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Spain:

Availability of financial statements of Spanish companies

Spanish companies are obliged to publish and file a considerable amount of their financial statements every year. That information is public to anyone who asks for it and so reveals everything Spanish companies are obliged to publish and file each year. Any provider, investor, partner, creditor ... can access this information without restriction

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España:

¿Qué información están obligadas a publicar las empresas españolas? (Esta información está disponible para cualquiera)

¿A qué publicidad de los estados financieros están obligadas las empresas españolas? ¿Puede un particular consultar los estados financieros de cualquier empresa sin limitación alguna? ¿Qué contenido mínimo están obligadas las empresas españolas a publicar?

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Germany:

Key items a tenant needs to take into account in Germany, when subletting to a third person a rented flat through Airbnb or similar online platforms

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Alemania:

¿Qué puntos debe tener en cuenta un inquilino al alquilar su apartamento a través de Airbnb, por ejemplo?

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Peru:

Works for Taxes expands to more Sectors

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Perú:

Obras por Impuestos se amplia a más sectores

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Mexico:

Secondary legislation to the Law: Regulating Financial Technology Institutions, in relation to money-laundering and applicable to the Electronic Funds Transfer Institutions

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México:

Legislación secundaria a la Ley para Regular Instituciones de Tecnología Financiera de carácter general, en materia de lavado de dinero y aplicable a las Instituciones de Fondos de Pago Electrónico.

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Availability of financial statements of Spanish companies

ILP Abogados

Spain

Spanish companies are obliged to publish and file a considerable amount of their financial statements every year. That information is public to anyone who asks for it and so reveals everything Spanish companies are obliged to publish and file each year. Any provider, investor, partner, creditor ... can access this information without restriction

Below we set out a summary of the information which each Spanish company is required to publish every year comprising an extraordinarily rigorous amount of publicly available information.

All Spanish companies, without exception, make their financial statements public annually.

The 30 points below describe in some detail, what Spanish companies have to make publicly available:

- 1 Within three months of the end of the financial year, the company's directors must issue:
 - Financial statements
 - Management report, and
 - Proposed distribution of earnings

- 2 The financial statements and management report must be signed by all the directors.

The financial statements:

- 3 The company's financial statements comprise:
 - Balance Sheet
 - Income Statement
 - Statement of changes in the net worth for

- the financial year
- Cash flow statement, and
- Relevant Notes

- 4 These documents must be drafted clearly and present a true and fair view of

- The company's net worth.
- Financial position, and
- Net income

- 5 The consequences of not properly fulfilling these obligations are very serious for the Directors.

- 6 The structure and contents of the documents that form the financial statements must comply with established approved forms.

- 7 Small companies have a simplified regime to present their financial statements. This is known as Abridged Financial Statements.

- 8 Abridged balance sheets and statements of changes in net worth may be prepared by companies to which at least two of the circumstances listed below apply at the end date of two consecutive financial years their:

- Assets do not total over four million euros.
- Net yearly turnover is not in excess of eight million euros.
- Average headcount during the year is not over fifty

9 When the balance sheet can be calculated using the consolidated template, the statement of changes in net equity and the cash flow statement are not mandatory.

10 Abridged income statements may be prepared by companies to which at least two of the circumstances listed below apply at the end date of two consecutive financial years their ...

- Assets do not total over eleven million four hundred thousand euros.
- Net yearly turnover is not in excess of twenty-two million eight hundred thousand euros.
- Average headcount during the year is not over two hundred and fifty.

Purpose of the Notes:


11 The Notes shall complete, extend and report on the contents of the documents that form the financial statements.

12 The Notes shall contain at the very least the following items:

- The assessment criteria applied to the different items in financial statements and the methods for calculating valuation adjustments.
- The corporate name, address and legal structure of companies in which the com-

pany is a general partner or in which it possesses, directly or indirectly, a stake of at least twenty percent of its capital, or in which it enjoys significant influence without reaching that percentage.

- The existence of different shares or stocks, the content thereof and variations in types of share together with the relevant numbers and nominal value and description of rights.
- The existence of dividend certificates, founders' bonds, convertible bonds and other securities conferring similar rights, stating their number and the scope of rights they grant.
- The number and nominal value of shares subscribed for during the year within the limits of authorised capital, in addition to details of acquisitions and disposals of own shares and stocks, and shares and stocks in the parent company.
- The value of the company's debts, the remaining term of which is greater than five years, in addition to all debts secured by collateral, stating the type and nature thereof.
- The overall amount of guarantees provided to third parties, notwithstanding recognition thereof as liabilities in the balance sheet when it is likely that they arise from effectively complying with an obligation.

- 
- The difference that may result between calculating the accounting profit for the year by reference to tax criteria, on the basis that they do not match applicable mandatory accounting principles.
 - The distribution of the net turnover corresponding to ordinary company activities, by category of activity and geographical markets.
 - The average number of employees over the course of the year, broken down by category, in addition to personnel expenditure that corresponds to the year and the value of wages, allowances and remuneration of any type accrued over the course of the year by senior management or board members.
 - The amount broken down by types of fees corresponding to accounting, auditing and other services provided by the auditor.
 - Movements in different non-current asset items.
 - The early conclusion, amendment or termination of any agreement between a trading company and any of its partners or Directors.
 - The corporate name and address of the company preparing the consolidated financial statements of the group to which the company belongs.
 - The amount and nature of income or expenditure items, the amount or impact of which is exceptional.
 - The proposed distribution of earnings.
 - The nature and financial implications of any significant circumstances that arise following the balance sheet date that are not reflected in the profit and loss account or the balance sheet, and the financial impact of those circumstances.

Management report:

- 13** The management report must contain a true and fair description of the company's business and situation together with a description of the main risks and uncertainties that it faces. Financial statement approval, filing and public record.
- 15** The financial statements shall be approved by the general meeting.
- 16** Within one month of having approved the financial statements, the company's Directors shall submit the financial statements for filing with the Company Register.
- 17** The Company Register is located at the registered office.
- 18** The Registrar shall determine whether the documents submitted comply with existing legislation.

19 If there is any non-compliance in the financial statements, a rectification is required.

20 This qualification only affects the formality of the financial statements however and not their content. That is, the Registrar does not carry out accounting valuations.

21 The financial statements and, as appropriate, the management report, may be reviewed by an auditor.

22 Some companies must have their financial statements reviewed by an auditor.

23 If an audit review is mandatory (see 22 above), the resulting report must be accompanied by the financial statements. Therefore, that report, once deposited in the Company Register, is a public document.

24 Companies whose financial statements are not required to be reviewed by an auditor can nevertheless submit to this process voluntarily.

25 Companies to which at least two of the circumstances listed below apply at the end date of two consecutive financial years shall be released from this audit obligation their...

- Assets do not total over two million eight hundred fifty thousand euros.
- Net yearly turnover is not in excess of five

million seven hundred thousand euros.

- Average headcount during the year is not over fifty.
-

26 The majority of Spanish companies do not need to have their financial statements reviewed by an auditor.

27 The review by an auditor is usually seen as a guarantee of the veracity of the financial statements.

28 The company's directors are responsible for the veracity of the information contained in the financial statements. This responsibility can even impact on the directors' own assets.

29 Information contained in any and all documents on file with the Company Register may be requested by any party.

30 The public information contained in the financial statements is a huge resource for those who know how to interpret them.

Germany: Key items a tenant needs to take into account in Germany, when subletting to a third person a rented flat through Airbnb or similar online platforms

ILP Global Mertens Thiele

Germany

In major German cities – as probably is the case in most of Europe's metropolitan areas – during trade fairs or vacation time affordable hotels and pensions are quickly sold out. This has taken quite a lot of tenants to take advantage of that shortage by subletting their flats through online portals like Airbnb to either tourists or businessmen. Many of them however lack any knowledge about the requisite legal frame which needs to be taken into account when joining this new international trend in Germany. This can be risky for the tenant, since important regulations from the fields of tenancy law, building law and tax law need to be observed.

Tenancy law regulations

The mere permission to sublet a flat, which often is part of a regular tenancy agreement in Germany, is not enough for a short term rental to a large number of persons, which is the approach followed by Airbnb and similar platforms. The tenant hence needs an additional, further reaching and explicit permission of the landlord, as the Bundesgerichtshof (BGH) or German Supreme Court has pronounced in a corresponding ruling some time ago (BGH VIII ZR 210/13). In case the tenant sublets the flat without such permission from the landlord, he will infringe the tenancy agreement and therefore risk even a termination without notice.

However, the landlord can withhold such a special permission to sublet requested by the tenant only in certain cases and for an important reason, such as might be the subletting of the flat to too many peo-

ple, noise disturbance or the change of the intended purpose (as might be the rental of the flat as an office instead of as living space). In any case, the landlord is entitled to reject the subletting of the entire flat.

Building law regulations

The subletting might as well be prohibited by the administrative authorities through a so called „prohibition of wrongful use“. Such a regulation is thought to avoid the commercial use of living space. Especially big cities with a notorious shortage of affordable living space like Berlin, Munich, Hamburg or Cologne have recently issued an explicit prohibition to rent living space for commercial purposes. Tenants of course have to adhere to such prohibitions or face serious fines up to EUR 50,000. However, most of German cities allow subletting through Airbnb or a similar online platform, as long as only 50% of the flat and not the entire living space is rented and the other half is still used by the tenant and subletter himself.

Tax law regulations

The tenants and subletters obviously have to declare their income from subletting the flat to the tax authorities, as long as it exceeds the exemption limit which currently is established at EUR 520,00. Of course income related expenses can be deducted.

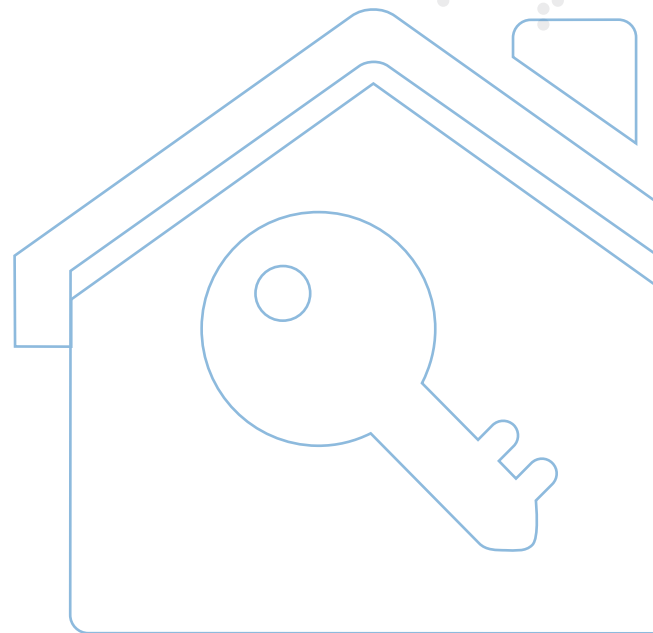
In case the tenant and subletter has increased his business establishment to an extent comparable to a hotel or pension, he is compelled to register his business. In that case he is bound as well to pay „Gewerbesteuer“ or „Local Business Tax“. However, there is a

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corresponding tax exemption up to an income of EUR 24.500,00 per year.

VAT is only due if the income per year exceeds EUR 17.500,00. In case the tenant and subletter does not reach this figure, he is free from paying VAT, but on the other hand obviously cannot deduct the prepaid tax („Vorsteuer“) either.

It finally is worth mentioning that the Tax Authorities have increasingly started to check on the internet about the rental of living space through Airbnb or other online platforms, given the strong expansion this line of business has recently experimented. On demand those online portals have to disclose all relevant bookings and further informations, so that tenants and subletters are well advised to declare their corresponding income consistently.



Peru: Works for Taxes expands to more Sectors

Estudio Laos, Aguilar, Limas & Asociados

Peru

The Work for Taxes (WFT) is a tool created, in our country, with the purpose of boost public works aiming a significant impact at the local and regional level, do these works are necessary to improve the quality of life of the population. What is sought is to promote private investment in critical aspects for the development of society.

According to the definition granted by Law No. 29230, in 2008, through this mechanism, [private companies](#) - both individually and in a consortium - can finance and execute relevant projects from the National, Local or Regional Governments. , Public Universities, among others and recover their investment through a [Certificate for the payment that corresponds to Income Tax](#). In this sense, both parties win as projects of importance to the population are executed, and the company recovers its investment, actively contributing to the development of the country.


Since the enactment of Law N°29230, a series of projects of different types and scope have been developed: basic infrastructure such as water and sewage networks, roads, health centers, as well as large projects; among them, hospitals, roads, and bridges, among others.

The law has experimented with a series of modifications to facilitate the formalities and procedures to carry out projects in favour of the population. [The sectors in which this mechanism could be used were mainly:](#)

- Rural electrification
- Fishing
- Sport
- Environment
- Urban habilitation
- Social Protection
- Social Development
- Transport
- Communications
- Justice
- Health
- Education
- Culture
- Water
- Sanitation

[Legislative Decree No. 1361](#), published a few weeks ago, which expands the use of WFT projects for four sectors:

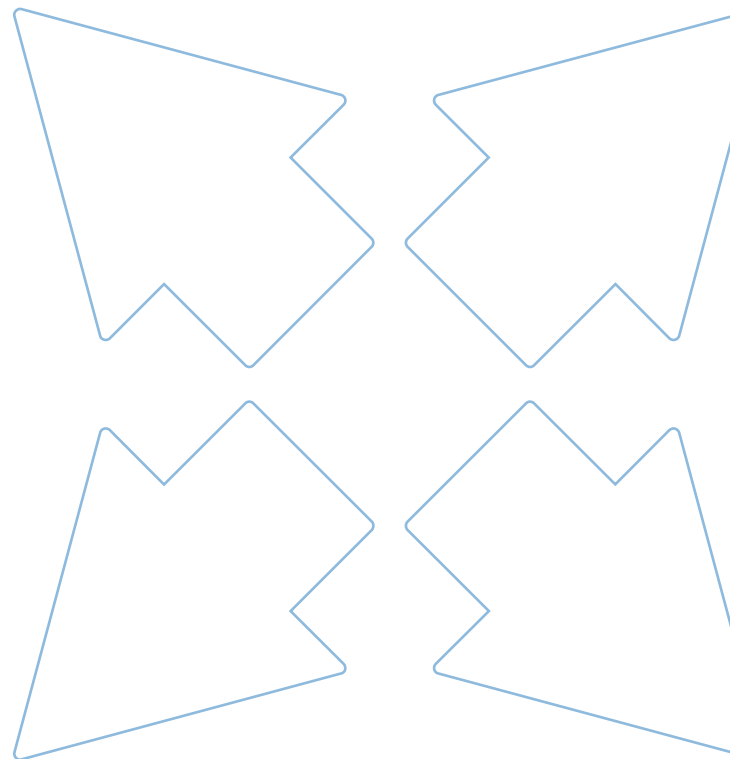
- The Ministry of Housing, Construction and Sanitation ([MVCS](#)) will be allowed to enter into agreements with the Sanitation Providing Entities (EPS).
- The Ministry of Transport and Communications ([MTC](#)) will be able to use the mechanism on constructions of bridges.
- The Ministry of Production ([Produce](#)), it will be able to promote the development of Centers for Productive Innovation and Technology Transfer (CITE) and supply markets.
- The Presidency of the Council of the Ministers to encourage the spread of the [Citizen Service Centers](#).
- The joint execution of this type of projects between entities of the National Government is authorized.

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Along with the extension of the application sectors for the WFT, it has tried to improve the procedure, establishing the Ministry of Economy and Finance as the entity in charge of determining and deciding on the projects that are carried out as WFT; in this way, conflict of functions for decision making are avoided, helping to speed up deadlines.

On the other hand, the formats and documentation, needed for an application, have been updated, seeking to aim standardization. With all of these actions, it is sought to streamline the procedure and avoid observations that delay the investment.

According to the aforementioned law, the Executive Power has a deadline of 60 days to approve the Regulation. It is expected that this mechanism helps to dynamist the benefited sectors, especially in the reconstruction of the country's north, after the Coastal Child Phenomenon that hit in great magnitude our coast last year.



Secondary legislation to the Law Regulating Financial Technology Institutions, in relation to money-laundering and applicable to the Electronic Funds Transfer Institutions

Bitar Abogados

Mexico

On September 10th 2018, the Ministry of Treasury and Public Credit, the National Banking and Securities Commission and the Bank of Mexico, published in the Official Federal Gazette the General provisions applicable to the Financial Technology Institutions, the general provisions referred to in Article 58 of the Law to Regulate Financial Technology Institutions (the “**Provisions**”) and the Circular 12/2018 directed to the Electronic Funds Transfer Institutions, regarding the general provisions applicable to the operations of the Electronic Funds Transfer Institutions (the “**Circular**”), complying with the deadlines indicated in the Law for Regulating Financial Technology Institutions.

The purpose of the Provisions is to develop a regulatory framework for the Financial Technology Institutions (the “FTI”) and their participants, promoting inclusion and financial innovation and competition, protecting and preserving financial stability in matters such as;

- (I) obtaining their authorization to operate;
- (II) minimum capital;
- (III) limits for the reception of cash resources and transfer of funds;
- (IV) accounting and disclosure of financial information;
- (V) electronic record of risks that the collective financing institutions must obtain from their clients;
- (VI) methodology of evaluation, selection and ranking of applicants and projects;
- (VII) limits on resources that the collective financing institutions can maintain on behalf of their clients;

- (VIII) mandates and commissions, and
- (IX) business continuity plan.

The Provisions also establish the framework for preventing transactions with resources of unlawful origin and financing of terrorism (PLD/FT) recognizing;

- (I) the use of technological innovations in providing financial services,
- (II) the importance of having policies for identifying and knowing their clients and
- (III) the identification of the risks of money-laundering and financing of terrorism that the FTI are exposed to.

For its part, the purpose of the Circular is to ensure the proper functioning of the payment systems and the healthy development of the financial system, protecting the interests of the public, for which it establishes a regulatory framework that makes it possible to take advantage of the benefits of the efficacy of the electronic funds transfer institutions, establishing requirements with regard to their operation and administration.