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Tax

Abelardo Delgado is Of Counsel of the Tax Department of Garrigues, where he has been pursuing his professional career since 1999. He specializes in the areas of tax procedures, international taxation and constitutional aspects of tax law. He has a degree in law from Universidad Complutense de Madrid, a doctorate in Law from Universidad Autónoma de Madrid, and is a State Tax Inspector. He is a regular collaborator of specialist journals and publications, author of several publications, and professor at Universidad Autónoma de Madrid, Centro de Estudios Garrigues and other specialized centers of studies.

Experience

Abelardo Delgado is a State Tax Inspector (on voluntary leave of absence). Between 1982 and 1984, he carried out tax inspection duties and worked at the Directorate-General of Taxes. From November 1984 to December 1989, he held office at several Subdirectorates-General at the Ministry of the Economy and Finance. He first held the position of Secretary General of the Directorate-General of Financial and Tax Inspection, which later, in 1987, became the Subdirectorates-General of Legislation and Legal Assistance (appointed by Order of February 24, 1987, published in the Official State Gazette of March 18).

In July 1988 (appointment by Order of July 13, 1988, Official State Gazette of July 23), he was appointed Head of the Technical Council of the Office of the Secretary-General of Taxes, where he remained until December 1989.

Between January 1990 and December 1994, he held several senior positions at the Ministry of Economy and Finance. He was appointed as Director-General of Collection, by Royal Decree 1611/1989, of December 29, 1989 (Official State Gazette of December 30) and, later, Director of the Collection Department of the State Tax Agency, by Decision of January 2, 1992 (Official State Gazette of January 3).

He was appointed Director-General of the State Tax Agency by Royal Decree 1445/1993, of August 27, 1993 (Official State Gazette of August 28). He ceased from the post of Director-General of the State Tax Agency, by Royal Decree 1815/1994, of September 2, 1994 (Official State Gazette of September 3).

He has been a practicing attorney since January 1995. In November 1999, he joined Garrigues, Abogados y Asesores Tributarios, where he is currently Of Counsel.

He is classed among the top tax law specialists in Spain by publications such as Chambers Global, Best Lawyers and International Tax Review (Transfer Pricing).

Until 2012, he was a member of the Council for the Defense of the Taxpayer, following his appointment on June 17, 2005 (Order EHA/2018/2005, of June 17, published in the Official State Gazette of June 30).

He was one of the independent experts proposed by Spain eligible to become a member of the Advisory Commission provided for in the European Union Arbitration Convention on Transfer Pricing.

Abelardo Delgado is a member of the Madrid Bar Association and the Spanish Association of Tax Advisers.

Academic background

- Abelardo has a degree in Law from Universidad Complutense de Madrid, and an Advanced Studies Diploma.
- Doctor of Laws from Universidad Autónoma de Madrid.
- State Tax Inspector, having passed the civil service exams in 1980.

Teaching activity

- Part-time professor in the Financial and Tax Area of Universidad Autónoma de Madrid.
- Professor in different Master's Degree programs at Centro de Estudios Garrigues.
- Professor of post-graduate courses and training at Instituto de Estudios Fiscales, CEU and Universidad Carlos III de Madrid.

Memberships

- Member of the Spanish Association of Tax Advisers (AEDAF).
- Member and Chair of the Spanish Financial Law Association (AEDF-IFA Spanish Branch).

Distinctions

He is classed among the top tax law specialists in Spain by publications such as Chambers Global, Best Lawyers and International Tax Review (Transfer Pricing).

Publications

Abelardo Delgado is a regular contributor to the specialist financial press and is a member of the Editorial Board of the journals *Práctica Fiscal*, *Fiscal Laboral al día* and *Revista Técnica Tributaria*. He also regularly contributes to the journal *Estrategia Financiera* published by the CISS-Praxis group.

He has also authored the following publications:

a) Books

- “Las normas antielusión en la jurisprudencia tributaria española” (Anti-Avoidance Rules in Spanish Tax Case Law); Aranzadi, Navarra, 2004.
- “El Reglamento de Gestión e Inspección de los Tributos Comentado” (Commentary on the Tax Inspection and Management Regulations); (Coordinator); La Ley, Madrid, 2011.
- “Las normas generales antielusión en la jurisprudencia tributaria española y europea” (General anti-avoidance rules in Spanish and European tax case law).

b) Chapters of books

- “El régimen de los llamados precios de transferencia” (The so-called transfer pricing regime) in CORDON EZQUERRO, T., GUTIERREZ LOUSA, M. and BLANCO DALMAU, A. (Coordinators), Manual de fiscalidad internacional, Instituto de Estudios Fiscales, Madrid, 2001, pgs. 242-274.
- “Gestión del impuesto sobre sociedades” (Corporate income tax management), in GUTIERREZ LOUSA, M. and RUIBIO GUERRERO, J.J. (Editors), Manual del Impuesto sobre sociedades, Instituto de Estudios Fiscales, Madrid, 2003, pgs. 1117-1145.
- “Pasado, presente y futuro del régimen de los precios de transferencia en España” (The Past, Present and Future of Transfer Pricing Rules in Spain) (with co-authors Collado Armengol A. and López de Haro Estesos, R.) in SERRANO ANTÓN, F. (Editor), Fiscalidad Internacional; Centro de Estudios Financieros, Madrid, 2005; 2nd Edition.
- “Artículos 160 a 173” (Articles 160 to 173); in MANTERO SANZ A. y GIMÉNEZ-REYNA RODRÍGUEZ E. (Coordinators); Ley General Tributaria Antecedentes y Comentarios; Asociación Española de Asesores Fiscales; Madrid, 2005.
- “Entidades en régimen de atribución de rentas” (Pass-through Entities) in CORDÓN EZQUERRO, T. (Editor), Manual del Impuesto sobre la Renta de las Personas Físicas; Instituto de Estudios Fiscales, Madrid, 2005.
- “El estado actual de la defensa de los derechos y garantías de los contribuyentes. El defensor del Contribuyente como instrumento de defensa. La perspectiva del abogado tributarista” (The State of Play in Defending the Rights and Guarantees of Taxpayers. The Taxpayers’ Ombudsman as a Defense Mechanism. A Tax Lawyer’s Perspective) in SERRANO ANTON, F. (Editor), La Justicia Tributaria y el Defensor del Contribuyente en España, Thomson Civitas, Navarra, 2007.
- “Dos cuestiones abiertas en la persecución del delito de defraudación tributaria” (Two Unresolved Issues in the Prosecution of Tax Fraud) in BAJO FERNANDEZ, M (Editor), Política Fiscal y Delitos contra la Hacienda Pública, Editorial Universitaria Ramón Areces, Madrid, 2007., pgs. 247-256.
- “Las entidades en atribución de rentas y el régimen fiscal de partnerships y trusts en España” (Pass-Through Entities and Tax Regime for Partnerships and Trusts in Spain) in CORDON EZQUERRO, T, Manual de Fiscalidad Internacional, Instituto de Estudios Fiscales, Madrid, 2007.
- “La gestión del impuesto” (Tax Management), with PLATAS SANCHO, V. in DE BUNES IBARRA, J.M. (Editor), Manual del Impuesto sobre el Valor Añadido, Instituto de Estudios Fiscales, Madrid, 2008, pgs. 1219-1282.
- “Principio de igualdad y residencia fiscal” (Principle of Equal Treatment and Tax Residence) with FONSECA CAPDEVILA, E. in VILLAR EZCURRA, M. (Editor), Estudios Jurídicos en memoria de don César Albiñana García-Quintana, Instituto de Estudios Fiscales, Madrid, 2008, pgs. 245 to 275.

- “Aplicación del régimen especial a una sociedad de inversión mobiliaria de capital variable (SIMCAV). Límites de las facultades de comprobación de la inspección de los tributos. Resolución del TEAC de 22 de noviembre de 2007” (Application of the Special Regime to Open-End Investment Companies. Limits on Powers of Examination in Tax Inspections. Decision of the Central Economic-Administrative Tribunal of November 22, 2007) in 2009 Anuario Fiscal para Abogados, los casos más relevantes en 2008 de los grandes despachos; La Ley, Madrid, 2009.
- “Motivación de las resoluciones sancionadoras de la Administración tributaria. Evolución de la doctrina constitucional y de la jurisprudencia del Tribunal Supremo. Consolidación de la doctrina iniciada por la STS de 6 de junio de 2008. Sentencias del Tribunal Supremo de 16 de septiembre de 2009” (Reasons Given in Penalty Decisions Handed Down by the Tax Authorities. Development of Constitutional Theory and Case Law of the Supreme Court. Consolidation of the View Taken by the Supreme Court in its Judgment of June 6, 2008. Supreme Court Judgments of September 16, 2009) in 2010 Anuario Fiscal para Abogados, los casos más relevantes en 2009 de los grandes despachos; La Ley, Madrid, 2010.
- Valor en el Derecho Tributario internacional del Modelo de Convenio de la OCDE, de los Comentarios al mismo y de las reservas u observaciones de cada Estado: el caso español (Value in International Tax Law of the OECD Model Convention, of Commentaries on Same and of the Reservations and Observations of each State: the Spanish case) in ARRIETA MARTINEZ PISÓN, J. and others (Editors); Tratado sobre la Ley General tributaria. Homenaje a Álvaro Rodríguez Bereijo; Aranzadi, Navarra, 2010. Homenaje a Álvaro Rodríguez Bereijo; Aranzadi, Navarra, 2010, pgs. 2016 through 430.
- El régimen de los cánones en la fiscalidad internacional: cuestiones especialmente debatidas en España (The Royalty Regime in International Taxation: Issues Highly Debated in Spain) in SERRANO ANTÓN, F. (Editor), Fiscalidad Internacional; Center de Estudios Financieros, Madrid, 2010; pgs. 671-742.
- La Administración Tributaria, (The Tax Authorities) in VIÑUELA DÍAZ (Coordinator); Opciones para una reforma del sistema tributario español (Options for a reform of the Spanish tax system). Centro de Estudios Ramón Areces, Madrid, 2014.
- El régimen de los cánones en la fiscalidad internacional: cuestiones especialmente debatidas en España (The Royalty Regime in International Taxation: Issues Highly Debated in Spain) in SERRANO ANTÓN, F. (Editor), Fiscalidad Internacional; Center de Estudios Financieros, Madrid, 2015, 6th edition, volume 1, pgs. 801 to 886.
- “El régimen fiscal de las entidades de tenencia de valores extranjeros” (Tax treatment of foreign-securities holding companies), with VIÑUALES SANABRIA, L.M. (co-author); in Manual de Fiscalidad Internacional, Volumen II, Instituto de Estudios Fiscales, 2016; pgs. 1205 et seq.
- “Libertades de circulación, igualdad constitucional y capacidad normativa de las Comunidades Autónomas” (Freedoms of movement, constitutional equality and legislative power of the Autonomous Communities), in CABRA DE LUNA, M. A. (Editor), La dimensión social de la fiscalidad: discapacidad, tercer sector y mecenazgo. Estudios en homenaje a Miguel Cruz Amorós, Grupo Editorial Cinca, September, 2017, pgs. 477-496.
- “El papel de los intermediarios fiscales” (The role of tax intermediaries); in Giménez-Reyna, E. y Ruiz Gallud, S. (Coordinators), El fraude fiscal en España, Aranzadi Cizur Menor, Navarra, 2018, pgs. 1039-1064.
- “El régimen de los cánones en la fiscalidad internacional: cuestiones especialmente debatidas en España” (The Royalty Regime in International Taxation: Issues Highly Debated in Spain) in SERRANO ANTÓN, F. (Editor), Fiscalidad Internacional; Center de Estudios Financieros, Madrid, 2019; pgs. 835-927.

- “Seguridad jurídica y litigiosidad en el sistema fiscal español” (Legal certainty and litigiousness in the Spanish tax system) in Garde Garde, M.J., Gascón Catalán, J. y Merola Macanás, T., (Coordinators); Hacienda pública y gobernanza fiscal en España: desafíos 2020:en reconocimiento a la trayectoria profesional en el sector público de D. Juan Antonio Garde Roca. IEF, 2019.
- “El concepto de opción en la Ley General Tributaria (artículo 119, apartados 3 y 4 de la LGT)” (The concept of option in the General Taxation Law, articles 119.3 and 4 of the GTL); with García Ruiz, A.; AEDAF, papers, 2020.
- “Eliminación de la doble imposición económica, interna e internacional, por el método de exención. Plusvalías y minusvalías de cartera” (Elimination of economic, domestic and international double taxation through the exemption method. Capital gains and losses on investment portfolio), with Calvo Salinero, R.; in Corral Guadaño, I. (Director), Manual del Impuesto sobre Sociedades, IEF, 2021. Prólogo en Jose Ignacio Ruiz Toledado (author), La prueba tributaria según la doctrina administrativa y la jurisprudencia, Aranzadi, 2021.
- “La aplicación jurisprudencial de los nuevos conceptos en materia de abuso: perspectiva española”, (Case law application of the new concepts in relation to abuse: a Spanish perspective) in Abuso y planificación fiscal internacional: una perspectiva jurídica, económica y ética / Juan Arrieta Martínez de Pisón (ed.), Félix Daniel Martínez Laguna (ed.), 2022, ISBN 9788413917115, pgs. 367-390.
- El régimen de los cánones en la fiscalidad internacional: cuestiones especialmente debatidas en España (The Royalty Regime in International Taxation: Issues Highly Debated in Spain) in SERRANO ANTÓN, F. (Coordinator), Fiscalidad Internacional; Centro de Estudios Financieros, 2022 (Volume 1), pgs. 763-838.
- “Medidas cautelares y suspensión de la ejecución del acto administrativo: una conciliación constitucionalmente compleja” (Injunctive remedies and stay of execution of administrative decisions: a constitutionally complex reconciliation) in “Litigación tributaria y protección de los derechos de los contribuyentes”, coord. by Bernardo David Olivares Olivares, Eva Escribano López, Alejandro Zubimendi Cavia, Marta Moreno Corte; José Manuel Almudí Cid (ed.), Miguel Ángel Martínez Lago (ed.), 2023; pgs. 273-300.

c) Articles in specialized journals

- “La transmisión global de la empresa individual y el Impuesto sobre el Valor Añadido” (Global transfer of the individual company and value added tax), with CARBAJO VASCO, D., Revista de Derecho Financiero y de Hacienda Pública, Vol. 34, no. 171, 1984, pgs. 559-580.
- “Algunas cuestiones de procedimiento en los ajustes por precios por transferencia en el Ordenamiento tributario español” (Some procedural matters relating to transfer pricing adjustments in the Spanish tax system), Impuestos: Revista de doctrina, legislación y jurisprudencia, no. 14, no. 2, 1998, pgs. 332-370.
- “El Derecho Tributario desde el punto de vista de su aplicación actual: el ámbito profesional” (Tax Law from the viewpoint of its current application: the professional sphere), Crónica tributaria, no. 78, 1996, pgs. 175-180.
- “La asistencia mutua entre Administraciones tributarias” (Mutual assistance between tax authorities), Impuestos: Revista de doctrina, legislación y jurisprudencia, no. 6, No. 1, 1990, pgs. 162-188.
- “Las obligaciones de información a la hacienda pública en los mercados financiero” (Reporting obligations vis-à-vis the tax authorities in financial markets), Perspectivas del sistema financiero, no 32, 1990 (Edition dedicated to: Taxation in financial markets and transactions), pgs. 67-116.

- “El régimen especial de las pequeñas y medianas empresas en el Impuesto sobre el Valor Añadido. Propuesta de Directiva de 9 de octubre de 1986” (The special value added tax regime for small and medium enterprises. Proposed Directive of October 9, 1986), *Noticias de la Unión Europea*, no. 26, 1987, pgs. 43-48.
- “Modificación de la Propuesta de décimo séptima directiva relativa al impuesto sobre el Valor Añadido” (Amendment of the Proposed Seventeenth Directive concerning value added tax), *Noticias de la Unión Europea*, no. 2, 1985, pgs. 5-6.
- “El derecho comunitario relativo al Impuesto sobre el Valor Añadido: su evolución reciente (julio 1982-junio 1983)” (Community Law relating to value added tax: its recent evolution (July 1982-June 1983)), *Revista de Derecho Financiero y de Hacienda Pública*, Vol. 34, no. 173, 1984, pgs. 1151-1186.
- Las medidas antielusión en los convenios de doble imposición y en la fiscalidad internacional (Anti-avoidance measures in tax treaties and in international taxation), *Documentos*, Instituto de Estudios Fiscales, Madrid, no. 15, 2002, pgs. 1-18.
- “Las medidas antielusión en la fiscalidad internacional” (Anti-avoidance measures in international taxation), *Revista del ICE*, no. 825, September-October 2005, pgs. 97-118.
- “La suspensión de las liquidaciones y sanciones tributarias como consecuencia de un recurso o reclamación: algunas cuestiones polémicas” (Stay of assessments and tax penalties as a result of appeal or claim: some controversial issues), Instituto de Estudios Fiscales, *Documentos de Trabajo*, DOC No. 6/07. Also published in *Crónica Tributaria*, no. 123/2007, pgs. 97-148.
- “El levantamiento del velo en la Ley General Tributaria y en la aplicación del IVA” (Lifting the Veil in the General Tax Law and the Application of VAT), *EU News*, no. 280, May 2008.; *Noticias de la Unión Europea*, no. 280, May 2008, pgs. 15-30.
- “La nueva regulación de la suspensión del ingreso de la deuda en procedimientos amistosos” (The new regulation on the stay of payment of the debt in mutual agreement procedures), with LOAIZA KEEL, C. (co-author), *Noticias de la Unión Europea*, no. 296, September 2009, pgs. 131-135.
- “Evolución reciente de los criterios de interpretación del Derecho Tributario” (Recent changes in the interpretative criteria of the tax law), communication presented at the “Jaime García Añoveros” VII Methodological Seminar on the interpretation of Financial and Tax Law, Instituto de Estudios Fiscales, Doc. 2011 Madrid.
- De nuevo sobre la suspensión de las sanciones...y de los actos de naturaleza tributaria (Talking again about the stay of penalties... and of tax decisions); *Crónica Tributaria* 145/2012, Instituto de Estudios Fiscales, Madrid, pgs. 59-74.
- La reforma de la Ley General Tributaria (Reform of the General Tax Law); *Economist & Jurist*, no. 195, November 2015, pgs. 26-35.
- “Aspectos tributarios de los contratos administrativos: el reciente caso de las concesiones de obras públicas de ciertos hospitales” (Tax aspects of administrative contracts: recent case of public works concessions of certain hospitals), in *Documentos de trabajo* 6/2013, Instituto de Estudios Fiscales Madrid, as publication of the Communication in the UCM Seminar on public sector contracts, of November 29, 2012.
- Spain opens door to impose penalties on contrived acts or transactions; *International Tax Review*, December 2015.

- Algunas consideraciones sobre la norma general antielusión propuesta en la Acción 6 del Plan BEPS (Some considerations on the general anti-avoidance provision proposed in Action 6 of the BEPS Plan), Documentos-Instituto de Estudios Fiscales, no. 15, 2016, pgs. 49-57.
- “Spain: Spanish Supreme Court anticipates the effects of the BEPS Project; International Tax Review, January 2017.
- Algunas ideas sobre el futuro del Impuesto sobre Sociedades (Some ideas about the future of corporate income tax), Documentos-Instituto de Estudios Fiscales, no. 12, 2017. Edition dedicated to: V Financial and Tax Law Forum, “The future of corporate income tax”.
- Límites a la obtención de información por la Administración tributaria y a su cesión o intercambio (Limits on the obtaining of information by the tax authorities and its transfer or exchange), Revista de Contabilidad y Tributación, CEF, no. 463, 2021 (ISSN 1138-9540).