

# Spain allows for the conversion of DTAs into effective tax credits, improving banks' capital positions

Global BCM Tax Newsflash  
4 December 2013

**New tax rules should allow banks not to be required to deduct certain deferred tax assets (“DTAs”) from Core Equity Tier 1 (“CET 1”) under EU Regulation 575/2013 of 26 June 2013 (“Capital Requirements Regulation” or “CRR”).**

New tax rules allowing for the conversion of DTAs into effective tax credits apply to DTAs arising from temporary differences originating from the impairment of loans and assets received in exchange for loans, from pension and early retirement schemes, and from tax losses caused by the reversal of the aforementioned temporary differences.

## Background

CRR, which will become effective on 1 January 2014, introduced restrictions to the nature of DTAs which are exempt from direct deduction from CET 1. These should be limited to DTAs originating from temporary differences that are mandatorily and compulsorily converted into a tax credit in case of loss, insolvency or liquidation that can be offset against any tax liability, and in the case of excess tax credit, converted into a direct claim against the state.

Italy in year 2011 and, more recently, Brazil (for similar Basel III purposes), introduced tax measures for mitigating the impact on CET 1 of such a limitation.

## Scope

The new measures introduced in Spain have a broad scope of application: they apply to all corporate tax payers irrespective of the sector of activity in which they operate, although, considering the impact on regulatory capital, the

greatest benefit would be for credit and investment services firms.

## Content

### DTAs covered

For fiscal years starting in 2014, DTAs corresponding to the impairment of loans or of assets acquired in payment of loans, and contributions to certain pension schemes, will be converted into an effective credit against the tax administration in either of the following circumstances:

- a) The taxpayer registers accounting losses in its annual accounts, which are audited and approved by the corresponding body. In this case, the amount of DTAs converted will be the result of multiplying the total amount by the percentage that the accounting losses represent with respect to the sum of capital plus reserves.
- b) The entity is liquidated or declared insolvent by a court.

DTAs corresponding to tax losses which have been generated through the reversal of the abovementioned DTAs from the year 2014 will also be covered by the conversion.

### *Timing of the conversion*

The conversion will take place at the time of filing the corporate tax return corresponding to the fiscal year in which circumstances a) or b) above occur (for those companies with a calendar fiscal year, the filing term is between the 1<sup>st</sup> and the 25<sup>th</sup> of July of the following year). The credit can be directly claimed or offset against any tax liability generated after the conversion. After 18 years, counted from the date on which the DTAs were recorded for accounting purposes (or from the date on which this law comes into force with respect to DTAs registered before), such DTAs can be converted into government bonds if not refunded or offset earlier.

### *Retroactivity and other measures*

With effects beginning in fiscal year 2011, DTAs with origin in the abovementioned items would only revert to the extent they did not exceed the taxable profit of the year before offsetting the prior year's tax losses. The excess will be carried forward with the same limits.

Special rules are defined for the application of the same principle to tax groups and to the incorporation or exclusion of companies from said groups.

### ***Conclusions***

The tax measures enacted will improve the regulatory capital position of credit and investment services firms under CRR; however, the practical application of the rules may be difficult and guidance from the tax authorities is likely to be issued. PwC will provide further updates in this case.

## *PwC contacts*

If you would like further advice or information in relation to the issues outlined above, please call your local PwC contact or any of the individuals listed below:

---

**David Newton**  
*Global FS Tax Leader*  
T: +44 207 804 2039  
david.newton@uk.pwc.com

**Hans-Ulrich Lauer mann**  
*Global Banking & Capital Markets Tax Leader*  
T: +49 69 9585 6174  
hansulrich.lauer mann@de.pwc.com

---

**Bob van der Made**  
*EU Public Affairs Brussels*  
T: +31 88 792 3696  
bob.van.der.made@nl.pwc.com

**Justin Woodhouse**  
*Banking & Capital Markets Tax Leader EMEA*  
T: +44 20 7804 6750  
justin.woodhouse@uk.pwc.com

---

**Ernest Chang**  
*Banking & Capital Markets Tax Leader AsiaPac*  
T: +61 2 8266 0557  
ernest.chang@au.pwc.com

**Ellen Rotenburg**  
*Banking & Capital Markets Tax Leader Americas*  
T: +1 646 471 5559  
ellen.rotenburg@us.pwc.com

---

**Miguel Blasco**  
*FS Tax Partner – Spain*  
T: +34 915 684 798  
miguel.blasco@es.pwc.com

---

### *PwC Singapore*

---

**Anuj Kagalwala**  
T: +65 6236 3822  
anuj.kagalwala@sg.pwc.com

**David Sandison**  
T: +65 6236 3675  
david.sandison@sg.pwc.com

---

**Paul Lau**  
T: +65 6236 3733  
paul.st.lau@sg.pwc.com

**Tan Hui Cheng**  
T: +65 6236 7557  
hui.cheng.tan@sg.pwc.com

---

**Carrie Lim**  
T: +65 6236 3650  
carrie.cl.lim@sg.pwc.com

**Tan Tay Lek**  
T: +65 6236 3768  
tay.lek.tan@sg.pwc.com

---

**Lim Maan Huey**  
T: +65 6236 3702  
maan.huey.lim@sg.pwc.com

**Yip Yoke Har**  
T: +65 6236 3938  
yoke.har.yip@sg.pwc.com

---

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers does not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2013 PwC. All rights reserved. Not for further distribution without the permission of PwC. "PwC" refers to the network of member firms of PricewaterhouseCoopers International Limited (PwCIL), or, as the context requires, individual member firms of the PwC network. Each member firm is a separate legal entity and does not act as agent of PwCIL or any other member firm. PwCIL does not provide any services to clients. PwCIL is not responsible or liable for the acts or omissions of any of its member firms nor can it control the exercise of their professional judgment or bind them in any way. No member firm is responsible or liable for the acts or omissions of any other member firm nor can it control the exercise of another member firm's professional judgment or bind another member firm or PwCIL in any way.

120706-160008-KP-OS