

## **SPECIAL TAX REGIME APPLICABLE TO INTERNATIONAL PREFERRED SHARES AND DEBT INSTRUMENTS ISSUED UNDER SPANISH LAW 10/2014 AND LAW 13/1985**

The first additional provision of Law 10/2014 of 26 June, and its predecessor, the second additional provision of Law 13/1985 of May 25, as well as article 44 of Royal Decree 1065/2007 of July 27 (as amended by Royal Decree 1145/2011 of July 29), set out the tax rules applicable to preferred shares and debt instruments issued by Spanish financial institutions, corporations and public companies.

According to the aforementioned regulations, income derived by all investors, whether resident in Spain or not, from securities originally registered with the entities that manage clearing systems located outside Spain (i.e. Six Sis), will be paid free of Spanish withholding tax.

In this case, the right of investors to receive the gross payment of the relevant income is subject to the submission by the paying agent appointed by the issuer of a statement, in accordance with the form attached as annex to Royal Decree 1145/2011, with the following information:

- a) Identification of the securities; and
- b) Total amount of the income paid to investors through each clearing house located outside Spain.

## **REPORTING OBLIGATIONS ON INTERNATIONAL PREFERRED SHARES AND DEBT INSTRUMENTS ISSUED UNDER SPANISH LAW 10/2014 AND LAW 13/1985**

The application of the described special tax regime requires the issuer (or its parent company) to submit annually certain information to the Spanish tax authorities regarding *“the identity of the holders of the securities who are taxpayers of the Spanish Individual Income Tax or taxpayers of the Spanish Corporation Tax, as well as taxpayers of the Spanish Non-resident Income Tax who hold the securities through a permanent establishment located in Spanish territory”*, as set out in Section 4 of the first additional provision of Law 10/2014 and in Section 3 of additional provision two of Law 13/1985.

Likewise, Section 8 of Article 44 of Royal Decree 1145/2011, states that the simplified procedure described above in order to make gross payments of income will apply *“without prejudice to the reporting obligations set out in the tax laws concerning issuers and financial intermediaries resident in Spain that act as depositaries of securities, with respect to individuals or companies resident in Spain that own the securities”*.

Therefore, although identification of investors is no longer a prerequisite to perceive the income in their gross amount, certain information obligations apply to those securities regarding the identity of Spanish resident investors that the issuers must comply with.

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In summary, Spanish issuers are not required anymore to identify holders of the securities as a precondition to pay the relevant income free of Spanish withholding tax –this is to say, the right of investors to receive the gross payment of the income is only subject to the submission by the paying agent of a statement to the issuer containing certain information related to the notes–, however an information obligation is imposed to them that requires the collection of the relevant Spanish beneficial owner information through a disclosure procedure notified to participants through the relevant clearing system and in accordance to the clearing system’s operational requirements.