



# Spanish Financial Transaction Tax



The Spanish Parliament has approved Act 5/2020, of 15 October, on the Financial Transactions Tax (FTT). It enters into force on 16 January 2021.

## Introduction

The new law is heavily based on transaction taxes currently in place in France and Italy and introduces a 0.2% financial transaction tax on all purchases of in-scope Spanish equities, subject to certain exemptions.

## Which securities are included in the scope of the FTT?

- The tax will apply to the acquisition of shares in Spanish companies with a market capitalisation of over EUR 1,000 million EUR.
- The tax will be applied irrespective of the residence of the financial intermediaries involved in the transaction.
- The tax will apply to shares in the above mentioned companies listed on the Spanish market, a regulated market of another EU Member State, or an equivalent third-country market.

The list of securities subject to the FTT will be published prior to the law becoming effective and thereafter annually before 31 December. At this point we do not have access yet to the list of companies in scope and it is still unclear when and how the list will be made available.

## Which transactions are included in the scope of the FTT?

The tax will be applied if there is a movement of shares which entails a change of ownership or registration name. Also, any acquisition of certificates of deposit representing the above mentioned shares, as well as any acquisition derived from the exchange or conversion of bonds, would be subject to the tax.

The tax will be applied regardless of the place where the acquisition is made and regardless of the residence or place of establishment of the persons or entities involved in the transaction. It is extraterritorial in its application.

## Which transactions are excluded from the scope of the FTT?

The FTT Act includes a list of transactions involving shares that are exempt from the tax:

- Primary issuance and IPOs and related underwriting transactions
- Purchases by market makers in Spanish equities or Depositary Receipts
- Purchases by market makers in derivatives referencing Spanish equities or DRs where the equities or Depositary Receipts purchased hedge the derivative
- Intra group transfers
- Securities lending and borrowing transactions
- Repurchase transactions, buy-sell back transactions and sell-buy back transactions
- Transfers of shares as collateral

## Who is liable for paying the FTT?

The acquirer of the securities is liable for the tax.

## Who is responsible for paying the FTT?

Where the transaction is executed on an exchange or multilateral trading facility (MTF), the taxpayer is the intermediary that transmits or executes the buy order (where there is a chain of intermediaries the taxpayer is the intermediary closest to the client).

Where the transaction is executed in a systematic internaliser, the taxpayer is the entity operating the systematic internaliser.

Where the transaction is executed off exchange and outside a systematic internaliser, the taxpayer is the financial intermediary that received the order from the buyer and if there is no financial intermediary the taxpayer is the buyer's custodian.

### How is the tax paid?

The Royal Decree will develop the procedure for paying and declaring the tax. It is expected that taxpayers may pay the tax directly to the Spanish tax authorities or through a Central Securities Depository (CSD). The FTT will be declared and paid on a monthly basis.

### What calculation method must be used to calculate the FTT?

The tax base will consist of the amount of consideration, exclusive of expenses associated with the transaction. For convertible bonds or debentures, the base will be outlined in the issuance document of the securities.

Special rules will apply where the securities originate from options or other financial derivative instruments where the exercise of the option results.

### When is the start date?

The entry into force is three months following the publication of the Law in the Spanish Official Gazette and as such is effective as at 16 January 2021, with the first filing due February 2021 and then on a continuing monthly basis.

We are closely following further development and publications on this financial transaction tax. We will inform you as soon as more information is available.