

EUROPEAN COURT OF JUSTICE RULES AGAINST TAX FORM 720

The Court of Justice of the European Union in its sentence rules against Spain's tax form 720 following:

- Spain has failed to comply with its obligations under the principle of free movement of capital by providing that non-compliance or imperfect or untimely compliance with the reporting obligation relating to assets and rights located abroad results in the imposition of the undeclared income corresponding to the value of these assets as "unjustified capital gains", without the possibility, in practice, of relying on prescription.
- Spain has also failed to comply with its obligations under the free movement of capital by sanctioning non-compliance or imperfect or untimely compliance with the reporting obligation with a proportional fine of 150% of the tax calculated on the amounts corresponding to the value of the assets or rights owned abroad. This sanction can be combined with fixed-amount fines that are applied to each omitted, incomplete, inaccurate or false data or set of data that must be included in the «720 form». The obligation to present the «720 form» and the penalties derived from non-compliance or imperfect or untimely compliance with said obligation, which have no equivalent with regard to assets or rights located in Spain, establish a difference in treatment between residents in Spain depending on the location of its assets.
- The Spanish legislator also failed to comply with the obligations incumbent on it by virtue of the free movement of capital by sanctioning non-compliance or imperfect or untimely compliance with the reporting obligation relating to assets and rights located abroad with fixed-amount fines whose amount is not in any proportion to the penalties provided for similar offenses in a purely national context and the total amount of which is not limited.

Source: The Spanish Tax Administration Agency (AEAT)

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