

Fiscal/ Tax Update

Barcelona, 19 November 2021

Tax on the Increase in Value of Urban Land, must you pay it?

The Constitutional Court, in its ruling n° 182/2021, dated 26 October 2021, declared unconstitutional, null and void the provisions establishing the rules for calculating the Taxable Base of the Tax on the Increase in Value of Urban Land (IIVTNU).

The Spanish Government, promptly, has modified the provisions declared null and void, having already published in the Official State Bulletin (BOE) the "Royal Decree-Law 26/2021, of 8 November.

The new methods for calculating the Taxable Base:

- i. **Objective System:** The annual percentages applicable to the value of the land are replaced by maximum coefficients subject to the number of years elapsed since the acquisition of the asset.
- ii. **Actual Capital Gain:** Determine the Taxable Base according to the actual capital gain of the land (proportional difference between the sales price and the acquisition price).

New criterion: how it affects the taxpayer:

The taxpayer may choose the method to assess the IIVTNU Taxable Base that deems appropriate.

A new case of non-subjection is regulated: Operations where there is no increase in land value will not be subject to taxation.

On the other hand, as a rule, capital gains on the value of land generated in less than one year are now subject to this tax (previously this was not the case).

Possible scenarios:

The situation will depend on the date the operation is closed:

- **Before October 26, 2021:** this is the date in which the ruling was pronounced, non-final rulings, either by reason or a court or an administrative resolution **may be reviewed** based on this ruling.



- **Between October 26 and November 9, 2021 (included):** Payment of this tax cannot be levied, as it has been declared unconstitutional.
- **As from November 10, 2021 (included):** Tax on the Increase in Value of Urban Land must be paid in accordance with the new system to calculate the Taxable Base.

Tax Area

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