



## Madrid set to approve a new tax incentive for foreign investors

Regional PIT credit for investments made by newly arriving foreign taxpayers in qualifying properties and securities

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The Region of Madrid has set its sights on attracting foreign investors and promoting the Region as a centre for foreign investment, companies and talent. With this in mind, work has begun on a Draft Law (only available in Spanish) for the creation of a new regional personal income tax (PIT) credit for foreign taxpayers investing in qualifying properties and securities in Madrid.

The draft legislation is to be processed as a matter of urgency to ensure that the Law is passed in 2023.

The main aspects of this tax incentive are explained below, though it should be borne in mind that the draft law may be subject to amendments with the completion of the legislative procedure in the Madrid Assembly and approval of the final law.

### **Who is eligible for the tax credit?**

Natural persons not resident in Spain who transfer their residence to the Region of Madrid and become PIT taxpayers, provided they have not been tax resident in Spain during the five years preceding the year in which the change of residence takes place.

The tax credit will take effect for tax periods commencing as of 1 January 2023.

### **Tax credit rate and eligible investments**

The tax credit will amount to 20% of the acquisition value, including related expenses and taxes and excluding interest, of any of the following assets:

- a) Real property located in the Region of Madrid.
- b) Securities representing the assignment to third parties of equity issued by any kind of entity, traded on organised markets or otherwise.
- c) Securities representing holdings in the equity of any kind of entity, traded on organised markets or otherwise.

In the case of investments in unlisted securities representing a holding in the equity of any kind of entity, eligibility for the tax credit will be subject to three requirements:

- The entity in question must not be incorporated or domiciled in a tax haven.
- The direct or indirect holding of the taxpayer, combined with any such stake held in the same entity by their spouse or individuals to whom they are directly or indirectly related, by consanguinity or affinity, up to and including the second degree, may not exceed 40% of the capital or voting rights of the entity on any day of the six calendar-year period for which the investment must be held.
- The taxpayer must not exercise executive or management duties at, or have an employment relationship with, the entity in which the investment is held.

#### **Deadline for investment**

Investments in real estate located in the Region of Madrid, in shares in Spanish companies or securities representing the assignment to third parties of own capital issued by Spanish entities may be made:

- (i) in the year preceding the year in which tax residence in Spain is acquired in accordance with the PIT legislation;
- (ii) in the year in which tax residence in Spain is acquired; or
- (iii) in the year following the year in which tax residence in Spain is acquired.

Investments in any other qualifying assets may be made in the year in which tax residence is acquired or in the following year.

#### **Minimum investment period**

The taxpayer must maintain the qualifying investment for a minimum period of six years.

However, this minimum investment period requirement will not be deemed breached where an investment is disposed of and the profits are reinvested within one month.

#### **When is the tax credit to be taken?**

Generally speaking, the tax credit may be taken in the year in which the investment is made or within the five years immediately following it.

In the specific case of investments in real estate, securities representing the assignment to third parties of equity issued by Spanish entities, or securities representing a holding in the equity of Spanish entities made in the year preceding the year in which tax

residence in Spain is acquired, the tax credit may be taken in the year in which tax residence is acquired or within the five years immediately following it.

### **Can entitlement to the tax credit be lost?**

Yes, entitlement to the tax credit will be forfeited in the event of loss of tax residence in Madrid during the six-year minimum investment period, and in the event of breach of the obligation to maintain the investment made (i.e., if the assets are transferred before the above period elapses).

For further information, contact KPMG Abogados' director:

Jose Luis Lopez Hermida | [jillopezhermida@kpmg.es](mailto:jillopezhermida@kpmg.es)

Xavier Aixela | [xaixela@kpmg.es](mailto:xaixela@kpmg.es)