

The time limit for submission to the Bank of Spain of the completed enquiry on foreign transactions about to expire

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On 4th May 2012 the Official Journal of Spain (BOE) published the Bank of Spain's Rules Instrument 4/2012, which sought to introduce the Foreign Transactions Enquiry (abbrev. ETE) as a means of obtaining information on transactions with non-residents and on overseas assets and liabilities. The deadline for submission of the completed form ends on 20 January of this year.

1. Objective scope: content of the information

The Bank of Spain must be informed of all transactions conducted by natural or legal persons resident in Spain with residents of other States, as well as of statements of overseas assets and liabilities and changes in the same¹.

'Transactions with foreigners' are those transactions² carried out on one's own account, whatever their nature and regardless of how they are settled³.

2. Subjective scope: obligation to report

It is incumbent on natural or legal persons (whether public or private) resident in Spain to submit the ETE if such persons carry out transactions with a non-resident or hold assets or liabilities in countries other than Spain. Payment service providers registered with the Bank of Spain are exempted from this obligation. Also, in the case of a group of companies, each group company must file the completed form independently, unless the requirements of the rules instrument allow for joint filing.

¹ E.g. private banking customers resident in Spain who transact on their own account with non-residents.

² Acts, business and transactions involving - or the fulfilment of which may give rise to - overseas collections, payments and/or transfers, as well as changes in accounts or financial debtor or creditor positions.

³ Foreign transfers, credits and debits in bank or intercompany accounts, be they by offset or by delivery of cash.

3. Reporting periods and exceptions

Frequency	Time frame	Value of transactions during the previous year, or the statement of assets and liabilities on 31 December of the previous year ...
<i>Monthly</i>	Within 20 days following the end of each calendar month.	Equal to or greater than 300 million euros
<i>Quarterly</i>	Within 20 days following the end of each quarter.	More than 100 million euros and less than 300 million euros.
<i>Annual</i>	20 January of each following year.	Less than 100 million euros ^{4, 5} .

4. Formal requirements

Requirements	Natural persons	Legal persons
<i>Online filing</i>	X	X
<i>PDF or XML format</i>	X	X
<i>Spanish eID (DNIe) or electronic certificate issued by the Spanish Royal Mint (Fábrica Nacional de Moneda y Timbre)</i>	X	
<i>Electronic certificate issued by the Spanish Royal Mint in relation to tax authorities or the Securities Market Authority</i>		X

5. Consequences of non-compliance

Overseas Capital Movements and Economic Transactions Act 19/2003 of 4 July			
Characterisation	Circumstances	Penalty	Limitation period
Minor⁶	Non-reporting, untruthfulness, omissions or inaccuracies in the information submitted on transactions not exceeding six million euros.	25 % of the value of unreported transactions (minimum €3000)	1 year
Serious	Non-reporting, untruthfulness, omissions or inaccuracies in the information submitted on transactions exceeding six million euros and non-compliance with requests served.	50 % of the value of unreported transactions (minimum €6000)	3 years

⁴ If this value does not exceed one million euros, the disclosure will only be sent to the Bank of Spain, at its express request, within a maximum time limit of two months from the date of said request. Therefore, if the sum of the gross amounts under the statements of assets and liabilities does not exceed one million euros in 2014 and the transactions in that year do not exceed one million euros, where such circumstances hold in 2015, it will not be necessary to submit the disclosure, unless expressly requested by the Bank of Spain (case of exemption from reporting).

⁵ If this value does not exceed fifty million euros, the balance sheet may be abridged, containing only the opening and closing statements of overseas assets and liabilities (1 January - 31 December 2015), the total amount of collection transactions and the total amount of payment transactions for the reported period (case of abridged annual disclosure).

⁶ Provided the Bank of Spain has not served a request, late filing is fined with 150 to 300 euros, if no more than six months have elapsed since expiry of the time limit, or 300 to 600 euros, if more than 6 months have elapsed.

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