

ALERT

Procedures for the filing and payment of self-assessments on Financial Transaction Tax. New Form 604.

May 31, 2021



The Spanish Official Gazette has recently published [Royal Decree 366/2021, of 25 May, implementing the procedure for the filing and payment of self-assessments on the Financial Transaction Tax and amending other tax regulations](#) (an English version of this Royal Decree is available [here](#)) and [Order HAC/510/2021, of 26 May, on the approval of tax form 604 "Financial Transaction Tax. Self-assessment" and the procedures for its filing.](#)

Procedure for the filing and payment of self-assessments through a central securities depository ("CSD") established in Spanish territory

This is the general procedure to be carried out when the acquisition of the securities:

- (i) is entered in the accounts of a depository entity that, in turn, keeps these deposited securities, directly or indirectly, in a registration system handled by a CSD that is charged by the issuing entity with keeping accounting records of said securities or that acts as a depository because of a direct or indirect link with another CSD established outside the Spanish territory;
- (ii) is entered in the accounts of a depository entity that in turn keeps said securities, directly or indirectly, in a registration system handled by a central CSD established out of Spain, unless this latter acts as participating entity of a CSD established in the Spanish territory.

This filing and self-assessment procedure will include all the acquisitions of securities, including those that are tax-exempt, and Will be **mandatory** when the taxpayers, either operating on their own behalf or on that of a third party, have an account in the central records of the CDS established in the Spanish territory or have an account in the detailed records of one of the participating entities of that CSD.

The procedure will be **optional** for taxpayers not fulfilling the above requisites and also when the securities acquisitions are entered into accounts linked to a registration system handled by a CSD that is established out of Spain by virtue of a cooperation agreement between a CSD established in the Spanish territory or when, in the absence of such agreements, the CSD established out of Spain is included in the account of third parties of a participating entity of a CSD established in the Spanish territory appointed by the issuing entity to keep the accounting records of the securities and has agreed with such participating entity that the filing and self-assessment is made through a CSD established in the Spanish territory.

According to this procedure, taxpayers shall provide the CSD established in Spain, directly or indirectly, through the participating entities of the CSD, information on the taxpayer's identity and information on each relevant transaction, regardless of the transaction is tax-exempt or is subject to taxation. This provision of information must be done before the start of the period for filing the self-assessment and payment of the tax.

Procedure for the filing and payment of self-assessments by the taxpayers

The filing and self-assessment of the tax must be done by the taxpayer when the above procedure through the CSD established in the Spanish territory is not applicable. In this case the taxpayers will report the information related to the transaction and will make the payment of the tax.

Tax periods and deadlines for the filing and self-assessment. New tax Form 604

The tax periods coincide with each calendar month. The filing and self-assessment shall take place between the 10th and the 20th of the month following each tax period. Filing and self-assessment must be done through the new tax Form 604, to be filed-in electronically through the internet.

Exceptionally, the filing and self-assessment of the **January, February, March and April tax periods** and their corresponding payments will be made together with the filing and self-assessments of the tax period of May, **between the 10th and the 20th of June, 2021.**

For tax filing and self-assessment purposes, the settlement date of transactions will be, as a rule, the **“effective settlement date”**. However, taxpayers may opt to consider as the settlement date the **“theoretical settlement date”**, which will be, for transactions performed through trading venues, the second business day following the execution of the transaction, subject to any adjustments that may be required if, as a result of a failure to settle the securities, the transactions are not settled.

The option to use the theoretical settlement date must be made in the first self-assessment to be submitted by the taxpayer in each calendar year and will be effective at least during that year, and during subsequent years, provided that it is not waived. Waiving the option to use the theoretical settlement date may be done only in the first self-assessment that must be submitted by the taxpayer in each calendar year.

Finally, in view of the fact that a relevant number of nonresident taxpayers do not have any links with the Spanish Tax Administration because their activity is limited to transmitting securities acquisitions orders on behalf of their clients to the market members, both Royal Decree 366/2021 and Order HAC/510/2021 provide nonresident taxpayers not having a tax identification number issued by the Spanish Tax Administration with the possibility to obtain a **“tax identification code”** issued by the Spanish Tax Administration for the exclusive purpose of the filing, self-assessment and payment of the Financial Transaction tax.

For additional information, please contact Cuatrecasas.

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