Spanish Regional Economic - Administrative Tribunal challengers valuation practices in mooring transfers

Tax Alert

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Balearic Islands Regional Economic-Administrative Tribunal (TEAR) – Resolution 07/01785/2024/00/00.

In Spain, **moorings in marinas are not privately owned** but are granted under **long-term administrative concessions** —typically lasting up to 30 years— over public maritime domain. These concessions confer a **preferential right of use**, subject to regional legislation and administrative oversight, rather than full ownership. As such, the transfer of mooring rights is treated as a **transfer of real estate rights** and is subject to Spanish transfer tax (***Impuesto sobre Transmisiones Patrimoniales Onerosas* – ITP**).

In the Balearic Islands, the applicable ITP rates **range from 8% to 11%**, depending on the value of the transaction. In recent years, the Balearic Tax Authorities (**ATIB**) have been actively reviewing the declared values in mooring transfers, issuing **provisional tax assessments** based on **valuation reports prepared by third-party firms**, often without any physical inspection of the mooring. These reports have been used to justify upward adjustments to taxable income, resulting in **higher tax liabilities for taxpayers**.

In a significant ruling, the **Balearic Islands Regional Economic-Administrative Tribunal (TEAR)** now holds **that the absence of a physical inspection by the expert appraiser invalidates the valuation report as a sufficiently substantiated basis for assessment**. The court emphasised that moorings are considered real estate assets, and their proper valuation requires an **individual inspection**, which cannot be achieved without an on-site visit.

The TEAR cited recent and consistent case law from both the **Spanish Supreme Court** and the **High Court of Justice of the Balearic Islands**, noting that the absence of a physical inspection prevents the appraiser from considering key factors such as:

- The specific location and orientation of the mooring within the marina
- The quality and availability of port services and infrastructure
- Accessibility and surrounding conditions

Practical insight:

At KPMG in Palma de Mallorca, we have advised clients in similar cases where the ATIB has issued assessments based on valuation reports without any physical inspection. This TEAR resolution provides a strong legal foundation to challenge such assessments and defend the declared value in mooring transactions.

For further information, please contact Javier del Hoyo and Ramón Ruiz Solis – Tax, KPMG Balearic Islands.

Link to the official resolution (only available in Spanish):

TEAR resolution 07/01785/2024/00/00

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