

## THE TAX ON THE INCREASE IN VALUE OF URBAN LAND

The Tax on the Increase in Value of Urban Land, known as municipal capital gains tax (hereinafter, IIVTNU), given its course in recent years until the recent Constitutional Court Ruling (STC) of 26/10/2021, is a tax that levied and intends to continue to levy, after the brand new Royal Decree-Law (RD-Law) 26/2021 of 08/11/2021, published as a matter of urgency (the following day) in the BOE as a result of such STC, the increase in the value of urban land from its acquisition to its transfer for valuable consideration (e.g., sale or purchase) or free of charge (e.g., donation or inheritance).

Its basic state regulations are found in articles 104 to 110 of Royal Legislative Decree 2/2004, of 5 March, which approves the Revised Text of the Law Regulating Local Treasuries (TRLRHL). The Local Councils, which are responsible for its collecting, also its management and checking, are empowered to modulate certain aspects of the tax within the limits set by the TRLRHL.

With the onset of the real estate crisis and, following it, the sustained growth in property values, the IIVTNU has been in the eye of the storm, to the point that the TC, first in 2017, then in 2019 and, finally, in its aforementioned Ruling of 2021, has dug its grave to declare the unconstitutionality of the way in which the determination of its taxable base was contemplated, since such way dispensed with of whether really or not an increase in the value of a land had occurred with the transfer of a property since its acquisition, specifying, although be limitedly, the effects of this Ruling on past situations. The legislator, stubborn to change the configuration of the IIVTNU since the STC of 2017, has seen how the current executive, proud, has reacted quickly to this last STC of 2021, immediately approving RDL 26/2021, which we also report on in this Newsletter.