SPAIN

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0- SYNOPTIC TABLE: TAXATION OF RESIDENTS AND NON-RESIDENTS

	RESIDENTS	NON-RESIDENTS
CORPORATE INCOME TAX	25% Turnover up to € 10 M: 15% Hydrocarbon companies: 30%	25% - 19% - 24%
TAXES ON CAPITAL GAINS	Treated and taxed as ordinary income	
WITHHOLDING TAXES		
Dividends		19%
Interest		19%
Royalties		19% - 24%
PERSONAL INCOME TAX	19% - 45%	19% - 24%
OTHER TAXES		
Stamp duty (shares transfer, etc.)	1%	
Wealth tax	From 0.2% to 3.5% beyond 700,000 Euros	
Digital services tax	3% on the provision of digital services in Spain	
VAT	4%, 5%, 10%, 21% Exports exempt	
LOSSES		
Carried forward	Indefinitely	
Carried back	Not applied	
DEPRECIATION		
Fixed assets	Machinery: 12% Industrial buildings: 3% Vehicles: 16% Office buildings: 2% Computers: 25%	
Intangible assets	Free depreciation	

1- AN OUTLINE OF COMPANY LAW

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
Public corporation (Sociedad Anònima - SA)	The capital must be of at least € 60,000 and be subscribed for. Contibutions to capital may be made in cash or in kind. On incorporation, the shares must be subscribed for, and an amount not less than 25% of their par value must be paid in.. The SA may also issue non-voting shares with a par value no greater than one half of the paid-in share capital. The management of a corporation may be vested in one director, in several directors acting individually, in 2 directors acting jointly and severally or in a board of directors acting jointly.	An SA must be incorporated in the form of a notarial deed.	The management of a corporation may be vested in one director, in several directors acting individually, in 2 directors acting jointly and severally or in a board of directors acting jointly.
Limited liability companies (Sociedad de responsabilidad limitada – SRL - and Sociedad limitada de nueva empresa - SLNE)	The minimum share capital requirement for an SRL is €3,000. The capital is divided into quotas or shares of stock that carry no voting rights provided that their global par (nominal) value is less than the 50% of total share capital. The SLNE is fundamentally akin to the SRL (ie it is a limited liability company), but has simplified requirements for incorporation. The minimum share capital requirement is €3,000 and the share capital cannot exceed €120,000.	Upon incorporation, all the units of stock comprising the company's capital must be fully subscribed and paid-in.	
Limited liability capital growth company (Crecimiento de la empresa de capital de responsabilidad limitada - SLFS)	An SLFS may be established where the share capital is less than €3,000. An SLFS is then required to contribute 20% of its corporate profits until a €3,000 share capital is achieved.		
Partnerships (Sociedad civil, comunidad sociedad colectiva, sociedad comanditaria)	Enterprises may conduct business in Spain in different forms of a partnership. Although sometimes these types of entities are practical for small businesses, these forms are not usually suitable for large operations, because of the unlimited personal liability of the partners and collective decision making.	Each partner will have unlimited joint and several liability for any debts and obligations incurred by the partnership.	
Not-for-profit organisations: foundations and cooperative societies	Foundations were originally intended to be formed for charitable purposes but are permitted to carry on business activities.	They are liable for corporate income tax.	
Branch	This form offers no Spanish tax advantages. From a civil or commercial standpoint, a branch is not a separate legal entity from its parent, but it is considered a separate taxpayer for tax purposes.		

BUSINESS ENTITY	MAIN TRAITS	FORMATION	GOVERNANCE
Joint venture	There are 3 different legal forms of implementing a joint venture in Spain: temporary business association (unión temporal de empresas or UTE); economic interest grouping (agrupación de interés económico or EIG) or European EIG (EEIG), and a partnership agreement known as a contrato de cuentas en participación.		
Trust	Although trusts are unknown institutions in Spain and are not recognised under Spanish law, they can be found in investments made through trusts in properties on the Spanish coast and islands. Trusts are different from Spanish fiduciary companies.		
Sole proprietor (Empresario individual)	It is an unincorporated business owned by a single individual.	There are few legal obligations to comply with and the costs of setting up the business are minimal	
Limited liabitily entrepreneur (Empresario de responsabilidad limitada – ERL)	It is an unincorporated business owned by a single individual, similar to a sole proprietorship.		

2- WHEN SPANISH COMPANIES CAN BE CONSIDERED RESIDENT OR NON-RESIDENT?

A company is deemed to be a resident if it is incorporated in Spain, has its registered office in Spain or has its place of management in Spain. A company is deemed to have its place of management in Spain when the management and control of the sum of its activities are exercised in Spanish territory.

3- BUSINESS AND NON-BUSINESS ACTIVITIES (ADMINISTRATIVE OFFICES, LIAISON OFFICES, PURCHASING OFFICES, ETC.)

A non-resident is not subject to Spanish tax, unless it is a business activity in Spain.
By business activity we mean the conclusion of sales contracts, or the supply of services or products.
The administrative or liaison offices located in Spain do not entail the taxation of foreign managed companies, provided that the ordinary and extraordinary management of the business does not take place in Spain and that they do not involve simultaneous business activities.
Most of the Bilateral Tax Agreements entered into by Spain contain provisions specifying that an office used for the purchase and sale of products, for advertising, etc., cannot be considered a local unit of a foreign company and consequently cannot be taxed.
However, the Spanish office will be subject to corporate tax of 25% on the income generated by its business.

4- WHICH FOREIGN LOCAL UNITS CAN BE OPENED IN SPAIN: SECONDARY ESTABLISHMENTS, BRANCHES, SUBSIDIARIES OR PERMANENT ESTABLISHMENTS?

The terms of a tax treaty between Spain and the non-resident's country of domicile may specify that the non-resident is liable to Spanish tax only if the non-resident has a Spanish PE or branch.

5- CALCULATING TAXABLE INCOME

Profits are calculated for Spanish tax purposes in accordance with financial accounts. Taxable income is computed by adjusting the year-end result in accordance with the provisions of the Corporations Tax Law (LIS).

Non-deductible expenses include the following:

1. donations;
2. administrative and criminal fines and penalties, administrative surcharges for late payment of filing;
3. accounting provisions for internal pension funds;
4. corporate income tax;
5. dividends;
6. services expenses in tax havens;
7. gaming losses.

Non-taxable income includes the portion of capital gains derived from the disposal of tangible and intangible fixed assets corresponding to monetary depreciation, insofar as the acquisition was financed with internal funds.

6- TREATMENT OF LOSSES

Trading losses may be set off against other income and capital gains of the same tax period, or carried forward indefinitely.

Newly-formed companies may compute the applicable offset period from the first tax period in which taxable profits are obtained.

A change in company ownership will not generally interfere with a loss carry-forward.

7- IS INTEREST DEDUCTIBLE?

Interest is deductible on an accrual basis.

The deduction of interest is limited to 30% of operating profit, up to a maximum deduction of €1 million. The limit does not apply to a credit institution or insurance company, unless it becomes part of a group containing companies that are not credit institutions or insurance companies.

Where a taxpayer has not used the 30% allowance in any given tax year, the unused amount can be carried forward for 5 years.

8- IS DEPRECIATION DEDUCTIBILITY ACKNOWLEDGED?

Book depreciation posted for fixed tangible and intangible assets and realty investments is tax deductible if caused due to operation, use, enjoyment or obsolescence. In addition, certain assets benefit from a more advantageous tax treatment in which tax depreciation allowances are higher than the book depreciation posted. In this case, the excess tax depreciation allowances are treated as temporary differences on the corporate income tax return.

The official annual depreciation rates are as follows:

Asset	***Maximum annual percentage (%)***	***Maximum period of depreciation (years)***
Industrial buildings	3	68
Offices	2	100
Warehouses	7	30
Machinery	12	18
Vehicles	16	14

Asset	*Maximum annual percentage (%)*	*Maximum period of depreciation (years)*
Furniture	10	20
Electronic machinery	20	10
Computers	25	8

Declining balance depreciation methods are allowed for all assets, except buildings and furniture.
The following items may be freely depreciated without regard to the method chosen for accounting purposes:

- fixed tangible and intangible assets, excluding buildings, used for R&D activities. These buildings may be depreciated at 10% annually;
- newly acquired tangible assets up to a maximum annual total of €25,000;
- mining assets (until 31 December 2014)
- buildings acquired between 2010 and 2015.

Any amounts freely depreciated will generate an increase in taxable income at the time any relevant assets are sold or transferred.
Lessees of assets held under a finance lease are entitled to depreciation. In such cases, the tax depreciation expense may be double the book depreciation.
Goodwill, trade marks and transfer rights, as well as all those intangible assets with an indefinite useful life, are subject to a 5% annual depreciation.

9- WHAT TAX TREATMENT IS APPLIED TO RESIDENT COMPANIES?

The general Spanish tax rate applicable to resident companies for 2023 is 25%.
From 1 January 2023, a reduced tax rate of 23% applies to companies whose net turnover in the preceding year was less than €1 million.
Newly established companies benefit from a 15% tax rate for the first 2 years in which the company makes a profit.
A special tax rate of 30% applies to companies involved in the research or exploitation of hydrocarbon.
From 1 January 2022, in line with OECD recommendations, Spain has introduced a minimum corporate income tax , which rates are:

- 10% for newly established companies that are subject to the existing 15% corporate income tax rate
- 18% for hydrocarbon companies that are subject to the existing special tax rate of 30%
- 15% for companies under the tax consolidation regime and for companies whose annual net turnover in the preceding 12 months meets or exceeds €20 million.

To determine the applicable tax rate, profits derived in an accounting year commencing on a date other than 1 January are fully allocated to the calendar year in which the accounting year commenced.

10- ARE GROUP COMPANIES CONSIDERED SINGLE COMPANIES FOR FISCAL PURPOSES?

A tax group is defined as a group of Spanish incorporated, resident companies formed by one parent company holding a direct or indirect stake of at least 75% (70% for listed subsidiaries) in each subsidiary’s share capital. Foreign companies cannot form part of a Spanish tax group.
Any tax loss carry-forwards and tax credits accrued to a new member company at the time of joining may be used when the new member earns enough profits to offset the losses and credits separately.

The tax group is liable to corporate tax as a single unit, by adding the taxable income and capital gains of all group companies, eliminating all transactions carried out within the group except dividends. The offset of losses, application of tax credits and rollover relief and reinvestments are made jointly.
If a company joins the group by acquisition, it forms part of the group effective from the next tax year. If it is newly-incorporated, it forms part of the group in the same year. Dividends and interest paid within the tax group are not subject to the withholding tax. The group option for joint payment of corporate income tax does not extend to other taxes which may be chargeable on transactions within the group, for eg VAT continues to be applicable to each member of the group individually and to transactions between group members.

11- WHAT TAX TREATMENT IS APPLIED TO FOREIGN LOCAL UNITS AND NON-RESIDENT COMPANIES?
The general Spanish tax rate for non-resident companies deriving income in Spain without a permanent establishment (PE) is 19% for non-residents in an EU/EEA jurisdiction, and 24% for non-residents in other jurisdictions.
Capital gains are taxed at the rate of 19%.
Income obtained by PEs is taxed at the general corporate tax rate (25% in 2023).
Companies involved in petroleum exploration and drilling are taxed at a rate of 35%.
In certain cases, there is also a supplementary charge of 19% on revenue transferred abroad. This additional tax does not apply to: PEs resident in another EU country, unless the country or territory in question qualifies as a tax haven; residents in countries which have signed a tax treaty with Spain containing an information exchange clause, unless the treaty expressly provides otherwise.

12- ARE CAPITAL GAINS TAXED?
Capital gains and losses are treated as ordinary income and are taxed at the applicable corporate income tax rate. Capital gains or losses are computed by deducting the net book value of an asset from its sale proceeds. Capital losses may be offset against capital gains in the same tax year. Capital losses cannot be offset against income and vice versa.
When shares are sold in a company and at least 5% has been owned for at least one continuous year, a tax credit may be available to apply against any capital gain arising. This applies to a Spanish company if the company has been taxed at the general rate and to a foreign company if certain conditions are met that give the company the right to apply the exemption method or foreign dividend tax credits

13- WHAT TAX TREATMENT IS APPLIED IN CASE OF COMPANY LIQUIDATION?
When a liquidation share is paid by means of assets, any excess of the arm's length prices of the assets over their net book value triggers a capital gain.
If the stockholder is paid with assets, the assets are valued at arm's length. A dividend tax credit is given on any undistributed profits of the company in liquidation.

14- TRANSFER OR REPURCHASE OF SHARES: HOW ARE THEY TAXED?
Funds received in excess of the book value of the stake are treated as taxable income. If assets are received instead of capital, these assets will be valued at arm's length. A dividend tax credit is not allowed on the surplus except when the credit corresponds to undistributed profits
Spanish companies may repurchase their own shares or purchase shares issued by their parent company, subject to the legal restrictions of Spanish commercial law.
When a company purchases its own shares following a resolution to decrease capital, the transferee company records no profit or loss, whereas the shareholder may realise a capital gain on the sale of the shares and a dividend tax credit may be claimed

15- WHAT OTHER TAXES ARE APPLIED IN SPAIN?

VAT

It is charged at the rate of 21% on the supply of goods and services. A reduced 10% rate is charged on, among other items, food, water, housing, hotels and restaurants. A lower rate of 5% applied to certain supplies of electricity from 1 July 2022 to 31 December 2023 and to supplies of natural gas, firewood, briquettes and pellets for heating from 1 October 2022 to 31 December 2023.

A lower rate of 4% is charged on, among other items, books, medicines, feminine hygiene products and certain foods. The 4% rate is reduced to 0% for basic food items from 1 January 2023 to 30 June 2023.

Exports are zero rated (exemption with credit).

Supplies of medical equipment to hospitals and similar establishments are also zero rated from 23 April 2020 to 30 June 2022.

A number of services are exempt from VAT, as follows: medical services, education, cultural and sporting associations, financial and insurance transactions, renting of rural or urban properties (except the rental of business premises).

VAT does not apply to the areas of the Canary Islands, Ceuta and Melilla.

Stamp duty

The 1% rate is applied to, among others, capital increases, capital yields, mergers and contributions to branches.

Excise taxes

Excise taxes are levied on selected products: alcoholic beverages, tobacco production and hydrocarbons. As in other EU member states, there is a special excise tax chargeable on vehicle registration. The tax is collected by the manufacturer or importer and falls on the final consumer.

Local taxes

The municipal authorities may establish the applicable rates within a range specified by the framework law. Local taxes are tax deductible against corporate income tax and they include:

1. Business tax is levied annually on the carrying on of business by companies which, in a previous period, has realised a turnover of more than €1 million;
2. Real estate tax (impuesto de bienes inmuebles or IBI) is levied annually on property at the standard tax rate between 0.3% and 1.10% and the taxable base is the cadastral value. This value is usually lower than the market value and is periodically reviewed (every 5 to 10 years). When not reviewed, it is increased annually according to the expected inflation rate.
3. Tax on motor vehicles. This tax depends on the kind and power of the vehicle, and it goes from €4.42 per year for motorcycles to €148.30 per year for large trucks;
4. Tax on the increase in value of urban land. This tax is chargeable on the increase in value of urban land and is triggered when the asset is transferred.

Social security

Both the employer and employees are required to make national insurance contributions to the relevant authorities while their labour relationship is in force. The rate is applied to the basis for contribution; the rates average 29.9% for companies and 6.35% for employees.

Tax on insurance premiums

It is charged on insurance transactions or capitalisation at the 8% rate.

Taxes on environmental issues

There are different kinds of taxes.

A 7% tax applies to income received from sales of electricity, but it has been temporarily suspended from 1 July 2021 to 30 June 2022.

A tax is applied on radioactive waste, on nuclear fuel and its storage.

Radioactive waste stored for medical or scientific purposes is exempt from the tax.
A tax is also applied to sales of natural resources, hydroelectricity, waste disposal, fluorinated greenhouse gases and – from 1 January 2023 – also on single-use plastic packaging.

Tax on gambling

It is charged on the authorisation and organisation of gambling events at rates between 20% and 55%. For online gambling, the rates applicable on either gross or net revenue range from 10% to 25%, depending on the type of activity.

Wealth tax

For residents this tax applies to worldwide assets. For non-residents it applies to Spanish assets. The first €700,000 of assets are excluded. After that, rates of between 0.2% and 3.5% apply.

Financial transactions tax

This tax applies in Spain from 16 January 2021 at a rate of 0.2% on the consideration paid for the acquisition of shares in a Spanish company listed on a regulated stock exchange and with a stock market capitalisation value exceeding € 1,000 million.

Digital services tax

This tax applies in Spain from 16 January 2021 at the rate of 3% on the provision of certain digital services (such as online advertising) in Spain. The tax only applies if the supplier's net turnover in the preceding calendar year exceeds €750 million, and income from digital services provided in Spain in the preceding calendar year exceeded €3 million.

Windfall profits tax

The tax applies to:

- energy companies whose annual turnover in 2019 exceeded €1 billion in respect of sales in Spain. The tax rate is 1.2% of revenue obtained in 2022 and 2023;
- banks whose net interest and commission income in 2019 exceeded €800 million. The tax rate is 4.8% of net interest and commission income obtained in 2022 and 2023.

The tax is not deductible for corporate income tax purposes.

Solidarity tax on large fortunes

A solidarity tax is imposed on large fortunes for 2023 and 2024 to individuals with assets exceeding €3 million, at rates ranging from 1.7% to 3.5% .
The amount of wealth tax payable is deductible from the solidarity tax due.

16- DIVIDENDS, INTEREST AND ROYALTIES: HOW ARE THEY CONSIDERED AND TAXED?

Dividends

Dividends received from Spanish companies or from non-resident companies are treated as ordinary income and are fully taxable at the 19% rate. A tax credit is applicable for: Spanish underlying taxes on dividends received from Spanish subsidiaries, company liquidation, repurchase of shares, withdrawal of stockholders and dissolution without liquidation in mergers, up to the portion corresponding to undistributed dividends. Excess dividend tax credits can be carried forward for 7 years.
If certain requirements are fulfilled, it is possible to apply the exemption from withholding tax for dividends and capital gains distributed by resident or non-resident companies.

Interest and royalties

The withholding tax of 19% is generally applied to interest and royalties, except in the case of interest paid to companies resident in an EU state (royalties: 10%); interest from public debt, with the exception of that paid to tax havens; interest paid to non-resident bank accounts. In the case of non-residents, the rate, which is equal to 19% / 24%, can be reduced or eliminated by a Tax Agreement.

17- HOW ARE CALCULATED STOCKS OR INVENTORIES?

From 1st January 2008, the method by which the value of inventory is to be determined is the average price or average weighted cost. First-in first-out (FIFO) is considered acceptable to the extent that the company considers it the most suitable management method. Any other method, including the last-in first-out method (LIFO), is not permitted.

18- HOW ARE RESIDENT INDIVIDUALS TAXED?

Tax liability criteria

A person is considered to be resident in Spain as a result of any of the following: presence in Spain for more than 183 days in a calendar year; economic ties (the person's principal business interests are located in Spain); or family ties (their spouse and/or dependent children are themselves resident in Spain).

Tax rates

The individual income tax rates for residents in 2023 are as follows:

Net taxable income €	***Tax rates %***	***Cumulative tax at top of band €***
Up to 12,450	19	2,365.50
From 12,450 to 20,200	24	4,225.50
From 20,200 to 35,200	30	8,725.50
From 35,200 to 60,000	37	17,901.50
From 60,000 to 300,000	45	125,901.50
Over 300,000	47	

Employers must deduct income tax at source on salaries payable to employees. Rates vary depending on the amount paid and the employee’s family circumstances.

Mai deductions and reliefs

Each Spanish resident is a taxpayer in their own right and their income and gains are separately assessed. However, there is the option for members of a family unit to submit joint declarations. There are two definitions of the family unit in Spanish income tax legislation: married couples without children, with children under the age of 25 or with adult dependants who are disabled and subject to a judicial care order, and legally separated or unmarried couples cohabiting without children, with children under the age of 25 or with adult dependants who are disabled and subject to a judicial care order.

Children under the age of 25, adult dependants and elderly relatives entitle the guardian taxpayer to an increased personal allowance. This tax-free allowance is only available if the dependant does not earn taxable income exceeding €8,000 annually. By filing joint tax declarations, the personal allowance increases by an additional €3,400 annually for the first type of family units and by €2,150 for the second type of family units.

Inheritance and gift tax

Resident individuals are subject to inheritance and gift tax on any inheritance or donation received, while non-resident individuals are subject to inheritance and gift tax only referring to assets located in Spain. The rates applied range from 7.65% to 34%.

Pension, social security and national health policy

It is the policy of the Spanish Government to encourage individuals to invest for their retirement by contributing to pension schemes. Contributions to pension funds are tax exempt and entitle the taxpayer to reduce their tax base.

Under Spanish law, self-employed workers, employees in Spain (whether resident or non-resident for tax purposes) and their employers are required to make national insurance contributions to the relevant authorities while their labour relationship is in force. The contribution rate is calculated on the monthly wage and it averages 29.9% for employers and 6.35% for employees.

19- HOW ARE FOREIGN INDIVIDUALS TAXED? WHEN ARE THEY CONSIDERED RESIDENT?

Tax liability criteria

A person is considered to be resident in Spain as a result of any of the following: presence in Spain for more than 183 days in a calendar year; economic ties (the person's principal business interests are located in Spain); or family ties (their spouse and/or dependent children are themselves resident in Spain).

A non-resident individual is taxed on Spanish sourced income.

Tax rates

Non-resident individuals without a permanent establishment in Spain are liable to tax on their income derived in Spain at a rate of 19% for non-residents in an EU/EEA jurisdiction and 24% for non-residents in other jurisdictions.

Dividends, interest and capital gains are taxed at the flat rate of 19%.

Main deductions and reliefs

Non-residents do not have the option of filing joint tax returns in Spain.

Inheritance and gift tax

Non-residents are liable to pay inheritance and gift tax only on assets and real estate located in Spain, at rates going from 7.65% to 34%.

Pension, social security and national health policy

It is the policy of the Spanish Government to encourage individuals to invest for their retirement by contributing to pension schemes. Contributions to pension funds are tax exempt and entitle the taxpayer to reduce their tax base.

Under Spanish law, self-employed workers, employees in Spain (whether resident or non-resident for tax purposes) and their employers are required to make national insurance contributions to the relevant authorities while their labour relationship is in force. The contribution rate is calculated on the monthly wage and it averages 29.9% for employers and 6.35% for employees.

20- TERMS FOR TAX PAYMENTS: THE FISCAL YEAR IN SPAIN

Companies must file their Spanish corporate income tax returns and pay their tax liability within 6 months and 25 days from the end of their business year (eg for companies closing their year on 31 December, the period for filing ends on July 25). Extensions are not permitted. Taxpayers may file annual tax returns electronically.

Within the first 20 days of April, October and December, companies must make advance payments on their corporate income tax liability. The amount to be paid is computed by applying a rate to the tax liability before applying overpayments from the prior year’s return.

In cases where neither the return nor the payment of tax are made on time, but are carried out before receiving a notice from the tax authorities, a surcharge (penalty) applies: within 12 months from the required date, surcharge of 1%, after 12 months 15% surcharge plus interest.

21- WHAT TAX INSPECTIONS ARE MADE?

Taxpayers must self-assess their liability for Spanish tax, file returns and make payments to the AEAT (Tax Agency) for all taxes except local taxes. They must electronically file corporate income tax returns, together with any information returns and annual summaries.

Tax officers and inspectors may review tax returns, ask for information and propose corrections for the tax paid. The inspectors generally audit books and records of the years open to review for both corporate income tax and other taxes. Field audits are performed mainly on the taxpayer’s premises. Audits must be completed within 18 to 27 months and they end with a written record containing the local branch office's final assessment and the grounds on which taxpayer may appeal.

The Spanish tax authorities' right to review returns and assess additional taxes expires 4 years after the end of the term in which the return must be filed.

22- CAN TAXPAYERS AGREE IN ADVANCE THEIR TAX TREATMENT?

The Spanish tax authorities may give advance rulings on the tax implications of a proposed transaction prior to its implementation. Generally, these rulings are not binding.

23- WHAT EXCHANGE CONTROLS ARE CARRIED OUT?

At present, there are no exchange control restrictions in Spain. However, payments remitted to or received from abroad must be made through a bank, and residents are required to provide details of such payments.

Cash currency exports or imports of over €10,000 per person and journey require prior verification by the authorities. Movements in cash, domestic bank notes or bank notes in any other currency intended as a means of payment, whether made physically or electronically, are required to be declared if they amount to €100,000 or more.

In general, foreign investments in Spain, including any return on these investments and the results of their liquidation are free from exchange controls. Nevertheless, they must be reported to the authorities. The authorities require an advance notice when the foreign investment is made from a country or territory qualifying as a tax haven.

24- WHAT TAX RELIEFS AND INCENTIVES ARE GRANTED BY THE SPANISH GOVERNMENT?

Investment tax credits

Performing certain activities gives companies the right to subtract from their tax liability a tax credit calculated by applying a rate to the cost or expenses incurred Generally, the total amount of tax incentives which may be deducted against the annual corporate tax liability is limited to a percentage of the tax liability. Unused tax deductions can be carried forward for 15 years. Unused R&D tax deductions can be carried forward for 18 years. The taxable liability limitation percentages applicable for the years 2011 to 2023 are as follows:

- Fixed assets to protect the environment 8%
- R&D expenses 25%
- Technological innovation 12%
- Information technology and communications 3%
- Export investment activites 0%
- Cultural heritage 15%
- Films 25/30%
- Book publishing 2%
- Employees' training expenses 1%

Capitalisation reserve tax deduction

A capitalisation reserve tax deduction is available equal to 10% of the capital reserve amount. Certain conditions need to be satisfied.

Tax incentives on income

A 60% relief may be claimed in respect of income derived from the assignment of use or exploitation of patents, designs or models, advanced registered software or certain protection certificates. To apply the incentive, certain conditions must be met.

Exploitation of literary, artistic or scientific works, trademarks, cinematographic films and others are excluded. Plans, secret formulas or processes, and rights to information concerning industrial, commercial or scientific operations are also excluded.

Special tax systems by reason of territory

Special systems by reason of territory are the regional systems applicable to the Autonomous Community of the Basque Country and the Regional Community of Navarre. The characteristics of their finance system stem from the fact that the historical territories of the Basque Country and Navarre have the authority to create, maintain and regulate their tax system and, consequently, the levying, management, assessment, collection and inspection of most state taxes, except import duty, special taxes on imports and VAT, is governed by each of these regional territories.

Basque country corporate income tax

Although corporate income tax in the Basque Country is similar to the general Spanish corporate tax, certain differences favour the companies residing in Basque territory when their activities are conducted there. The main differences are:

- 10% to 50% higher depreciation rates and more favourable criteria for accepting certain asset allowances
- reduction in the taxable income of newly-created companies, as of 1 January 1996 (when certain minimum conditions of share capital, investment in fixed assets and creation of employment are fulfilled) for 4 consecutive years starting from the first year which shows profits, provided this occurs within 4 years from commencement of business
- certain comparable incentive tax credits are higher, and others without an annual limit, have been rationalized and updated to favour activities considered to be fundamental to competitive business, ie those related to research, development and technological innovation, preservation and improvement of the environment, the most efficient usage of energy sources, and activities which contribute to providing employment for groups with special difficulties in this regard, and
- new rules have been introduced for business transacted between related companies by using an arm’s length pricing requirement.

The 3 Basque Country Provincial Councils have decreased the standard rate from 26% to 24% and the rate for small enterprises from 22% to 20%.

Navarre corporate income tax

Effective 1 January 1997, a specific corporate income tax system applies to companies resident in the territory of Navarre which is similar to Basque corporate tax law, which main characteristics are:

- In relation to corporate losses, no limits apply to declining depreciation methods.
- A tax exemption is available for gains realised on the transfer of tangible or intangible assets held for one year prior to the transfer, provided the profits obtained from the transfer are reinvested in the same type of assets between the year prior to the transfer and the year-end period following. However, there are some exceptions to this tax benefit. Moreover, this exemption cannot be claimed together with any other tax benefit, particularly the free depreciation benefit.
- Tax deferral applies to gains realised on the transfer of shares representing at least a 5% stake in a company’s equity (as long as the stake was held during the year prior to the transfer). For the deferral to apply, gains must be reinvested either in the assets mentioned above, or in the stock of any company to which Navarre’s corporate income tax law applies.
- Companies that have set up a special reserve for investments may benefit from a tax credit of 45% of this reserve, up to a limit of 40% of the tax base, provided that they meet certain legal conditions.

- The tax rate decreased from 32.5% to 30% for tax periods commencing on or after 1 January 2008. The rate for small enterprises that satisfy all qualifying conditions, including revenue in the preceding tax year of less than €10 million, is 27%.
- Tax credits are similar to those available under the general tax regime, although higher credit rates have been established in certain cases. For example, the benefit for the acquisition of brand new assets used in the business may reach 10% or 15%, depending on whether the company has been recently formed.

General state legislation applies to some aspects of the Navarre tax system, eg mining, research, hydrocarbons, non-residents and international organisations.

Canary Islands tax system

Enterprises that are residents and/or have their business in the Canary Islands have special tax advantages:

- A 50% reduction in corporate income tax payable on profits realised on the export of goods manufactured in the Canary Islands.
- A reserve for investments in the Canary Islands. Companies and permanent establishments (PEs) carrying on business activities in the Islands can reduce their taxable base by up to 90% of the undistributed profits allocated to this reserve, provided that the amount allocated is invested within a period of 3 years in fixed assets for the business, in the regional government's public debt, or in the capital stock of Canary Island companies doing business in the Islands.
- The Canary Islands Special Economic Zone (ZEC) is a low taxation area designed as an offshore centre. The area includes all the territory, except for certain activities which have to be located in special areas. The ZEC regime is applicable to companies which are entered in a special register and have the head office and the main establishment in the Canary Islands and manage and develop the company activity there. These companies can only deal with non-residents or with other companies located in the special area, except for certain acquisition transactions. ZEC entities are subject to the corporate income tax of 4%. Companies which decide to set up in the ZEC will also enjoy other tax benefits such as a low non-resident income tax rate and full exemption from indirect tax for activities carried out within the geographical area of the ZEC. The benefits provided by the Canary Islands ZEC will remain in force until 2026.
- VAT, the tax on retail sales of specific hydrocarbons and exchange controls are not applicable.

The taxation in Ceuta and Melilla

There is 60% relief on the tax liability for income generated in Ceuta and Melilla and VAT is not applicable. Instead, there is a tax levied on production, services and imports. Special taxes apply only to certain means of transport, manufacturing and electricity.

Social security incentives

Employers are entitled to an exemption from social security contributions in respect of new employees that:

- are under the age of 30
- have been enrolled at the Spanish unemployment office for an uninterrupted period of 12 months
- have no previous work experience or have work experience not exceeding 3 months in duration
- receive training from the employing company, and
- are employed on a part-time basis.

The exemption rate - 75% for companies with at least 250 employees and 100% for all other companies - can be applied for a period of one year, to be eventually extended for a further year if the employee is continuing to be trained.

Incentives for small entities

Small entities with net turnover of less than €10 million in the preceding tax year may reduce their tax base by up to 10%, subject to a maximum reduction of €1 million. The reduction is available for a further 3 years to companies which previously held small entity status and have now exceeded the €10 million turnover threshold.

Start-up incentives

From 1 January 2023, tax incentives are available to innovative companies that are newly created or were created within the preceding 5 years (7 years for companies in the biotechnology, energy or industrial sectors). The incentives include a reduced corporate income tax rate of 15% for the first year in which the company makes a profit and the following 3 years. Further qualifying conditions include:

• that the company is not listed on the stock exchange
• that the company does not and has not distributed dividends
• that the registered office or permanent establishment of the company is in Spain
• that at least 60% of the company's workforce is contracted in Spain.

25- HAS SPAIN SIGNED BILATERAL TAX AGREEMENTS WITH OTHER COUNTRIES? TABLE OF WITHHOLDING TAXES

The following withholding taxes apply to dividends, interest and royalties received by non-residents of states that have signed a tax treaty with Spain to eliminate double taxation.

	Dividends	*Interest*	*Royalties*
	%	*%*	*%*
Non-treaty countries	19	19	19/24
Treaty countries			
Albania	0/5/10	0/6	0
Algeria	5/15	0/5	7/14
Andorra	5/15	0/5	5
Argentina	10/15	0/12	3/5/10/15
Armenia	0/10	5	5/10
Australia	15	10	10
Austria	0/10/15	0/5	0/5
Azerbaijan	5/10	0/8	5/10
Barbados	0/5	0	0
Belarus	0/5/10	0/5	5
Belgium	0/15	0/10	0/5
Bolivia	10/15	0/15	0/15
Bosnia	5/10	0/7	7
Brazil	15	0/10/15	10/15
Bulgaria	0/5/15	0	0
Canada	0/5/15	0/10	0/10
Cape Verde	0/10	0/5	5
Chile	5/10	5/15	5/10
China	0/5/10	0/10	10
Colombia	0/5	0/10	10
Costa Rica	5/12	0/5/10	10
Croatia	0/15	0/8	8
Cuba	5/15	0/10	0/5

Cyprus	0/5	0	0
Czech Republic	0/5/15	0	0/5
Dominican Republic	0/10	0/10	10
Ecuador	15	0/5/10	5/10
Egypt	9/12	0/10	12
El Salvador	0/12	0/10	10
Estonia	0/5/15	0/10	0/5/10
Finland	0/5/15	0	0
France	0/15	0/10	0/5
Georgia	0/10	0	0
Germany	0/5/15	0	0
Greece	0/5/10	0/8	0/6
Herzegovina	5/10	0/7	7
Hong Kong	0/10	0/5	5
Hungary	0/5/15	0	0
Iceland	5/15	0/5	5
India	15	0/15	10
Indonesia	10/15	0/10	10
Iran	5/10	0/7.5	5
Irlanda	0/15	0	0/5/8/10
Israel	10	0/5/10	5/7
Italy	0/15	0/12	0/4/8
Jamaica	5/10	0/10	10
Japan	0/5	0/10	0
Kazakhstan	5/15	0/10	10
Korea	10/15	0/10	10
Kuwait	0/5	0	5
Kyrgyzstan	18	0	0/5
Latvia	0/5/10	0/10	0/5/10
Lithuania	0/5/15	0/10	0/5/10
Luxembourg	0/10/15	0/10	0/10
Macedonia	5/15	0/5	5
Malaysia	0/5	0/10	5/7
Malta	0/5	0	0
Mexico	0/10	0/4.9/10	0/10
Moldova	0/5/10	0/5	8
Morocco	10/15	10	5/10
Netherlands	0/10/15	0/10	0/6
New Zealand	15	0/10	10
Nigeria	7.5/10	0/7.5	3.75/7.5
Norway	10/15	0/10	0/5
Oman	0/10	0/5	8
Pakistan	5/7.5/10	0/10	7.5
Panama	0/5/10	0/5	5
Philippines	10/15	0/10/15	15/20
Polonia	0/5/15	0	0/10
Portugal	0/10/15	0/15	0/5
Qatar	0/5	0	0
Romania	0/5	0/3	3
Russia	5/10/15	0/5	5
Saudi Arabia	0/5	0/5	8

Senegal	10	0/10	10
Serbia	5/10	0/10	5/10
Singapore	0/5	0/5	5
Slovak Republic	0/5/15	0	0/5
Slovenia	0/5/15	0/5	0/5
South Africa	5/15	0/5	5
Sweden	0/10/15	0/15	0/10
Switzerland	0/15	0	0/5
Tajikistan	18	0	0/5
Thailand	10	0/10/15	5/8/15
Trinidad and Tobago	0/5/10	0/8	5
Tunisia	5/15	5/10	10
Turkey	5/15	10/15	10
Ukraine	18	0	0/5
United Arab Emirates	0/5/15	0	0
United Kingdom	0/10	0	0
United States	0/5/15	0	0
Uruguay	0/5	0/10	5/10
Uzbekistan	5/10	0/5	5
Venezuela	0/10	0	5
Vietnam	7/10/15	0/10	10

Spain has signed TIEAs with the following countries, based on the OECD model convention: Andorra, Aruba, Azerbaijan, Bahamas, Curaçao, Denmark, Guernsey, Isle of Man, Jersey, Portugal, San Marino and Sint Maarten.