



## The obligation for foreign companies to possess the Spanish NIE when required by the Spanish tax legislation

The Resolution agreed on the 15<sup>th</sup> of September 2020, by the Directorate-General for Legal Security and Public Faith (DGSJFP), settled on the appeal brought against the Refusal of the Register to register a deed of capital reduction of an S.L., with the objective of returning contributions to one of the associates, the non-granter of said appeal, domiciled in Washington DC, USA and incorporated under the laws of Washington DC.

The contested defect, according to the Registerer, consists in that the Spanish foreign identity number NIE of the entity, to which her contributions are returned, does not appear on the record. This is an obligation which, to her judgement, is established in article 331.1 of the LSC, and articles 202 and 38.2 of the RRM, and 18.1 and 20.1 of the Royal Decree 1065/2007, in which it approves the general regulations on tax management and inspection procedures and the development of common rules on tax application procedures.

The DGSJFP provides that for the purposes of identifying foreign legal persons, the individuals in question must be included in the open company registration entry only when required by tax legislation. Therefore, when deemed necessary, it will be mandatory for a tax identification number to be included. To the DGSJFP in this case, the qualified appeal contains an act that demonstrates a significant relationship and/or a relationship of a fiscal nature, therefore imposing tax obligations for the sole partner in question, as stated in article 62.b of the "Reglamento del Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados. According to this article, the partners which have received the goods and rights as a result of the reduction of share capital shall be obliged to pay the tax as a taxpayer.

Consequently, the DGSJFP has agreed to dismiss the appeal and to confirm the contested classification.

<https://www.boe.es/boe/dias/2020/10/07/pdfs/BOE-A-2020-11910.pdf>

