

Service for filing tax form and paying Financial Transactions Tax. Amendment

Circular no. 03/2023, of 19th July

Iberclear

July 2023

Please note that only the Spanish version of this Circular produces legal effect. Any translation is provided for commercial purposes only.

General description

The purpose of this Circular is to amend Circular no. 03/2021 of 26 May on the *Service for filing tax form and paying Financial Transactions Tax* in order to adapt it to the new situation resulting from the agreement with the Autonomous Community of the Basque Country and the Autonomous Community of Navarre.

Impact

Participants are allowed to submit self-assessments and to deposit the corresponding tax debts to each of the taxable persons to the competent tax administrations.

Related publications

This Circular amends:

- Circular no. 03/2021, of 26 May. Service for filing tax form and paying Financial Transactions Tax.

Effective date

This Circular shall enter into force on the day determined by Instruction.

Contact

Should you have any questions, please contact the Entities department at entidadesiberclear@grupobme.es.

ARCO Settlement System. Amendment of fees.

Iberclear

Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A.U., with registered office in Madrid, Plaza de la Lealtad 1, tax ID number A-82695677 and entered in the Commercial Register of Madrid in volume 15,611, folio 5, section 8, page no. M-262818.

The Financial Transactions Tax, approved by Law 05/2020 of 15 October, has been incorporated into the economic agreement with the Autonomous Community of the Basque Country by Law 01/2022, of 8 February, and the economic agreement with the Autonomous Community of Navarre by Law 22/2022, of 19 October.

Model 604 “Financial Transactions Tax. Self-assessment” has been modified in accordance with the criteria of levy established in the aforementioned regulation. Moreover, the form and procedure for its presentation are determined, approved by Order HAC/510/2021, by a new model of self-assessment for the tax, approved by Order HFP/308/2023 of 28 March, which includes an agreement.

The purpose of this Circular is to amend Circular no. 03/2021, of 26 May, on the Service for filing tax form and paying Financial Transactions Tax, to adapt it to the new situation resulting from the tax agreement, and to allow participants to submit self-assessments and to deposit the corresponding tax debts to each of the taxable persons to the competent tax administrations.

Therefore, the Iberclear Board of Directors has approved the following:

Only Rule - Amendment of Rule 1 “Purpose of the service of filing and paying the Financial Transactions Tax”, Rule 2 “Recipients of the service”, Rule 3 “Duties of confidentiality and of storing documents” and of Rule 4 “Responsibility of IBERCLEAR and the participants”.

1. Rule 1 of Circular no. 03/2021 is amended as follows:

“Rule 1. Purpose of the service of filing and paying the Financial Transactions Tax:

Iberclear makes a set of communication and payment procedures and channels available to participants so that they can meet the obligations imposed on them by legislation relating to the Financial Transactions Tax:

The service includes:

- *Receiving ordinary, additional and replacement Financial Transactions Tax returns sent by participants.*
- *Payment notices reporting the aggregate amount resulting from tax forms sent by participants.*

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- ~~Sending the informational appendix and the self-assessment to the competent tax Administration for each taxable person to the State Tax Administration Agency, in accordance with the requirements established in the prevailing legislation at the time.~~
- Managing payment of the tax resulting from the tax forms of the taxable persons through the participants' accounts *to the tax Authority indicated in such self-assessments.*
- Processing the request for the assignment *or verification* of the individual ID code provided for in the regulations implementing the Tax Law (Article 6.1 and Article 8 of Royal Decree 366/2021)."

2. Rule 2 of Circular no. 03/2021 is amended as follows:

"Rule 2. Recipients of the service:

Iberclear will provide access to the service to the participants that complete and send the duly signed form attached as Appendix 1, along with the additional documents:

- Participant's technical resources. Appendix 2
- Acceptance of allocation of resources. Partner entity. Appendix 3
- ~~Acceptance document and letter to the Bank of Spain for direct debit of payments resulting from self-assessments, Appendix 4.~~ Appendix 2e "Document of acceptance of the RTGS account" of Circular no. 04/2017 of 4 September on the Procedure for membership of entities of the securities settlement system managed by Iberclear.

The central securities depositories and similar entities that maintain a securities account at Iberclear by virtue of a direct link will access the service under the same terms and after completing and sending the documents referred to in the above paragraph. Other central securities depositories that would like to access this service must first sign a collaboration agreement with Iberclear, as referred to in Article 8.2 of the Tax Law and Article 7 of the Royal Decree 366/2021, as well as additional tax regulation.

In both cases, the participants and other central securities depositories will use the service either because they are taxable persons or because they have been designated by third parties who are taxable persons to provide the information and pay the corresponding tax."

3. Rule 3 of Circular no. 03/2021 is amended as follows:

"Rule 3. Duties of confidentiality and of storing documents:

1. *In accordance with the provisions of the Tax Law, Iberclear will only use the information received during the provision of the service in accordance with this Circular for providing*

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it. The information reported to the *competent tax Administration administrations* in the cases provided for in the tax regulations.

2. *Except as provided in the above paragraph, this information is of a confidential nature, Iberclear adheres to the strictest confidentiality regarding it. Notwithstanding the provisions of Article 8.5 of Law 5/2020 and the first additional provision of Royal Decree 366/2021, as well as additional tax regulation, Iberclear will keep the records relating to the service provided in accordance with this Circular for a period of ten years."*

4. Rule 4 of Circular no. 03/2021 is amended as follows:

"Rule 4. Duties of confidentiality and of storing documents:

1. *In the provision of the service in accordance with this Circular, Iberclear will not assume any responsibility derived from receiving, consolidating and submitting information regarding the taxable personas, or from the payments made by the participants on behalf of those taxable persons. Consequently, the participants may only claim from Iberclear for direct damages that could derive from malicious acts or omissions or where there is gross negligence on the part of Iberclear.*
2. *Participants will be responsible for any damage that could be caused to Iberclear or other participants as a result of their errors, incidents or dysfunctions that prevent them from adapting to the established procedures, requirements, formats and deadlines, or from there being insufficient funds in the account identified for paying the tax. They will also be responsible for any damage or interruption of the service caused as a result of their communication security systems not working properly.*
3. *The participants will hold Iberclear blameless from any claim that may be made by a taxable person or third party on whose behalf they are acting in relation to filing returns or paying taxes for taxable persons that have appointed them to provide the information and pay the corresponding tax according to the participant's guidelines.*

Additional provision

Appendix 4 to Circular no. 03/2021, of 26 May, on the Service for filing tax form and paying Financial Transactions Tax is replaced by Appendix 2e "Document of acceptance of the RTGS account" of Circular no. 04/2017, of 4 September, on the Procedure for membership of entities of the securities settlement system managed by Iberclear.

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Final provision

This circular shall enter into force on the day determined by Instruction.

Madrid, 19th of July 2023

Francisco Béjar
Managing Director

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