

## Circular no. 03/2021, of 26 May

### SERVICE FOR FILING TAX FORM AND PAYING FINANCIAL TRANSACTIONS TAX.

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

Law 5/2020, of 15 October, on the Spanish Financial Transactions Tax (Tax Law), obliges Sociedad de Gestión de los Sistemas de Registro, Compensación y Liquidación de Valores, S.A. Unipersonal (Iberclear) to intervene on behalf of certain taxable persons, filing the self-assessment and paying the resulting tax.

The purchase of shares issued by a Spanish company will be an event liable for the financial transactions tax. These purchases may be settled in the ARCO Securities Settlement System, managed by Iberclear, which is why the state legislator has deemed it appropriate for it to intervene.

The assumptions and scope of Iberclear's intervention in this process is established in Royal Decree 366/2021, of May 25th, which sets out the procedure for filing tax form and paying the financial transactions tax and modifies other tax regulations.

Iberclear's participants must channel the information and amounts for the taxable persons determined in the above provisions through the procedure developed by Iberclear.

By attributing this function to Iberclear, the legislator has tried to simplify collection management leading to more efficient use of public resources.

To duly comply with these regulatory provisions, Iberclear has developed a service for filing and paying the financial transactions tax to allow participants including central securities depositories to comply with the obligations imposed in the Tax Law by filing tax form and paying the tax for each taxable person.

The purpose of this circular is to establish the legal framework for the provision of the service by Iberclear to its participants, setting out the terms of the above service for the filing of tax form and payment of the tax, and approving the form that participants must complete to access the service for filing and paying the financial transactions tax.

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

#### **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.

- Sending the informational appendix and the self-assessment for each taxable person to the State Tax Administration Agency, in accordance with the requirements established in prevailing legislation at the time.
- Managing payment of the tax resulting from the tax form of the taxable persons through the participants' accounts.
- Processing the request for the assignment 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).

## 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.

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.

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.

## 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 it. The information must be reported to the Tax Administration 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, Iberclear will keep the records relating to the service provided in accordance with this circular for a period of ten years.

#### Rule 4. Responsibility of IBERCLEAR and the participants.

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 persons, 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.

#### ADDITIONAL PROVISIONS

1. Authorisation is issued for instructions to be given regarding any operational, procedural or documentary aspects required to effectively implement these provisions.
2. Annex 2e of Circular No. 4/2017, of September 4, on the procedure for membership of entities of the securities settlement system managed by Iberclear is replaced by Annex 4 "authorization to Bank of Spain" which is attached as Annex to this Circular.

#### FINAL PROVISION

This circular will come into effect on the day following its publication.

Madrid, 26 May 2021.

Francisco Béjar  
Deputy General Manager