MINISTRY
OF FINANCE
AND PUBLIC ADMINISTRATIONS

PRESS OFFICE

Press release

The tax obligations of the FATCA will be fulfilled

Spain will sign an important agreement with the United States against international tax evasion

- Spanish financial institutions operating in the U.S. will not be subject to a 30% withholding on payments they receive from U.S. sources in return for an exchange of information between tax authorities
- Other signatories include the United Kingdom, Italy, Germany and France

Madrid, 8 February 2012. Spain, along with the United Kingdom, Italy, Germany and France, is expected to sign an important agreement with the United States on cooperation in the fight against international tax evasion, both within the EU and in the OECD area, by improving the quality of information shared among tax authorities.

The memorandum of understanding falls under the United States' Foreign Account Tax Compliance Act, known as FATCA, which was approved on 18 March 2010. Under the Act, the various tax authorities agree to comply with a series of reporting targets of information to be obtained from financial institutions regarding taxpayers of interest and automatically transmitted through a standardised procedure.

The procedure to implement this new reporting standard, which the various signatory States must comply with, shall be based on the adaptation of administrative processes that enable the new goal of data exchange required by the agreement to be achieved.

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Thanks to the data exchange system between tax authorities in Spain and the United States, this important agreement will let Spanish financial institutions avoid a potential 30% withholding on payments they receive directly from U.S. sources (such as interest, dividends, rents, wages, commissions or fees), and the steep costs incurred when implementing bilateral agreements with the U.S. tax authorities.

What is FATCA?

On 18 March 2010, the United States passed a series of provisions that combined are called the Foreign Account Tax Compliance Act (FATCA), which requires Foreign Financial Institutions (FFIs) to report information regarding certain accounts. France, Germany, Italy, Spain and the United Kingdom support the objectives underlying the FATCA. However, this law has raised several issues, among them whether the FFIs established in these countries have the capacity to fulfil the requirements for reporting, withholding and closing of accounts due to legal restrictions.

Under the agreement, the United States would remove the obligation for all foreign financial institutions (FFIs) established in FATCA Member Countries to sign a unilateral agreement with the Internal Revenue Service (IRS). It would enable FFIs established in a FATCA member country to fulfil the reporting obligations assumed under the FATCA by communicating the information to the FATCA member country rather than directly to the IRS. More importantly, it would eliminate the withholding applicable in the United States, by virtue of FATCA, on payments to FATCA-member FFIs (i.e., identifying all the FFIs in the FATCA member country as participating FFIs or FFIs in compliance, as appropriate).

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At the same time there would be a reciprocal agreement regarding the collection and automatic communication of information regarding U.S. accounts belonging to residents of the FATCA member country to the tax authorities in the FATCA member country.

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