

Re: The Spanish Tax Authority's Use of Huawei Servers

Dear Deputy Assistant Secretary Burch and Deputy Assistant Secretary Salinger,

We appreciate your willingness to meet with us on September 12, 2025. The purpose of this letter is to reiterate our concern about the security of taxpayer data shared with the Agencia Estatal de Administración Tributaria (the "AEAT") under the Convention Between the United States of America and the Kingdom of Spain for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income (the "U.S.-Spain Treaty").¹ We request that the Treasury Department and the Internal Revenue Service ensure that the confidentiality provisions of the U.S.-Spain Treaty are being adhered to and, if necessary, pause information sharing with Spain while you make that determination.

We understand that Spain uses Huawei servers to store sensitive taxpayer data, including the AEAT's storing of tax data. These devices house hard drives that store information about the activities of the AEAT. Both the United States and the European Union have banned the use of Huawei servers in their respective jurisdictions due to their expressed concerns with privacy and data security. As you are aware, the personal and confidential information of taxpayers, companies, and individuals who file returns or otherwise have dealings with the AEAT, including U.S. citizens living in Spain, is housed on those servers. In the United States, taxpayer information is highly confidential and cannot be released to others in the normal course, but this may not be so with regard to information collected by AEAT. As you may be aware, a recent letter from members of Congress urges the Director of National Intelligence to redact details of information shared with the Spanish government.²

¹ "Convention Between the United States of America and the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income," signed Feb. 22, 1990, and accompanying Protocol signed on Jan. 14, 2013.

² Letter from Tom Cotton, Chairman, Senate Select Committee on Intelligence and Rick Crawford, Chairman, House Permanent Select Committee on Intelligence to the Honorable Tulsi Gabbard, Director of National Intelligence, dated July 16, 2025. Similarly, the European Commission "5G Cybersecurity Toolbox" recommends Member States restrict or exclude Huawei servers from use in sensitive data. The European Commission stated Huawei poses "substantially higher risks" than other 5G providers and it has banned Huawei from its internal communications.



The AEAT's use of Huawei servers raises serious implications regarding the exchange of information provisions of the U.S.-Spain Treaty. Protocol Article 27(2) provides that information received by a Contracting State shall be treated as "secret" in the same manner as information obtained under domestic law. Further, Protocol Article 27(3)(a) states Contracting States are not required to carry out measures at variance with their laws and administrative practices. Article 27(3)(c) provides that Contracting States are not required to disclose taxpayer information that would be contrary to public policy. The U.S. Treasury Explanation to the Protocol Article 27(1) (the "Treasury Technical Explanation") clarifies that use of the exchange of information provision of the U.S.-Spain Treaty is dependent upon the Contracting States upholding an appropriate level of confidentiality with their data: "In situations where the requested State determines that the requesting State does not comply with its duties regarding the confidentiality of the information exchanged under this Article, the requested State may suspend assistance under this Article until such time as proper assurance is given by the requesting State that those duties will indeed be respected."³ This provision is heavily influenced by Article 26(2) of the OECD Model Tax Convention on Income and Capital (the "OECD Model"), the Commentary of which states, "Reciprocal assistance between tax administrations is feasible only if each administration is assured that the other administration will treat with proper confidence the information which it will receive in the course of their co-operation."⁴

Due to the AEAT's systemic data protection violations, we request that the U.S. government take appropriate steps to protect its citizens until it can confirm U.S. taxpayer data will not be compromised. Specifically, we ask that you ensure that the confidentiality provisions of the U.S.-Spain Treaty are being adhered to. Spanish authorities should be able to explain and provide the necessary assurance that the data it collects is secure, whether housed on Huawei servers or servers from any other company. If necessary, information sharing with Spain should be paused while the U.S. government makes that determination. If it is determined that Spain is in violation of their confidentiality obligations under the U.S.-Spain Treaty, we would ask the U.S. government take appropriate action to protect U.S. taxpayer data under Article 27 of the U.S.-Spain Treaty until Spain becomes compliant with its treaty obligations.

Sincerely,

Robert R Amsterdam



CC: The Honorable Scott Bessent, Secretary of the Department of Treasury

³ U.S. Department of the Treasury, *Technical Explanation of the Protocol Amending the Convention Between the United States of America and the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income*, available at <https://home.treasury.gov/system/files/131/Treaty-Spain-Protocol-TE-6-19-2014.pdf>. See Commentary Paragraph 2 of New Article 27.

⁴ Update to the Commentary on Article 26 of the OECD Model Tax Convention on Income and on Capital, approved by the OECD Council on 19 Feb. 2024, Commentary on Article 26, Concerning the Exchange of Information.

