

7<sup>TH</sup> OF JANUARY 2021

## **CONVENTIONAL REMUNERATION OF SHARE CAPITAL INTERPRETATION OF THE LIMIT SET IN THE TAX BENEFITS STATUE**

On the 16<sup>th</sup> of December 2020, Circular Letter No. 20226 of the Office of the Deputy Director-General for Income Tax and International Relations of the Tax and Customs Authority was published, which clarifies the interpretation of the limit for the conventional remuneration of share capital (CRSC), provided for in Article 41-A of the Tax Benefits Statute (TBS).

Considering that the TBS determines that, in determining the taxable profit of companies, the amount corresponding to the conventional remuneration of share capital may be deducted (i) up to 7% of the maximum limit of eligible contributions of €2M and (ii) for a period of six years, the doubt has arisen as to whether the deduction applicable to a tax period could be combined with the deductions corresponding to previous tax periods, as mentioned above, thereby disregarding the maximum deduction limit of 7% of €2M in each tax period.

This Circular Letter has made it clear that, although there is no obstacle to the taxpayer benefiting from the deduction referred to, when he has already benefited from it in one of the five previous periods, the amount to be deducted in each period will have to comply with the limit of 7% of the contributions made up to €2M.

As a result, the deduction from the taxable profit of each tax period, under that rule, may never exceed the amount of €140.000,00, which corresponds to 7% of the amount of €2M.

Under these terms, the taxpayer may benefit annually, and for six years, from a maximum deduction of €140.000,00 per year, which corresponds to a total deduction of €840.000,00 for six years.

Therefore, the Tax Authority has now specified that, regardless of the number of capital increases that allow the aforementioned deductions to be made, the total amount to be deducted per year may never exceed €140.000,00.

Finally, it should also be noted that, under the transitional provision of the law that approved the State Budget for 2017, the deduction applicable to contributions made up to the 1<sup>st</sup> of January 2017 does not observe the limit of €140.000,00 per year, which may also be combined with the deductions relating to contributions for subsequent years.

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A **PARES | Advogados** is available to provide information on this and other matters in a more specific and adequate way, suited to the reality of each Client, and can offer all necessary support regarding any issues concerning the tax benefits of companies and individuals.

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