicle (and this is deemed a benefit-in-kind). The delivery is valued as the full price paid by the employer together with taxes and insurances.

The information contained in this newsletter was submitted by the KPMG International member firm in Spain. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Flash International Executive Alert is an IES publication of KPMG LLP’s Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our IES practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com> .