

# Spain



 **Capital city:**  
Madrid

 **Language:**  
Spanish

 **GDP/capita**  
2015:  
USD 25 832

 **Telephone code:**  
+34

 **Superficy:**  
505 991 km<sup>2</sup>

 **Political system:**  
Parliamentary  
monarchy

 **Currency:**  
Euro

 **National day:**  
October 12th

 **Population:**  
46'439 M.

 **ISO Code:**  
ESP



## 1. Corporate taxation

### 1.1 Taxes on entities

Legal entities are subject to corporate income tax on their profits.

There is no net wealth tax for legal entities.

There is a capital duty, but currently all contributions are exempt.

There are also social security contributions which are mainly paid by the companies (please see 2.8).

### 1.2 Residence and non-residence

All companies that are treated in Spanish law as being separate legal entities are subject to Spanish tax in their own right. This includes all types of commercial companies (SA, SARL, SNC, Limited Liability Partnerships), cooperatives, farming development companies and mutual assurance companies.

A company is treated as resident in Spain if it fulfils any one of the following criteria:

- the company is incorporated in Spain;
- the company has its headquarters in Spain;
- the center of effective control and management is in Spain.

A company resident in Spain is subject to tax on all its worldwide income.

Non-resident companies are subject to tax on income of non-residents in Spain, on certain Spanish source incomes. The most important sources are income from a permanent establishment in Spain and income from Spanish real estate. Certain economic activities or services, made without permanent establishment may be subject to the same tax. There are several cases of exempt income.

### 1.3 Tax year and filing

The tax year in Spain is the calendar year. However, a company may file a return based on its own financial year. The tax return period must not exceed 12 months.

Tax return and payment are due six months and 25 days after the financial year-end. During the fiscal year, companies are obliged to three payments on account of the final tax on precise due dates. It is important to consider that due dates must be extremely observed. Any delay is object of severe penalties.

## 1.4 Types of income

The tax base is the accounting profit as shown in the company's financial statements, though some adjustments are required by Spanish tax law.

The main adjustments are:

- Adjustments increasing profit:
  - non deductible expenses;
  - financial costs of debts to other group entities;
  - financial expenses exceeding 30% of operating profit;
  - excess depreciation and amortization;
  - limitations to amortization;
  - certain provisions;
  - excess impairment losses;
  - operations for tax purposes should be valued by market value;
  - recovery of accelerated depreciation made in previous years;
  - recovery of deferred income for reinvestment of extraordinary income;
  - recovery of deferred income tax credit for investments in the introduction of companies abroad;
  - recovery of excess depreciation from previous years in leasing transactions;
  - recovery income settlement transactions;
  - recovery value of the items that generated tax losses in a previous transmission;
  - income allocation in the case of international tax transparency;
  - impairment of goodwill when the amount thereof has been included in the taxable income of previous years
  - recovery of «Nivelación» reserve
- Adjustments reducing profit:
  - accelerated depreciation and other alleged acceleration of depreciation;
  - excess depreciation recorded in prior years;
  - excess provision recognized in prior years;
  - excess impairment losses recognized in prior years;
  - transfer of use to third parties of certain intangible assets;
  - deduction of financial goodwill on the acquisition of shares in the capital of non-resident entities;
  - deferral for investment allowance for the establishment of companies abroad;

- correction of currency depreciation on capital gains realized on the transfer of property plant and equipment;
- settlement transactions;
- leasing transactions;
- exempt dividends and capital gains from investments in subsidiaries;
- revenue earned abroad through a permanent establishment;
- dividends paid by companies that were taxed by the rules of tax transparency;
- correcting the tax value of goodwill that does not correspond to impairment;
- financial expenses not deducted in prior periods for exceeding the limit on operating profit;
- reduction in revenue from certain intangible assets;
- allocations for social work;
- allocations for «Nivelación» reserve;
- allocations for «Capitalización» reserve.

## 1.5 Group income and grouping arrangements

A company can form a fiscal consolidation with its Spanish subsidiaries, provided that owns 75% or more of the subsidiary. The parent company may not be resident in Spain.

There are several conditions attached.

The tax consolidation rules will apply if there is an agreement in all and each of the entities that must integrate it. The agreements must be adopted before the year in which it must be effective.

## 1.6 Capital gains

Capital gains are treated as ordinary income.

Capital gains are calculated as the difference between the net book value adjusted for inflation and the sale price.

## 1.7 Losses

Tax losses may be carried forward with no time limit. Accounting records must be kept for justification in case of tax audit by authorities.

## 1.8 Exemptions

- Exemption to eliminate double taxation. Dividends and income derived from transmission of securities are exempt if the holding in share capital is not less than 5% or its acquisition cost exceeds EUR 20 million. (Other requirements must be observed: e.g. holding period: 1 year; foreign subsidiary must be subject but not exempt to a tax on profits of companies, analogous than the Spanish tax on profits of companies.)
- Reduction of income from certain intangible assets. The cession of the use or exploitation of patents, designs, plans, secret formula or process, and other industrial, commercial or scientific information could be reduced by 60%.
- "Capitalization reserve". The companies that pay tax at the standard rate can reduce the tax base by 10% of the increase in equity. Some requirements must be observed: the increase in equity must be maintained for 5 years (except in case of losses); to provide a special reserve; the maximum amount of the reduction is 10% of tax base before reduction.

## 1.9 Rates

On resident companies:

	2016	2017
General rate of tax	25%	25%

When the turnover of a company in the preceding year was less than EUR 10,000,000, the tax on the first EUR 300,000 of profit is charged at 25% since 1 January 2016.

Other rates of tax:

Cooperatives fiscally protected _____	20%
Non-profit organizations _____	10%
Investment companies with variable share capital _____	1%
Credit institutions _____	30%
Research and exploitation of hydrocarbon deposits _____	30%

On non-resident companies:

Rates to a non-resident company with a permanent establishment in Spain are the general rates on resident companies.

Rates to a non-resident company without a permanent establishment in Spain are:

General rate	_____	24%
General rate for companies resident in another EU country	_____	19%
Tax on capital gains	_____	19%
Tax on interest and dividends	_____	19%

## 1.10 Double tax relief

Dividends paid by a Spanish company to a non-resident parent company: Profits distributed by subsidiaries resident in Spanish territory to their parent companies resident in other Member States of EU are exempt from Spanish taxation.

Some requirements must be observed:

- both companies should be subject and not exempt from any tax on profits;
- the distribution of profit cannot be the result of the liquidation of the subsidiary;
- will be considered as a parent company when it holds at least 5% in the capital of another company, or the acquisition value of this participation exceeds EUR 20 million;
- minimum holding period: 1 year.

Tax treatment of dividends between parent company not resident in the E.U. and its Spanish subsidiary: the dividends paid by the subsidiary will be subject to income tax and withholding tax in Spain unless there is an international agreement between the two states that stipulates otherwise.

Dividends received by a Spanish company (Deduction for international double taxation).

When dividends paid by a non-resident entity in Spanish territory are counted in the taxable base of a Spanish company, the Spanish company can deduce the tax paid by the non-resident.

Requirements that must be observed:

- the share on capital of subsidiary have to be at least 5% or its acquisition cost exceeds EUR 20 million;
- minimum holding period: 1 year;
- maximum deduction: the tax that would have been paid in Spain for the benefits that have generated the received dividends;
- this deduction is not compatible with the exemption to eliminate double taxation.

## 1.11 Tax deduction

- Deduction for activities in R&D&I: An 8%, 12%, 17%, 25%, 42% (depending on the case) deduction is allowed for the costs of Research & Development & Technological Innovation carried out during the financial year. Original research and planning with the object of the discovery of new knowledge, as well as the application of the results for making new materials or products, or the conception of new procedures or production systems, are considered as research and development. Research and development costs consist of everything including immaterial expenses as well as depreciation of assets used solely for research and development.
- Deduction for investments in films, audio-visuals series, live performing arts and music performances. First million euros: 20%. Above EUR 1,000,000: 18%. There are many requirements that must be observed and there are many limitations to its application.
- Deduction for creating jobs:
  - For the first contract of permanent employment: EUR 3,000
  - The entities having a staff of less than 50 employees, if they hire certain unemployed, they will be able to deduct a certain amount depending on the unemployment benefit not perceived.
- Deduction for creating jobs for handicapped employees. If the company increases the average of handicapped employees, it may be deducted: EUR 9,000 or EUR 12,000 multiplied by the average increase.

The set of all deductions is limited to a percentage between 25 and 50% of tax liability. The difference may be carried over the next fifteen years.

# 2. Personal income taxation

## 2.1 Taxes on income

The most important taxes are:

- income tax: labour income, income from business activities, income from professional activities, income from capital, income from real estate and capital gains and losses;
- social security contributions paid by employees.

## 2.2 Residence and non-residence

A person is considered as a resident of Spain if he fulfils one of the following conditions:

- the individual has spent more than 183 days in the course of the tax year in Spain; temporary absences do not cause an individual to be treated as a non-resident, unless it is proved that the individual has spent 183 days or more in another country;
- the individual has his principal residence or the center of his business activities in Spain.

There are also two specific rules:

- an individual is treated as resident in Spain, if the individual's spouse and any minor dependents are resident in Spain and unless he can prove the converse;
- when an individual has his principal residence in Spain and moves his residence to a tax-haven, he is considered a Spanish resident during the current year and the following four years.

A person who is a resident in Spain is subject to income tax on his or her worldwide income.

The non-resident in Spain is subject only to tax on income arising in Spain. Exceptionally, there are some categories of income which are exempt from tax in Spain. These include interest, capital gains on chattels receivable by a resident of another EC state who does not have a permanent establishment in Spain.

## 2.3 Tax year and filing

The tax year is the calendar year.

The tax return should be filed between 1 May and 30 June after the end of the tax year concerned. It is possible to pay the 60% before 30 June and the 40% to 5 November.

## 2.4 Types of income

- income from labour;
- income from business and professional activities;
- income from capital;
- income from real estate;
- income from capital gains and losses.

Income from labour includes wages and salaries, fees of directors and administrators.

Income from business and professionals activities includes all income and expenses related to the activity.

Income from capital includes interest, dividends and other income from movable and intangible assets.

Income from real estate includes the income from the assignment of the use of the real property.

Income from capital gains and losses includes the income from the sale of real estate and in some cases from the sale of movable property.

There are two tax base, the general tax base and the savings tax base:

- income taxed to the general tax base: labour income, income from business and professional activities, income from real estate, some income from capital and some capital gains and losses;
- income taxed to the savings tax base: most of the capital gains and losses and most of the income from capital.

There are two tax scales:

- the tax scale applicable to the general tax base;
- the tax scale applicable to the savings tax base.

Tax scale applicable to the general tax base :

<b>Band of income (€€€)</b>	<b>Rate on band (%)*</b>
0 to 12,450	19
12,450 to 20,200	24
20,200 to 33,200	30
33,200 to 60,000	37
Above 60,000	45

\* In some autonomous communities, there may be a variation between -1% to +4%, depending on the tax bracket

Tax scale applicable to the savings tax base:

0 to 6,000	19%
6,000 to 50,000	21%
Above 50,000	23%

## 2.5 Capital Gains

Please see on 2.4 Types of income: Income from capital gains and losses.

## 2.6 Losses

In general, losses can only be offset against income of the same type.

The losses that cannot be offset in the same year may be settled on the following four years.

There are other requirements that must be observed.

## 2.7 Exemptions

There are some specific exemptions in respect of personal income taxation: reductions for obtaining irregular income over time; reducing the income from the lease of buildings for housing; severance pay; salaries of expatriates.

## 2.8 Allowances and rates

Deductions	Amount (€€€)
<b>Personal allowances</b>	
General	5,550
For Individuals aged over 65	$5,550 + 1,150 = 6,700$
For individuals aged over 75	$5,550 + 1,150 + 1,400 = 8,100$
Handicapped individuals	From 3,000 to 9,000
Per elderly dependent relative over 65/75	1,150 / 2,550
<b>Descendant</b>	
First child	2,400
Second child	2,700
Third child	4,000
Fourth (and each subsequent) child	4,500
<b>Others</b>	
Child aged under 3	2,800
Per handicapped parent or child	From 3,000 to 9,000
Maternity: (only for working mothers)	1,200 (for each child aged under 3)

It is possible for each autonomous region to put other deductions in place.

## Deduction from income

The main deductions are as follows:

- donations: 10% to 30% of the sum paid.
- net earned labour income: if there are no other income exceeding EUR 6,500 :
  - if labour income is less than 11,250: deduction = EUR 3,700
  - if labour income is between 11,250 and 14,450: deduction = EUR 3,000 - [1.15625\*(net earned income - 11,250)]

It is possible for every autonomous region to put in place other deductions.

## 2.9 Social security

CONTRIBUTION BASES FOR COMMON CONTINGENCIES			
contribution group	professional categories	minimum base	maximum base
		EUR/month	EUR/month
1	Engineers. Graduates. Senior management personnel.	1,152.80	3,751.20
2	Technical Engineers. Experts and Assistants Graduates	956.12	3,751.20
3	Administrative and workshop managers	831.70	3,751.20
4, 5, 6, 7	others	825.55	3,751.20
		EUR/day	EUR/day
8, 9, 10, 11	others	27.51	125.00

CONTRIBUTION RATES (%)	company	employees	total
Common contingencies	23.60%	4.70%	28.30%
Unemployment	5.50%	1.55%	7.05%
Wages Guarantee Fund	0,02%	0,00%	0,02%
Professional training	0.60%	0.10%	0.70%
Total	29.90%	6.35%	36.25%

	daily	monthly	annual
<b>Minimum wage (EUR)</b>	<b>21.84</b>	<b>655.20</b>	<b>9,172.48</b>

CONTRIBUTION BASES	minimum base	maximum base
	EUR/month	EUR/month
SELF-EMPLOYEES (EUR)	893.41	3,642.00

CONTRIBUTION RATES SELF EMPLOYEES (%)	
with sickness cover	29.80%
without sickness cover	26.50%

## 2.10 Expatriates

There are tax advantages for Spanish-resident employees who are sent abroad to work, without losing the Spanish residence:

- the salaries of expatriated people are exempted (maximum EUR 60,100);
- excess wage in relation to the usual salary in Spain is exempt.

### **Non-residents becoming residents.**

They have also the option to apply the non-resident system in the year of the residence change and the next 5 years, if their income is lower than EUR 600,000.

## 2.11 Options

Are considered earned income in kind. Are obtained and are valued at the time of exercising the option. The yield is the difference between the market value of the action and the acquisition cost of the option.

There is an exemption of EUR 12,000 per year if certain requirements are met. As other income that are generated in over 2 years, shall apply a reduction of 30% of revenues, provided that such revenues are attributed to one year. If the income exceeds EUR 300,000 the reduction decreases.

## 2.12 Partnerships

Income from joint ownership and from civil companies without commercial activity are recognized directly in the partner income tax.

## 2.13 Pensions

The contributions to pension plans, which have been allocated as earned income, reduce the tax base. Maximum reduction, the smaller of:

- EUR 8,000 per year
- 30% of net labour income

# 3. Inheritance and gift tax

Gifts and inheritances are subject to tax in the Spain.

### 3.1 Residents and non-residents

Only natural persons are taxable persons.

All people who have their habitual residence in Spain will be required to tax, regardless of where the assets or rights acquired gratuitously are situated.

Non-residents will have to pay the Inheritance and Donations Tax for the acquisition of all assets and rights that were located or had to be exercised in Spanish territory. Also for the perception of amounts derived from life insurance contracts when the contract has been made with Spanish insurance companies or has been concluded in Spain with foreign entities operating in it.

### 3.2 Rates

The rates depend on the relationship of the recipient to the donor/deceased and the amount received.

In Spain, there is a general tax, but each region has its own tax. There are significant differences between taxes each region.

Each region can set up reductions, deductions and their own rates.

Some regions have a substantial deduction of 99% applied to the first degree of relationship (descendant and spouse).

A non-resident will pay tax on goods inherited and located in Spain according to the general Spanish tax.

There are reductions on the taxable base, determined on the basis of kinship, age and handicap. (these reductions do not apply to inter vivos gifts).

There is a reduction of 95% of the value of the following assets:

- Unincorporated businesses or shareholdings in companies, with the following conditions:
  - the beneficiary must be the surviving spouse or a dependant;
  - the asset must have been held for a minimum of 10 years

additionally, in the case of shares in a company:

- the shareholding must be 5% or more as individual, or 20% with family;
- the taxpayer or a member of the family must have run the business, which must have provided 50% or more of his earned income;
- the business must have a trading activity.

In the case of gifts, the same relief is available provided the conditions are fulfilled and the donor is over 65 years and ceases to run the business and receiving the associated remuneration.

- Main residence, with the following conditions:
  - the beneficiary must be the surviving spouse or a descendant;
  - they must hold the property for at least 10 years;
  - the limit is EUR 122,606 per beneficiary.

The tax establishes a progressive tax scale, divided into sixteen stretches taxed at a tax rate which goes from 7.65% to 34%.

On the gross tax a multiplier is applied, determined on the basis of kinship and on the heritage that has the recipient. They are between 1 and 2,4.

This fee applies to all variants of the obligation to contribute by ISD, regardless of the taxable event (acquisitions mortis cause, inter-vivos or arising from contracts of life insurance).

## 4. Wealth Tax

Currently, it has been in force temporarily. In 2016 will not be in force.

All people who have their habitual residence in Spain will be required to pay wealth tax on all assets they have, regardless of where the property is situated. Non-residents will be required to pay wealth tax, on all assets that they have in Spain.

The tax is accrued on 31 December of each year. It means that we must declare assets held to 31 December. It must be paid on 30 June of the next year.

Exemptions:

- the usual residence of private individuals (maximum exempted up to EUR 300,000);
- individual companies and shares and holdings of companies with actual business are exempted from the tax.

Each region stipulates:

- his tax scale. In general, the tax establishes a progressive tax scale, divided into eight stretches taxed at a tax rate which goes from 0.2% to 3%;
- his minimum exempted. In general EUR 700,000;
- other reductions.

# 5. Value Added Tax

## 5.1 Rates

- Standard rate: 21%.
- Reduced rate: 10% :
  - food;
  - public services;
  - services of agriculture and forestry;
  - optical supplies;
  - radio and television;
  - water;
  - sanitary supplies;
  - glasses;
  - domestic buildings;
  - transport;
  - hotels;
  - soft drinks;
  - pharmaceutical products for animals.
- Reduced rate: 4% :
  - bread;
  - pharmaceutical products for humans;
  - cars and other items adapted for use by handicapped people;
  - milk;
  - social housing;
  - cheese;
  - eggs;
  - fruit and vegetables;
  - books and periodicals.

Some supplies are exempt from VAT. For example, provisions of public services (mail, hospital, social services, etc.), education, insurance, residential renting services, etc.

## 6. Other taxes

### Transfer tax and stamp duty

Transfer of property, when VAT does not apply to capital transfers :

- transfer inter vivos of any type of property or rights owned by individuals or legal entities;
- formation of rights, secured loans, leases, pensions...

### Corporate transactions:

- formation and increase of capital (exempt from December 2010);
- decrease of capital;
- merger (can be exempt);
- contribution made by partners and shareholders;
- transfer in Spain of the head office or registered office of a company not already situated in an EU member state;
- legal documents;
- notarial deeds, business and administrative documents.

### Rates:

- Transfer of property:
  - land and buildings 6% (10% in some autonomous regions);
  - movable property, etc. 4%;
  - secured loans 1% (1.5% in some autonomous communities).
- Corporate transactions 1%.
- Legal documents 0.5%.

Generally the rate is 0.5% but autonomous regions can modify the imposition of rates rules fixed by law.

### Property tax

The municipal tax on the real property. It accrues annually.

### Tax on the increase in value of urban land

This is a municipal tax. It accrues on all transmissions of urban land. It taxes the increase in value of urban land. It may be significant.

### **Business tax**

This is the municipal tax on economic activities. It accrues annually. There is an exemption for companies which have a turnover (sales) lower than EUR 1 million and for all individual employers.

### **Special taxes**

On vehicles, alcohols, tobacco, gasolin.

## **7. Foreign income**

The Spanish system for double tax relief may be exemption or deduction on the total tax, depending on the case.

## **Contact**

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