RocaJunyent Informs

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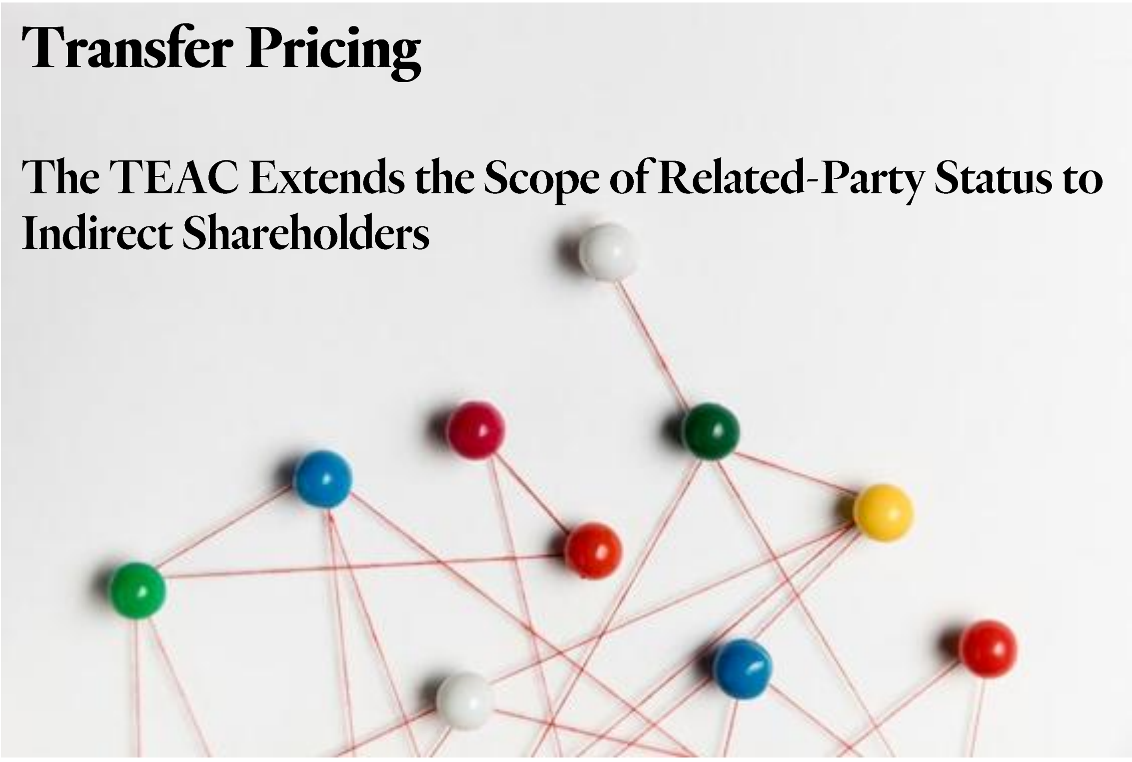
Transfer Pricing

The TEAC Extends the Scope of Related-Party Status to Indirect Shareholders



The Central Economic-Administrative Court (the "**TEAC**") has recently extended the scope of related-party relationships as defined under Article 18.2 of Law 27/2014 of 27 November on Corporate Income Tax (the "**CIT Law**").

In its ruling no. 00/08503/2022/00/00 of 19 February 2026, the TEAC held that a company and any individual who **indirectly** holds at least 25% of its share capital must be treated as "related persons or entities" for tax purposes.

This conclusion not only departs from the plain wording of the statute but also contradicts the interpretation that had been widely accepted until now. In practice, it means that taxpayers will need to revisit their transfer pricing arrangements and align them with the TEAC's new position.

The position before the TEAC ruling

On a literal reading of Article 18.2 of the CIT Law, no related-party relationship arises between a company and an individual who merely holds an indirect stake in its share capital — regardless of the size of that stake.

Accordingly, until the TEAC issued this ruling, it was broadly and uncontroversially accepted that the CIT Law did not treat such individuals as related parties.

This position — supported by the Directorate-General for Taxation, most notably in its binding ruling V0113-25 of 7 February 2025 — rested on the literal text of Article 18.2 of the CIT Law, which draws a clear distinction between two types of related-party scenario:

- Those involving "**partners**", which were understood to cover relationships between both legal entities and individuals.

- Those involving "**entities**", which were understood to apply strictly to relationships between different legal entities.

Article 18(f) of the CIT Law, in particular, governs one such entity-to-entity scenario: a related-party relationship arises between two "entities" where one of them holds an indirect stake of at least 25 per cent in the other.

The prevailing view was that this provision applied exclusively to legal entities or corporate income taxpayers.

Consistently with this view, most family groups did not include transactions with individual shareholders in their transfer pricing documentation or in their Form 232 disclosure returns.

It bears noting that, even before this ruling, Spain already had one of the broadest definitions of related parties in the OECD[i]. The TEAC's new position expands that scope further and significantly increases compliance costs for taxpayers in Spain.

The new landscape following the TEAC ruling

The TEAC's new position — which has not yet been confirmed through a second ruling[ii] — marks a clear break with the previous interpretation.

The case underlying the ruling involved an individual (referred to here as "X") who held an indirect stake of more than 25 per cent in a company (referred to as "Y").

During the tax audit, the Spanish Tax Agency's Inspectorate found that X and Y were related parties, relying on Article 18(a) of the CIT Law — the provision that covers the relationship between a direct shareholder and the company in which they hold a stake.

The TEAC disagreed with the Inspectorate's analysis. In its view, the applicable provision was not the one dealing with direct shareholders but rather the one covering indirect shareholdings between companies — and this was so even though the shareholder in question was an individual, not a legal entity.

The TEAC reasoned as follows

> ***The related-party scenario set out in Article 18.2(f) of the CIT Law — which refers to two entities where one holds an indirect stake of 25% in the other — must be read as also covering individuals who hold an indirect stake of that same percentage.***

In support of this interpretation, the TEAC placed weight on Article 41 of the Personal Income Tax Act, which cross-refers to the CIT Law for the purposes of valuing transactions between related parties.

The practical upshot is clear: an individual shareholder ("X") with a 25% indirect stake may now be considered a related party of the company in which they invest ("Y"), with all the consequences that flow from that classification.

Practical implications of the TEAC ruling

The ruling has wide-ranging implications across the Spanish tax system. Key areas of concern include:

1. ***Incomplete transfer pricing documentation***
2. ***Potentially incorrect Form 232 returns***
3. ***Knock-on effects on the treatment of transactions under other taxes — VAT, Transfer Tax, Wealth Tax, Inheritance and Gift Tax, etc.***
4. ***Review of tax loss carryforwards and transactions in years now time-barred, where those have ongoing effects in more recent years***

Practical recommendations

Given the significance of this ruling and the uncertainty it may create for family-owned businesses and individuals with material indirect shareholdings, RocaJunyent' s Tax Department recommends the following steps:

- Review all open tax years to identify transactions carried out with individual shareholders holding an indirect stake of 25% or more.

- Strengthen the arm's length analysis of any such transactions and ensure they are supported by appropriate transfer pricing documentation.

- Consider whether any Form 232 returns filed for those years may need to be amended.

- Assess the impact of this new interpretation on other areas of taxation that could be affected.

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[i] Spain has the broadest definition of related parties among OECD countries worldwide, resulting in significantly higher compliance costs for both companies and individuals.

[ii] Once reiterated, the criterion adopted by the TEAC will be binding on the other Economic-Administrative Courts of the State and on the rest of the State Tax Administration.