



MOORE STEPHENS

# Doing business in Spain 2016

Moore Stephens Europe

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# Introduction

The Moore Stephens Europe *Doing Business In* series of guides have been prepared by Moore Stephens member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country temporarily or permanently.

*Doing Business in Spain 2016* has been written for Moore Stephens Europe Ltd by Moore Stephens Iberica de Auditoria SL. In addition to background facts about Spain, it includes relevant information on business operations and taxation matters. This Guide is intended to assist organisations that are considering establishing a business in Spain either as a separate entity or as a subsidiary of an existing foreign company. It will also be helpful to anyone planning to come to Spain to work and live there either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as of 1 April 2016. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

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# 1. Spain at a glance

## Geography, population, religion and climate

Spain is located on the south western tip of Europe, on the Iberian Peninsula, which it shares with Portugal. The country has an area of 504 645 km<sup>2</sup>, being the second largest country in Western Europe and the European Union after France, and the fourth largest country in Europe after Russia, Ukraine and France.

Spanish territory also includes the Balearic Islands in the Mediterranean, the Canary Islands in the Atlantic Ocean off the African coast, and two autonomous cities in North Africa, Ceuta and Melilla. Spain borders with France and Andorra to the north and with Portugal to the west. The Autonomous cities located in Africa border on Morocco.

Spain has a population of around 47 million people, with 20% living in cities of 500 000 or more inhabitants. Madrid (the capital), Barcelona, Valencia, Seville, Malaga and Bilbao are the largest cities.

The official national language is Spanish (Castilian), which is used jointly with other official languages in certain regions, such as Catalan in Catalonia and the Balearic Islands, Basque in the Basque Country and Navarra, Galician in Galicia and Valencian in Valencia. Unlike the other languages mentioned, which are all, like Spanish, Romance languages, Basque is not an Indo-European language, and is still of unknown origin.

Roman Catholicism has long been the main religion of Spain, and although it no longer has official status by law, public institutions, cultural and social life are significantly influenced by this denomination. According to an April 2012 study by the Spanish Centre of Sociological Research, about 71% of Spaniards identify themselves as Catholics, 2.7% are of other faiths, and about 24% identify with no religion (9.4% of the total are declared atheists).

The climate varies tremendously in Spain, due to its large size. Visitors can generally expect a Mediterranean climate, characterised by hot, dry summers and mild, rainy winters. The vast central plateau, or Meseta, has a continental climate with hot, dry summers and cold winters. Rain generally falls in spring and autumn. The mountains surrounding the plateau have a higher rainfall and often experience heavy snowfalls in winter.

## History

The Iberian Peninsula, of which Spain comprises the major part, was first inhabited by modern humans around 30 000 BCE. Before the Roman conquest, which began around 180 BCE and was completed in 19 BCE, the Peninsula was inhabited by the Iberians in the east, the Celts in the interior and north-west, the Tartessians in the south-west and the Lusitanians in the west. Mediterranean peoples such as the Greeks, Carthaginians and Phoenicians had also established colonies along the coast. The Romans called their new conquest Hispania. After the fall of the Roman Empire in the 5th century CE, Spain came under the rule of various Germanic tribes, principally the Visigoths. After a campaign lasting only seven years, almost the whole of the Iberian peninsula fell under Islamic rule in 718 CE. The new conquerors (known to us as Moors) called their dominion al-Andalus. The small Christian kingdom of Asturias along the north coast successfully resisted Islamic conquest and provided the base for the gradual reconquest of Spain from Moorish rule. This Reconquista lasted for seven centuries, culminating finally in 1492, with the surrender of Granada, the only remaining Islamic emirate on Spanish soil, to the joint monarchs Ferdinand II of Aragon and Isabella I of Castile.

The voyages of Christopher Columbus and the victories of the Conquistadors Hernán Cortes over the Aztecs in 1519 and Francisco Pizarro over the Incas in the 1530s led to the establishment of the Spanish Empire over the greater part of Central and South America and large parts of what is now the southern United States (notably California, Texas and Florida). United under Hapsburg rule in 1516 by the Emperor Charles V, Spain became a major wealthy world power, initiating the so-called Golden Age, reaching its apogee under Charles's son, Philip II (1556-1598), who ruled over Spain, the Hapsburg Netherlands and the overseas Empire. Portugal and its own empire was also briefly (1580-1640) under Spanish rule.



Spain's power underwent slow decline throughout the 17th and 18th centuries. Although it retained its American colonies, by the time that the French under Napoleon invaded Spain in 1808, installing Napoleon's elder brother, Joseph as King of Spain, Spain had been greatly weakened and relatively impoverished. Although the French were driven out of Spain during the Peninsular War, and the Bourbon monarchy restored, Spain experienced great political instability throughout the 19th century. The North and South American colonies gained their independence or were sold. After a short-lived republic (1873-74), a constitutional monarchy was established. The Spanish-American war of 1897-98 saw Spain lose its last American colonies, Cuba and Puerto Rico and the Philippines in the Pacific.

Although Spain was unaffected by World War One, in which it remained neutral, mounting unrest and the effects of the Great Depression led in 1931 to the overthrow of Alfonso XIII and the establishment of the Second Republic. Soon after, a right-wing military uprising under General Francisco Franco led to the Spanish Civil War, which ended in 1939 with the victory of Franco's forces and the establishment of Franco's dictatorship. Towards the end of Franco's rule, in the 1960s, Spain began experiencing rapid economic development and the beginnings of mass tourism.

On Franco's death in 1975, the monarchy was restored under Alfonso XIII's grandson, King Juan Carlos I. Although the King was Franco's chosen successor, he oversaw the restoration of democracy. Under the Constitution of 1978, a great deal of autonomy was granted to the so-called Autonomous Communities, of which Catalonia is perhaps the best known. Spain joined NATO in 1978 and the European Economic Community (now the European Union) in 1986. The first 20 years of Spain's membership of the EEC witnessed an economic boom, cut short by the financial crisis of 2008. Although Spain is slowly recovering from that crisis, unemployment remains high, at around 22%.

### Autonomous Communities

As has been noted, under the constitution of 1978, Spain is divided into 17 self-governing regions (or 'Autonomous Communities' – *comunidades autónomas* in Castilian), which enjoy broad devolved powers, including the power to set certain tax rates. The 17 Autonomous Communities, with their capitals, are listed in Figure 1.

Figure 1

Autonomous Community	Capital City
Andalusia	Seville
Aragon	Zaragoza
Asturias	Oviedo
Balearic Islands	Palma
Basque Country (Euzkadi)	Vitoria-Gasteiz
Canary Islands	Las Palmas & Santa Cruz de Tenerife
Cantabria	Santander
Castile-La Mancha	Toledo
Castile and León	Valladolid & Burgos
Catalonia	Barcelona
Extremadura	Mérida
Galicia	Santiago de Compostela
La Rioja	Logroño
Madrid	Madrid
Murcia	Murcia
Navarre	Pamplona
Valencia	Valencia



In addition to the Autonomous Communities, there are also two Autonomous Cities, which are the Spanish exclaves of Ceuta and Melilla in North Africa.

### **Politics and government**

Spain is a parliamentary monarchy, and the King, Felipe VI, of the House of Bourbon, who succeeded to the throne on the abdication of his father, Juan Carlos I in 2014, is the Head of State. The Parliament (*Cortes españolas*) is formed by two bodies, the Congress and the Senate, the members of which are elected by universal suffrage every four years.

The legislative power is entrusted to the Parliament, which is also in charge of electing the President of the Spanish Government (Prime Minister). Following two inconclusive general elections in November 2015 and June 2016, in which no grouping of parties secured a majority, it is not yet clear who will eventually succeed in forming a new government. In the meantime, Mariano Rajoy Brey, of the centre-right Partido Popular, who headed the outgoing government, continues to serve as Prime Minister.

For administrative purposes, Spain is divided into 17 Autonomous Regions and two Autonomous Cities, which have their own Regional Parliament with legislative powers in some areas.

Spain became a full Member of what is now the European Union on 1 January 1986.

### **Currency, time zone, weights and measures**

In Spain, there are two time zones: GMT (UTC) and GMT+1. The former is used only in the Canary Islands, and the second, also known as Central European Time or CET, in all other Spanish territory. In common with most of the rest of Europe, Spain uses summer time, advancing the clocks by one hour on the last Sunday in March and back again on the last Sunday of October.

Before 2002, the currency of Spain was the peseta. As of 1 January 2002, Spain officially adopted the euro (ISO 4217: EUR). At the time of going to press (mid-July 2016), the euro was quoted at EUR 1 = USD 1.1052.

Spain uses the metric system of weights and measures and the Celsius scale of temperature.

## 2. Doing business

### Main forms of business organisation

#### Introduction

The main forms of business entity in Spain are companies, civil-law entities, associations, joint ventures and branches of foreign entities. Historically, the most-used corporate form has been the joint-stock company (*sociedad anónima* – SA); however, in recent years the formation of limited-liability companies (*sociedades de responsabilidad limitada* – SRL or SL) has also become commonplace. There is also a new form of corporate entity – the new-enterprise limited-liability company (*sociedad limitada nueva empresa* – SLNE) intended especially for SMEs.

The formal act of incorporation takes place in the presence of a notary public, who executes the related public deed of incorporation (including the articles of incorporation). The minimum share capital is EUR 60 000 for an SA and EUR 3000 for an SL. An SLNE has a minimum share capital of EUR 3000 and a maximum share capital of EUR 120 000.

The steps for establishing a company are as follows:

1. Reserve the desired name for the new company at the Central Mercantile Registry (*Registro Mercantil Central* – RMC).
2. Open a bank account at a bank with a branch in Spain under the name of the new company and deposit in it the amount of share capital. For an SA, only 25% of the share capital need be paid on incorporation, but for an SL or SLNE, the whole of the capital must be paid up. Contributions to the share capital of an SA or SL may be in cash or in kind, whereas the share capital of an SLNE must be wholly in cash.
3. The shareholder/s must appear in front of a notary public to form the company, signing the deed of incorporation (*escritura de constitución*) in front of him or her personally or through a power of attorney.
4. Appoint the directors of the new company at the point of incorporation. The directors must at this point declare their acceptance of office personally or through a public notarial deed.
5. Appoint a company representative for dealings with the public authorities in Spain (the tax and social security authorities, mostly). This appointment must be done through a power of attorney and will normally be one of the directors. The appointed person must have a tax identification number (*número de identificación fiscal* – NIF) if he or she is a Spanish national or an NIE (*número de identificación de extranjero*) if he or she is a foreign citizen.
6. Register with the tax authorities.- Using the application form (currently Form No 036), inform the tax authorities (*Dirección General de Tributos*) of the date of commencement of activity and request a VAT number. The application form must be signed by the company's appointed representative (see point 5).
7. Register with the social security administration. If the company is going to employ workers it must apply as an employer and register the place of work (working centre of the company). These application forms must be signed by the company's appointed representative (see point 5).
8. Registration at the Central Mercantile Registry. - The deed of incorporation must be submitted and registered at the RMC.
9. Foreign investments must be communicated to the Ministry of Industry, Tourism and Trade, through application form D-1A, *Declaración de inversión extranjera en sociedades no cotizadas, sucursales y otras formas de inversión*, within a month of the signature of the deed of incorporation.



### Joint-stock companies

These need have only one founding member. The supreme governing body is the general meeting of shareholders (*junta general*), which must be called at least once a year.

The general meeting appoints the directors (*administradores*), reviews the management, approves the financial statements and any distribution of the profits.

An SA may have a sole director or two or more directors. Directors need not be shareholders or Spanish nationals. Where there are more than two directors, they must constitute a board (*consejo de administración*). A director may be a natural person or a legal person, such as another company. Where a legal person is a director, that person must appoint a single natural person to act as its representative. Companies with more than 500 employees must include at least one employee representative on the board.

Only an SA may issue shares to the public.

### Limited-liability companies

Like an SA, an SL need have only one founding member. Its governing body is also the general meeting of shareholders. Also like an SA, an SL may have a director or a number of directors, but its board may not consist of more than 12 directors. Directors may be natural or legal persons.

### New-enterprise limited-liability companies

These are a new type of limited-liability company, introduced in 2003. The name of an SLNE must include the full name of one of the shareholders, followed by an alphanumeric code assigned by the Ministry of the Economy. It may have no more than five founding members. Directors must be natural persons and where there is more than one, they may not constitute a board.

### Partnerships

Spanish law recognises three types of partnership:

- The general partnership (*sociedad colectiva*)
- The limited partnership (*sociedad comanditaria simple*)
- The partnership limited by shares (*sociedad en comandita por acciones*)

In Spain, partnerships have full legal personality, separate from that of their partners. The minimum number of partners is two, at least one of whom must be a general partner, with unlimited liability for the partnership's debts and at least one of whom (except in the case of the general partnership) who is a limited partner, whose liability is limited to his capital contribution to the partnership.

Partnerships are not commonly used in Spain as business vehicles.

### Branch of a foreign trader

There are no restrictions relating to the establishment of a branch in Spain by a foreign company. Branches must be registered with the Mercantile Registry and a required number of documents must be produced.

### European Companies and European Economic Interest Groupings

As Spain is a Member State of the European Union, these entities may be incorporated or established there or may transfer their seat (registered office) to Spain from another Member State.

### Labour relations and working conditions

The Spanish labour market has been characterised in the last years by a high rate of unemployment and the adoption of special measures to deal with the difficult economic situation. Within this context, Royal Decree-Law 3/2012, of 10 February 2012, on Urgent Measures to Reform the Labour Market aims to put in place a clear employment-law framework that is intended to contribute to more efficient management of employment relationships, and to lead to the creation of jobs and stable employment.

### The employment contract in Spain

An employment contract may be signed for an indefinite term (the general rule) or for a specific term (where there is reason for it to be time-limited).

In general, an employment contract under Spanish law must include, but is not limited to, the following,

- The identities of the parties
- The starting date of the employment relationship and, in the case of a temporary contract, the duration
- The employer's registered office or, where applicable, the employer's address and the workplace at which the employee is usually to provide his or her services
- The employee's professional group, category or the description of duties
- The salary and any bonuses or supplementary payments
- The duration and distribution of the working hours
- Paid holidays
- The notice period and
- The applicable collective bargaining agreement (if any)

In addition, employers are obliged to notify the public employment services within 10 days of the contracts they have signed.

### Working hours

The length of the working day is agreed on in collective bargaining agreements or in individual employment contracts. The maximum working week is 40 hours, calculated on an annualised basis, so that the opportunity exists to distribute the length of the working day in an irregular way (if there is no agreement, the employer may distribute the length of the working day by 5% over the year).

An employee may not normally be required to work for more than 5½ days per week and must have a minimum annual vacation allowance of 30 calendar days plus the public holidays designated by central government, autonomous community governments and municipal authorities (14 days in total).

Employees are entitled to paid leave in the event of marriage, union work, fulfilment of unavoidable public or personal duties, breast-feeding, childbirth, child adoption, moving home (principal residence), accident or serious illness etc.

### Minimum wage

The national minimum wage is set by the Government each year. In 2016, the minimum wage for over-18s is EUR 764.00 per month or EUR 9168.00 per year (which includes 12 monthly payments and two special payments). However, the minimum wage for each occupational category is usually negotiated in a collective bargaining agreement.

### Social security system

All employers, workers, self-employed workers, members of manufacturing cooperatives, domestic staff, military personnel, and officials who live and/or work in Spain, must register with, and are obliged to pay contributions to, the Spanish social security system. Contributions even continue to be made on behalf of unemployed workers.

The Spanish Social Security system comprises two different types of funds:

- The general social security fund, which includes all employees and also certain special cases, such as those of artists, professional footballers, sales representatives, domestic personnel, agricultural workers and bullfighters
- Special social security funds for: farmers, seamen, self-employed workers, government officials (civil and military), coalminers, and students.

Social Security contributions are paid by the employer and the employee, and depend on the employment and occupational category (See Chapter 9 below).

### Immigration law

Spanish immigration legislation makes a distinction between foreigners subject to the European Community régime, and foreigners subject to general immigration rules.

Nationals subject to the European Community régime, from other EU Member States, the European Economic Area or Switzerland, do not need an employee or self-employed work authorisation, and have the same employment rights as Spanish citizens.

Foreigners belonging to this group who are going to reside in Spain for at least three months should apply personally for their registration in the Foreigners Central Registry, within three months of their arrival. Relatives that are not citizens of the abovementioned countries should apply for a special residence card.

Foreigners not qualifying for the European Community régime require authorisation to live and work in Spain, as well as a special work visa. Employers wishing to hire non-EU nationals must obtain prior administrative authorisation. However, the lack of a work authorisation does not invalidate an employment contract with regard to the foreign worker's rights, nor does it prevent the foreign worker from obtaining any benefits to which he or she may be entitled.

Moreover, there is a special procedure for authorising foreigners to enter, reside and work in Spain where their work is for employment-related, economic or social reasons, or the purpose of which is the performance of research and development or teaching work that requires a high level of qualification, or artistic performances of special cultural interest. This special procedure incorporates specific, more flexible mechanisms for the processing of work and residence permits (for both ordinary and cross-border employees) for qualified workers and for any family members who simultaneously process their permits.

In order to access this new procedure, enterprises must meet certain requirements relating to the number of employees, volume of the net sales value or net equity and the volume of investment in Spain, or belong to certain strategic sectors.

## 3. Finance and investment

### Business regulation

Spain has deregulated practically all transactions related to foreign investment. In this regard, no prior approval is required from the government except for transactions made from tax havens, affecting national security or investment in immovable property made by diplomats from non-EU Member States.

Investment in industries relating to air transportation, radio, television, telecommunications, gambling, raw materials, minerals of strategic interest and mining rights, private security, the manufacturing, marketing or distribution of arms and explosives, and in activities related to national security, are all subject to additional industry-specific legislation.

### Banking and local finance

The Banco de España is Spain's central bank and the supervisor of its banking sector. It has contributed to establishing a range of measures since 2007 to increase the resilience of the sector in response to the international financial crisis. This includes increasing provisioning and transparency, promoting mergers between savings banks, and setting up the Sareb, the asset management company to which the non-performing immovable property assets of banks have been transferred.

The bank is currently coordinating a complex restructuring and recapitalisation programme, the Memorandum of Understanding (MoU) agreed with European authorities in July 2012, to restore confidence and stabilise the sector and put it on a more secure footing for the future.

### Exchange control

Payments abroad or receipts from abroad are completely deregulated. However, for statistical and control purposes, some operations are subject to information obligations, which include prior registration of the origin, destination and holding of funds when some means of payment are made.

International movement of funds subject to information obligations is usually to be reported to the Bank of Spain and/or the Spanish Department of Industry and Commerce.

### Investment incentives

With the aim of promoting investment, employment, competitiveness and growth, the Spanish central government and all other public authorities are fostering, within the limitations imposed by the current economic context, a range of aid instruments and incentives mainly targeted at boosting permanent employment and at research, development and technological innovation (R&D and TI).

Furthermore, since Spain is an EU Member State, potential investors are able to access European aid programmes, which provides further incentives for investing in Spain.

Regional incentives take the form of financial aid (e.g., non-refundable subsidies, subsidies for the repayment of loans, reductions in the employer's social security contribution for common contingencies) granted to regions by the State, in accordance with EU limits and requirements, for productive investment in the pursuit of business activities in certain areas of Spain, with a view to aiding in the alleviation of territorial imbalances and the reinforcement of the native potential of the most underprivileged regions.

The geographical definition of eligible areas and the specific definition of maximum financing limits, and of the specific industry requirements, eligible investments and conditions, are regulated in the respective Royal Decrees demarcating Economic Development Areas.



## 4. The accounting and audit environment

### Accounting regulations

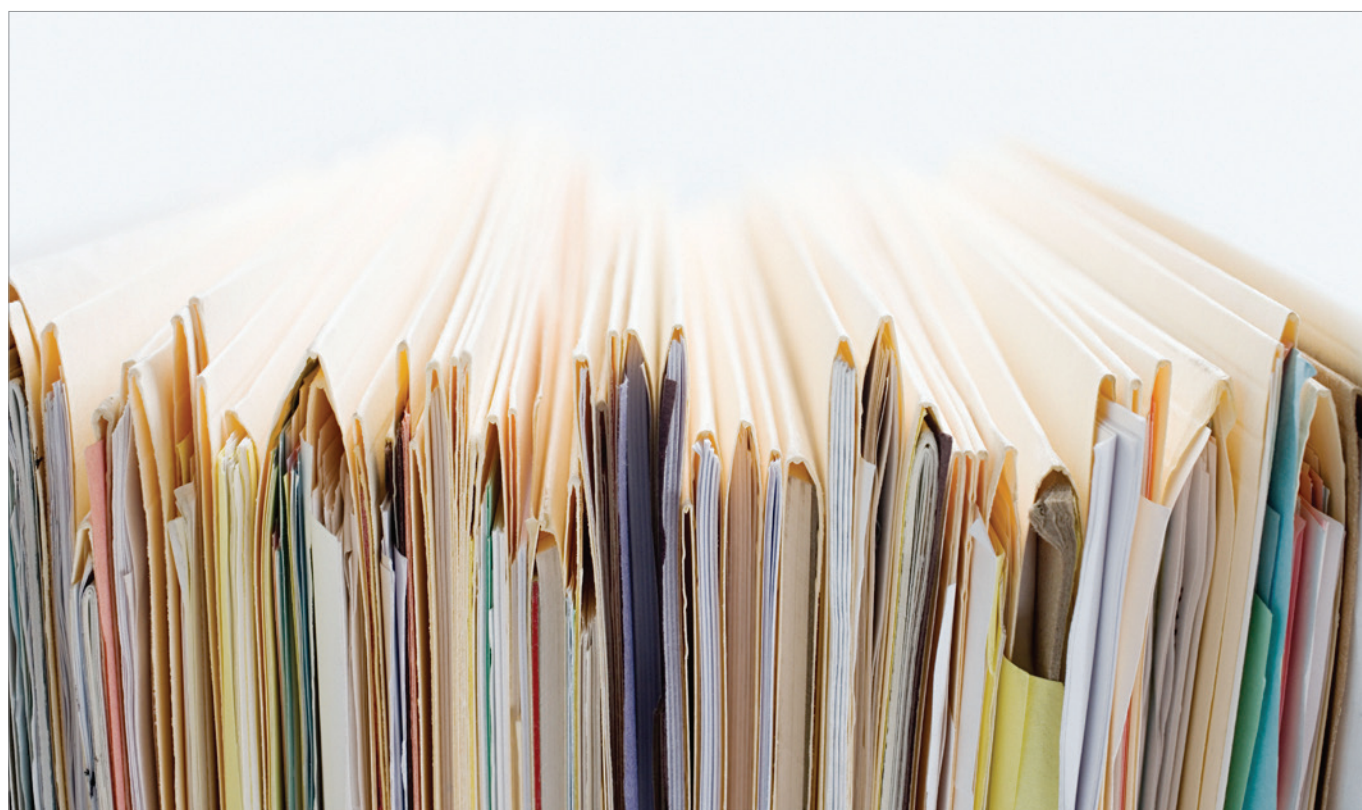
The Spanish accounting regulations are ruled by the Spanish Commercial Code (*Código de Comercio*), Law 16/2007 amending the accounting rules and adapting them to European legislation and; finally, the Royal Decree 1514/2007, better known as the *Plan General Contable*.

Accounting standards in Spain were adapted in 2008 to converge as much as possible with IFRS. Currently, there are not many relevant differences between one financial framework and the other. For consolidation purposes, Spanish companies have the option to prepare the accounts under Spanish Standards or under IFRS, so especially among medium-size and large companies, there is a good knowledge of the IFRS framework.

### Audit requirements

The Spanish Commercial Code makes it mandatory to carry out an audit if during two consecutive financial years the company has satisfied at least two of the following three criteria:

- The total balance-sheet amount is more than EUR 2 850 000
- The annual turnover is more than EUR 5 700 000
- The average amount of employees is greater than 50





## 5. Overview of the tax system

### General information

The Spanish tax system is ruled by the principles of equality, economic capacity, progressivity and legality. Everyone living in Spain is expected to contribute towards public expenditure.

In harmony with the tripartite structure of the Spanish state, there are three levels of taxation i.e. taxes collected by the State, by the Autonomous Regions and by local authorities.

### Principal taxes

The principal taxes at each administrative level are the following:

#### National

- Personal income tax (*impuesto sobre la renta de las personas físicas*)
- Corporate income tax (*impuesto sobre sociedades*)
- Non-Residents' income tax (*impuesto sobre la renta de no residentes*)
- VAT (*impuesto sobre el valor añadido*)
- Excise duties

#### Regional (taxes transferred by the State granting limited legislative power)

- Transfer tax (*impuesto sobre transmisiones patrimoniales y actos jurídicos documentados*)
- Inheritance and Gift Tax (*impuesto sobre sucesiones y donaciones*)
- Wealth Tax (*impuesto sobre el patrimonio*)

#### Local (taxes transferred by the State granting limited legislative power)

- Immovable property tax (*impuesto sobre bienes inmuebles*)
- Urban land appreciation tax (*impuesto sobre el incremento de valor de los terrenos de naturaleza urbana*)
- Tax on installations, constructions and other works
- Tax on mechanical vehicles
- Business tax (*impuesto sobre actividades económicas*)



## 6. Taxes on business

### Corporate income tax

#### Scope and extent

Spanish-resident entities are subject to corporate income tax (CIT) on their worldwide income. Nevertheless, there are several tax reliefs for different types of foreign income. Non-resident entities are taxable on their Spanish-source income only.

#### Company residence

An entity is deemed to be resident in Spain for CIT purposes when one of the following circumstances is met:

- It is incorporated under Spanish law
- Its registered office (seat) is in Spain
- Its place of effective management is in Spain

It is also possible for a company established in a tax haven to be deemed to be resident in Spain if its principal assets are directly or indirectly located in Spain. See further under 'Other anti-avoidance measures' below.

#### Taxable entities

Any entity with legal personality is subject to CIT, as well as other entities without separate personality, such as investment funds, certain joint ventures etc.

This includes most types of partnership.

#### Taxable income

Taxable income for the purposes of CIT is derived from the accounting profit calculated according to Spanish Generally Accepted Accounting Principles and it is increased or decreased by the tax adjustments determined under the legislation.

#### Capital gains

Capital gains are considered to be regular income for CIT purposes and are taxed in the same way as other business income.

The 12% tax credit previously available on a reinvestment of capital gains was abolished on 1 January 2015.

#### Deductions

The requirements to be met for an expense to be deductible are that it be recorded in the appropriate period, properly substantiated and linked to the generation of taxable income.

Non-deductible expenses include:

- Dividend payments
- Corporate income tax itself
- Gifts, except approved charitable gifts
- Expenditure on entertaining customers or suppliers, to the extent that it exceeds 1% of net revenue
- Fines and penalties
- Illegal expenditure
- Expenses of transactions directly or indirectly with persons or entities resident in tax havens (unless the company can prove that the expense arose from a transaction performed for an economically valid reason). See also under 'Other anti-avoidance measures' below

Historically, Spanish tax law provided a write-off or impairment deduction for investment in the shares of failed or failing investee companies. However, as from financial years starting in 2013, this relief has been abolished and losses from participations are only deductible upon liquidation of the investee company or on a transfer of the participation.

### Depreciation

All fixed assets, other than land, may be depreciated for tax purposes.

Whereas the law recognises any of three depreciation methods (straight-line, reducing-balance and sum-of-the-digits), only the straight-line method may be used for buildings, furniture and tools.

During 2013 and 2014 companies with a turnover in the previous taxable period of over EUR 10 million were able to deduct only 70% of the amount that would normally have been allowable in respect of buildings, plant and machinery and intangible assets, unless the asset was specially designated. The remaining 30% is, however, now deductible on a straight-line basis over a period of 10 years, beginning in 2015.

There are no mandatory rates of depreciation, but guidelines provide a minimum rate (by means of a maximum number of years under the straight-line method) and a maximum rate. An illustration of these rates is found in Table 1.

Table 1 – Depreciation guidelines (minimum and maximum rates)

Type of asset	Minimum rate (%)	Maximum rate (%)
Industrial buildings	1.47	3.00
Commercial & residential buildings	1.00	2.00
Plant and machinery	5.55	12.00
Computer hardware	12.50	25.00
Computer software	16.67	33.00
Commercial vehicles	7.14	16.00
Ships & aircraft	5.00	10.00
Furniture & fittings	5.00	10.00

Until 1 April 2012, companies could claim free depreciation on investment in new property, plant and equipment. As a transitional measure, companies with a turnover of no more than EUR 10 million in the previous accounting period which had not yet written off the full value of such assets were able to continue to apply free depreciation but not beyond the 2015 accounting period.

With effect from 2015, free depreciation may be claimed on new fixed assets of a value no greater than EUR 300, up to an annual limit of EUR 25 000.

### Dividends, interest and royalties

#### Dividends

Before 2015, dividends received from other Spanish companies were taxable but gave rise to a full tax credit when a minimum holding of 5% was present and certain other conditions were met. A 50% tax credit was also available for holdings of less than 5%.

From 1 January 2015, a participation exemption is in place, under which such dividends are fully exempt where:

- The recipient company holds at least 5% of the share capital of the distributing company or its holding is valued at more than EUR 20 million and
- That holding has subsisted for an uninterrupted period of at least one year

The same conditions for exemption apply to foreign-source dividends, with the additional requirement that the foreign distributing company is subject to a tax on income comparable to Spanish corporate tax without the possibility of being exempt.

It is possible for the one-year rule to be satisfied post facto.

Domestic dividends in respect of portfolio holdings (those not qualifying for the participation exemption) are paid and received subject to a withholding tax of 19% (19.5% in the period from 12 July 2015 to 31 December 2015, and 20% before that).

Foreign dividends from holdings not qualifying for the exemption are normally entitled to a tax credit for the foreign tax paid.

### **Interest**

Interest due to and from domestic lenders (with the exception of financial institutions) is subject to withholding tax of 19% (19.5% in the period from 12 July 2015 to 31 December 2015, and 20% before that).

Where interest arises on debts generated within a group and incurred in order to acquire or contribute equity interests in or to other group members, this interest is wholly non-deductible, unless the company can satisfy the tax authorities that the underlying transactions served a genuine economic purpose.

For other restrictions on the deductibility of interest expense, see under 'Anti-avoidance: thin capitalisation' below.

### **Royalties**

Partial exemption applies to royalties from the assignment of qualifying intangible assets such as patents, drawings, models etc (but excluding trademarks and literary and artistic copyrights), subject to certain conditions, which include the following:

- The assignor must have borne at least 25% of the cost of creating the asset
- The assignee must not be resident in a tax haven and it must use the asset for the purpose of a business activity

From 1 July 2016, the first condition is no longer a requirement.

Qualifying income benefits from a 60% exemption from corporate income tax.

### **Group taxation**

Profits and losses within a qualifying group of companies may be consolidated.

A group consists of a parent company and any subsidiaries in which it holds:

- The majority (i.e. more than 50%) of voting shares or by agreement or otherwise is entitled to control the majority of voting shares or
- The right to appoint a majority of directors both currently and in the preceding two years

All companies must be resident in Spain. A Spanish permanent establishment may qualify as a parent company provided that it belongs to an entity that is not resident in a tax haven. However, Spanish companies without a common Spanish parent may also form a tax group if, inter alia, the non-resident parent entity is not resident in a tax haven and holds at least 70% or 75% of the subsidiaries.

Within a tax group, each member must still file a separate tax return, although it shows zero liability. The parent company's tax consolidation return aggregates the tax result of each member and eliminates intragroup transactions. The resulting tax liability of the group is due from the parent company and then apportioned amongst the group members according to their individual results.

Intracorporate dividends within a group are paid free of withholding tax.

Pre-consolidation losses may only be set off against the same company's subsequent profits.

### Losses

The normal rule is that losses may only be set off against current and subsequent profits. However, since 2012, there has been a restriction of loss relief.

In 2016, losses brought forward may only be deducted to the extent that they do not exceed the greater of EUR 1 million and 60% of current-year profits. In 2017, the 60% ceiling will be raised to 70%.

In 2015, the restriction operated as shown in Table 2.

Losses that exceeded the deductible maximum can be carried forward for the normal maximum of 18 years. As from 2017, there will be no temporal restriction (i.e. those losses may be carried forward indefinitely).

Table 2 – Limitation on set-off of losses brought forward in 2015

PY turnover of company or group	Loss deduction restricted to:
Less than EUR 20 million	No restriction
Between EUR 20 million and EUR 60 million	50% of CY profits
Greater than EUR 60 million	25% of CY profits

CY = current-year PY = prior-year

Losses incurred by the foreign permanent establishment of a Spanish company are not recognised for the purposes of the corporate income tax.

### Withholding taxes

Outbound dividends are generally subject to a 19% (19.5% before 1 January 2016) withholding tax unless a specific exemption, such as the participation exemption (see under 'Dividends, interest and royalties' above), or a double tax treaty applies.

Outbound interest is also subject to a 19% (19.5% before 1 January 2016) withholding tax unless the recipient is a financial institution, a double tax treaty or the EU Interest and Royalties Directive applies.

Royalties are only subject to a withholding tax when the recipient is non-resident. Nevertheless the withholding tax may vary from 0% to 24.0% depending on the applicable double tax treaty or the EU Interest and Royalties Directive. The 24% rate applies to the use or exploitation of image rights. The default rate is 19% (19.5% before 1 January 2016).

Other income such as income derived from immovable property or income derived from professional services is in general subject to a 19% (19.5% before 1 January 2016) withholding tax rate.

### Thin capitalisation

The former thin-capitalisation rules were replaced in 2012 by a general restriction on the deductibility of interest. The deduction for net interest expense in any period may not exceed 30% of the taxpayer's EBITDA (earnings before interest, tax, depreciation and amortisation), with some adjustments. Excess interest may be carried forward indefinitely. However, the first EUR 1 million of net interest expense is deductible in any case.

In the case of a tax group, these limitations are generally applied across the group as a whole.

The restrictions do not apply to financial institutions.

### Transfer pricing

Spain's transfer-pricing rules generally follow OECD guidelines.

The general rule is that all domestic and cross-border transactions between related parties must be stated at their arm's length value.

The burden of proof that this is so rests with the taxpayer, and there are mandatory documentation requirements with which all companies must comply, unless related-party transactions do not exceed EUR 250 000.

However, all transactions with tax-haven entities must be documented.

Parties are related for this purpose where:

- One has at least a 25% shareholding in the other
- One is a company and the other is a director of that company
- The same person has a shareholding of at least 25% in both
- One is a permanent establishment of the other

With effect from 2016, Spanish companies must comply with most of the requirements in BEPS Action Plan 13, including mandatory country-by-country reporting for groups with a global turnover of at least EUR 750 million.

It is possible for taxpayers to conclude advance pricing agreements (APAs) with the tax authorities.

### Controlled foreign company (CFC) rules.

Spain has CFC rules that apply to both resident companies and resident individuals. The rules apply where:

- The resident participator has either alone or jointly with related parties a direct or indirect holding of more than 50% of the equity or voting rights of or in the foreign controlled entity (the CFC)
- The CFC derives mainly passive income and
- The CFC is located in a low-tax jurisdiction, by which is meant one in which the effective rate of tax on its profits is less than 75% of the corporate tax that would be payable in Spain

Although in most cases, the Spanish CFC rules are not applicable where the foreign entity is located in an EU Member State, they do nevertheless apply if the taxpayer cannot prove that the incorporation of the CFC is based on genuine economic reasons.

If the CFC is judged to have insufficient human and technical resources to carry out its business, the whole of its adjusted income is attributable to the Spanish taxpayer. In other circumstances, only the pro-rata share is attributable.

Where the CFC is resident in a blacklisted tax haven (see below), there is a rebuttable presumption that the CFC rules apply and that the CFC's minimum income is 15% of the acquisition cost of the underlying interest.

### Other significant anti-avoidance rules

Spain has various general anti-avoidance rules expressly provided for in the General Tax Code (*Ley General Tributaria*), developed by case law or obtained from other sources such as the Civil Code.

In this regard, the Spanish tax authorities have used different tools to challenge tax avoidance such as *fraus legis*, sham, indirect purpose business or the disregard of legal entity known as the *levantamiento del velo* ('lifting the veil') doctrine.

### Blacklisted territories

Where transactions are carried on directly or indirectly with persons resident in a blacklisted jurisdiction, costs on services related to those transactions are only deductible if the Spanish company can prove that the transaction had a genuine economic purpose.

Jurisdictions currently on the blacklist are shown in Table 3.

Table 3 – Blacklisted jurisdictions

Alderney	Guernsey	Macau
Anguilla	Isle of Man	Mariana Islands
Antigua and Barbuda	Jersey	Oman
Bahrain	Jordan	St Lucia
British Virgin Islands	Lebanon	St Vincent and the Grenadines
Brunei	Liberia	San Marino
Cayman Islands	Liechtenstein	Sark
Cook Islands	Macau	Seychelles
Dominica	Marianas	Solomon Islands
Falkland Islands	Mauritius	Turks and Caicos Islands
Fiji	Monaco	US Virgin Islands
Gibraltar	Montserrat	Vanuatu
Grenada	Nauru	

### Tax incentives

Under Spanish tax law there are several tax incentives for certain operations or activities.

### R&D credit

Companies may claim a tax credit of 25% of research and development expenses incurred in the accounting period. Additionally, where such expenses exceed the average R&D expenditure of the previous two years, a 42% credit may be claimed in respect of the excess instead of the 25% on the remaining expenditure. A further 17% credit may be claimed in respect of the payroll costs of staff exclusively assigned to R&D activities, plus an 8% credit on the acquisition of tangible and intangible property, other than immovable property, used exclusively for the purposes of the R&D project(s). There is tax credit for R&D and Innovation activities allowing entities and individuals to apply a tax credit between 12% and 42% of the expenses incurred during a fiscal year.



**Film production credits**

A tax credit of 20% on the first EUR 1 million and 18% on any excess is available under certain conditions for the production costs of Spanish cinematographic or audiovisual productions. Tax credits may also be available for foreign productions on which shooting takes place in Spain.

**Tax-loss reserve for SMEs**

Companies whose turnover in the preceding accounting period was under EUR 10 million may allocate 10% of their pre-tax taxable earnings to a tax-loss levelling reserve. Over the next five accounting periods, the reserve must be set against any tax losses incurred by the company. Any balance remaining in the reserve after the end of the five-year period must be added back to taxable earnings.

**Tonnage tax**

Shipping companies managed and registered in Spain may opt for a tonnage tax in respect of ships primarily plying international routes. The taxable income in respect of such ships is then based on net tonnage, at rates of between EUR 0.20 and EUR 0.90 per day per tonne.

**Canary Islands special zone**

Qualifying companies registered in the Canary Islands may in certain circumstances enjoy a reduced rate of corporate income tax of 4% and also benefit from withholding-tax exemptions on dividends and interest paid to non-residents (other than those resident in tax havens).

**Basque Autonomous Community**

Under the taxing powers granted to the Basque Autonomous Community (Euskadi), companies may benefit from a reduced corporate tax rates.

**Tax rates**

The rate of corporate income tax in 2016 is 25% (previously 28%).

Before 2016, small and medium-sized undertakings (SMEs) (companies with a turnover of below EUR 10 million), were taxed at 25% on the first EUR 300 000 of taxable profits. Small undertakings, defined as companies with a turnover of below EUR 5 million and an average number of employees below 25, benefited from the 25% rate on all their taxable profits.

There are special tax rates for collective investment funds (1%); REITs (real-estate investment trusts – *sociedades de inversión en el mercado inmobiliario*) (0%); not-for-profit entities (10% if not exempt); pension funds (0%); new companies (15%); financial institutions (30%).

In order to qualify for the reduced 15% rate of CIT, a new company must carry on a genuinely new activity. Activities are not considered to be new where:

- They have been previously carried on by related persons and then transferred to the new company or
- The activity was carried on by an individual who holds more than 50% of the equity in the new company in the year preceding that in which the new company was incorporated

Companies that belong to a group within the meaning of Article 42 of the Commercial Code do not qualify for the 15% rate, and nor do holding companies.

Where the qualification conditions are satisfied, the 15% rate applies in the first taxable period in which the new company has a taxable profit and in the following period.

### Returns, assessment and payment

#### *Assessment and returns*

In Spain there is a self-assessment system. Companies are obliged to file their tax returns electronically using a digital signature issued by the tax authorities.

Entities subject to CIT must file a tax return and pay the balance of any tax due within the first 25 calendar days after a period of six months following the close of the accounting period; i.e. for a company closing its accounting period on 31 December, the deadline would be the following 25 July. Payments on account of tax must be made on three occasions during the calendar year: on 20 April, 20 October and 20 December. There are two methods of calculating the amounts due on each date.

Under the first method, the payment required is 18% (in 2015 and previous years, 20%) of the final liability for the latest year for which the return is due at the time of payment. Thus, for a 31 December 2016 year-end, the first payment will be 18% of the 2014 liability (the 2015 return is not due until 25 July 2016) and the other two payments will be 18% of the 2015 liability. This first method is open only to those companies whose turnover did not exceed EUR 6 million in the previous year.

Under the second method, tax is payable at a rate of five-sevenths (rounded to 17% in 2016) of the full corporate tax rate on the company's income for the complete months that have passed in the accounting period to date. However, in 2015, the rate was 21% for companies with a turnover of between EUR 10 and 20 million; 24% for companies with a turnover of between EUR 20 and 60 million; and 27% for companies with a turnover exceeding EUR 60 million.

### Value added tax

#### *Taxable activities*

As a Member State of the European Union, Spain has a value-added tax (VAT) régime similar to other VAT régimes throughout the European Union. In general VAT is due on supplies of goods and services, the import of goods from outside the European Union and the 'intra-EU acquisitions' of goods from other EU Member States. If these transactions take place in Spain, they are in principle subject to Spanish VAT.

A precondition for the liability to tax is that the supply of goods and services take place in the course of business. The main defining criterion for judging that a supply is made in the course of business is that the activity is carried out for the purpose of gaining profit, is oriented towards a largely unrestricted body of customers, is continuous and carried out autonomously, and involves an element of business risk.

A supply of goods takes place when the owner of tangible property transfers the right to dispose of that property as owner. Electric current, gas, heat, refrigeration and similar commodities are also deemed to be tangible property. The supply of services is a supply that is not a supply of goods. Services related to goods, the leasing of goods, restaurant services, the transfer of different rights and the obligation to refrain from resuming a business activity are treated as supplies of services.

VAT is levied on an individual or an entity making a supply of goods or services in Spain (the supplier), but there are some main exceptions to this rule which shift the burden to the customer (the reverse charge). Most importantly, the reverse charge applies to the purchase of goods from foreign taxable persons not established in Spain.

Moreover, VAT is levied on entities on imports, on intra-EU acquisitions of goods and on removals of goods from warehousing arrangements. VAT is also imposed on goods or services that have been purchased for a purpose that has entitled the taxable person to make a deduction or which have been produced in connection with a taxable person's taxable activities if the goods or services are then used for private consumption, disposed of free of charge, or used for some other purpose that does not entitle the taxable person to a deduction. There are more detailed rules on this, especially in the field of construction and services related to immovable property.

Businesses ('taxable persons') charging VAT to their customers are liable to report and pay this VAT to the tax authorities. Any VAT incurred in the course of the taxable person's taxable activity (e.g. charged by the taxable person's suppliers), can in principle be deducted or set off against the VAT due. Only the net amount must be paid to the tax authorities. If there is a balance of deductible VAT, the amount can be recovered from the tax authorities. Consequently, the real burden of VAT falls on the final consumer, with the intervening business effectively acting as a collecting agent for the tax authorities.

Foreign businesses that perform taxed services in Spain are in principle also liable to pay VAT. Those businesses, too, will be required to pay the VAT due in Spain and will therefore also be able to claim the VAT invoiced to them by taxable persons in Spain.

#### Taxable event

The taxable event generally takes place when the right to dispose of tangible property is transferred or, in the case of services, when they are rendered to the recipient.

Nevertheless, taxable persons with a turnover below EUR 2 million may opt to be taxed under the VAT cash-accounting scheme, under which output VAT is not due until the customer has paid for the supply and input VAT is not deductible until the taxable person has paid for the supply.

#### VAT registration

In general, all taxable persons must register for VAT, and should do so before they begin to supply goods or services. There is no registration threshold for small businesses.

The distance-selling threshold (for taxable persons selling to private customers in Spain) is EUR 35 000. The registration threshold for non-taxable persons making intra-EU acquisitions in Spain is EUR 10 000.

#### Taxable transactions

The following transactions are taxable:

- The supply of goods and services in Spain by a taxable person in the course of a business;
- The intra-EU acquisition of goods in Spain by a taxable person in the course of a business or by a legal entity that is not a taxable person
- The intra-EU acquisition in Spain of new means of transport by any person
- The import of goods from outside the European Union into Spain
- The supply of electronically delivered services, radio and TV broadcasting services and telecommunications services to a private consumer established in Spain by a taxable person established outside Spain and
- The supply of services by a taxable person established in another EU Member State to a taxable person established in Spain or a legal entity that is not a taxable person

#### Exemptions

Not all goods and services supplied in Spain are subject to VAT. Among exempt supplies are the following:

- Hospital and medical care undertaken by publicly administered hospitals and recognised private hospitals or other similar institutions, and the provision of medical care in the exercise of the medical professions
- Veterinary services
- Social welfare services
- Educational services provided in accordance with the law or which are subsidised from State funds in accordance with the law
- Financial services and transactions concerning securities (excluding consultancy and safety-deposit services)
- Insurance services and services performed by insurance brokers and insurance agents
- Transactions concerning bank notes and coins used as legal tender (excluding collectors' items)

- Lotteries and games of chance
- Leasing of immovable property (a lessor of immovable property may, however, opt for taxation when renting premises to persons liable to VAT)
- Public postal services

Taxable persons making solely exempt supplies are not entitled to charge VAT on those supplies. In addition, they are also not entitled to claim the VAT charged to them for goods and services. Companies that make both taxable and exempt supplies are able to reclaim VAT on the supplies made to them and directly applied in making taxable supplies and on a fraction of the VAT incurred on supplies used to make both taxable and exempt supplies.

### Intra-EU supplies

Europe has recognised the existence of an internal European market since 1 January 1993. From that date on, the European Union has recognised the free traffic of goods, persons, services and capital within the territory of the Union. Transactions within the European Union are referred to as intra-EU supplies and acquisitions of goods and intra-EU services. VAT is charged based on the destination principle. This means that goods that cross the border to another EU Member State are taxed in the Member State of destination. Business-to-business services (B2B), which are services from one taxable person to another, on the other hand, are normally taxed in the country where the customer is established or has a fixed establishment to which the service is supplied. By contrast, 'B2C' services, where the customer is a private person or other non-taxable person are normally taxed where the supplier is established or has a fixed establishment from which the service is supplied. There are, however, several exceptions to these basic rules. A major exception, in force since 1 January 2015, is that radio and TV broadcasting services, telecommunications services and electronically delivered services, where provided to a private consumer (a non-taxable person) are taxed where the customer is located.

### Exports and imports

The general rule for exports of goods to destinations outside the European Union is that they are 'zero-rated', i.e. there is no VAT charged on the export (or ancillary services) but the exporter may still deduct input VAT incurred in order to make the export. The export of electronic services to customers outside the European Union is zero-rated.

By contrast, imports of goods into the territory of the European Union are normally subject to VAT, even where the importer is a private person.

### Tax rates

Spain has three rates of VAT. The standard rate is 21% and there are two reduced rates: 10% and 4%. Everything that is not taxable at a reduced rate or is not exempt or zero-rated is taxable at the standard rate.

Transactions subject to the 10% reduced rate include:

- Foodstuffs (but not basic foods) and non-alcoholic beverages
- Live animals, animal feed and veterinary goods
- Sale of newly constructed dwellings
- Construction and renovation of dwellings
- Passenger transport
- Hotel and restaurant services
- Certain pharmaceutical products

Transactions subject to the 4% reduced rate include:

- Basic foodstuffs (e.g. bread, flour, dairy products, fruit and vegetables)
- Books, newspapers and magazines
- Subscriptions to magazines and newspapers (if sold loose, these are standard-rated)
- Medicines and certain pharmaceutical products
- Passenger transport services

#### **The zero rate**

Other than the export of goods and services ancillary to exports, the zero rate also applies to, inter alia, the sale, hire, charter, repair and maintenance of certain ships and aircraft

#### **VAT returns**

All taxable persons must file periodic VAT returns. The standard return period is one calendar quarter, but taxable persons with a turnover greater than EUR 6 010 121.04 in the previous calendar year and VAT groups must make monthly returns.

Returns must be filed no later than the 20th day of the first month following the end of the return period and must be accompanied by payment of the VAT due as shown on the return.

Annual recapitulative returns must also be made by all taxable persons.

An excess of input VAT over output VAT is generally carried forward to the next return period. When making the annual recapitulative return together with the last periodic return of the year, the taxable person may request a refund if there is still a balance in his favour

However, taxable persons may opt for a monthly refund, in which case they must file monthly returns.

All returns and statements may be filed electronically or in paper form. For some types of return, electronic filing is mandatory.

#### **Overseas territories**

VAT does not apply in the Canary Islands or in the enclaves of Ceuta and Melilla. However, a turnover tax similar to VAT is charged in the Canary Islands.

#### **Capital duty**

Capital duty (*impuesto sobre operaciones societarias*) is charged on:

- Increases in the capital (including subscriptions and capitalisation of reserves) of a Spanish company or partnership
- Liquidations

In the case of additions to capital, the tax is charged at 1% on the nominal capital introduced. In the case of liquidations, the tax is 1% of the gross proceeds payable to shareholders.

#### **Insurance premium tax**

Tax of 6% is payable on the payment of premiums or charges to insurance companies.

## 7. Personal taxation

### Income tax

#### Territoriality and residence

Individuals resident in Spain are liable to pay income tax (*impuesto sobre la renta de las personas físicas*) in Spain on their worldwide income, whether derived in Spain or abroad. Individuals who are non-resident in Spain are liable to tax on their income derived in Spain. This tax, parallel to income tax, is the tax on the income of non-residents (*impuesto sobre la renta de no residentes*).

According to Spanish law, an individual is considered to be resident in Spain for tax purposes when any of the following holds true:

- The individual is physically present in Spain for a period of more than 183 days in a tax year
- The centre of the individual's activities or economic interests is located in Spain or
- The individual's spouse and minor children have their residence in Spain, unless it is proved that the individual has effectively transferred residence for tax purposes to another jurisdiction

It follows that individuals will no longer be considered resident in Spain when none of the above factors is present.

#### Persons liable

Any individual resident in Spain as well as other individuals residing abroad because of their official status (e.g. diplomats) are liable to income tax. Non-residents are liable to non-resident income tax.

Partnerships are generally recognised as bodies corporate and liable in principle to corporate tax.

#### Principles of personal income taxation

The law recognises six categories of taxable income:

- Income from employment
- Income from movable capital (e.g. dividends and interest)
- Income from immovable capital (e.g. property rentals)
- Income from a business
- Capital gains
- Imputed income

However, for the purpose of applying differential rates of taxation, income from these categories is aggregated into two separate heads: general income and savings income.

#### Savings income

Savings income consists of income from movable capital and capital gains arising on the transfer of assets.

#### General income

General income is all income that is not savings income.

The tax year is the calendar year. Income is taxable in the tax year in which it has been applied by the taxpayer, in which it has been paid to the taxpayer's account, and in which the taxpayer has received the income or in which the income is put at his or her disposal. Capital gains are taxable in the year in which the disposal giving rise to the capital gain took place.

### The family unit

There is an option for members of a family unit to opt for joint taxation. A family unit consists of spouses and their children under 18 years of age. Children over 18 may be included if they have been declared legally incapacitated. Where parents are separated or unmarried, the children are considered to belong to the family unit of the custodial parent.

Where both spouses work, joint taxation is beneficial generally only for low-income couples.

### Capital gains

Capital gains may be taxed as general income or as savings income. Most capital gains are in effect taxed as savings income, as this category includes all gains arising from the alienation of an asset. Gains falling within general income include lottery prizes and unsubstantiated increases in net wealth.

Gains and losses within the savings-income category are netted off against each other. If the result is a net loss, this may be set off against general income, up to a limit of 15% of total general income (this limit is set to increase in steps of five percentage points to 25% by 2018). Any remaining net loss may be carried forward for a maximum of four years.

Gains are generally calculated as the difference between the acquisition cost and related expenses and the net proceeds of alienation. However, assets acquired before 31 December 1994 benefit from a form of indexation.

### Taxation of employment income

Any consideration arising by virtue of an employment contract is considered to be employment income. Employment income also includes director's fees, pensions, unemployment benefit, non-exempt scholarships, alimony and royalties from the exploitation of artistic, literary or scientific intellectual property created by the taxpayer.

Employment income can take the form of cash or kind (benefits-in-kind). There are certain kind of benefits that are exempted or not considered as remuneration for tax purposes up to certain limits.

Reimbursements for travel costs incurred by the employee on the employer's business are taxable in principle, but not if the expenses are duly substantiated or do not exceed EUR 0.19 per km. Subsistence expenses while away on business are also exempt, provided they do not exceed certain amounts

### *Benefits-in-kind*

Benefits-in-kind are generally valued at market price. However, special valuation rights exist for certain benefits.

- The benefit of rent-free accommodation is valued at 5% of the cadastral value of the property per year (10% if the cadastral value was determined before 1 January 1994) if the employer owns the accommodation, or at actual cost to the employer if it is leased. The value of the benefit is capped at 10% of the amount of the employee's other income from employment
- The benefit of a company car is valued at (a) 20% of acquisition cost (if the employer owns the vehicle) or of market value as new (if the car is leased) or (b) the cost to the employer

Certain benefits are exempt. These include:

- The employer's contributions to health insurance for the employee, the employee's spouse and/or the employee's children, up to a maximum of EUR 500 (or EUR 1500 for a disabled person) per insured person per year
- Subsidised food and meals, up to a maximum of EUR 9 per day
- Payments made directly to public-transport operators in respect of employees' commuting expenses, up to a maximum of EUR 1500 per year
- Nursery schools



### *Deductions*

Employees are allowed to claim deductions from their taxable employment income in respect of:

- Social security contributions
- Trade-union subscriptions and certain professional subscriptions up to a maximum of EUR 500
- Legal fees associated with a termination of employment, up to a maximum of EUR 300
- Certain relocation expenses etc, up to a maximum of EUR 2000

In addition, lower-paid employees (i.e. those whose net employment income, after deductions as specified above, are below EUR 14 450) may claim a special employment allowance, provided that their other taxable income from all other sources does not exceed EUR 6500. For those employees with net employment income of no more than EUR 11 250, the allowance is EUR 3700. Where net employment income is between EUR 11 251 and EUR 14 450, the allowance is tapered according to the formula:

$$A = 3700 - ((3700/3200) \times (NEI - 11\,250))$$

where A is the amount of the allowance and NEI is the net employment income.

### *Salary tax*

Tax on employment income, including that due on non-monetary benefits, is collected primarily by the employer by deduction from the employee's salary payments, together with the employee's social security contributions, and accounted for to the tax authorities together with the employer's own social security contributions. Personal allowances etc (see under 'Allowances and deductions' below) and expenses of employment (see above) which may be due to the employee are taken into account, so that in the absence of other income, withholding taxes on salaries should be equal or close to the final tax liability to be paid by the employee upon filing his or her tax return.

Director's fees are subject to a separate withholding tax of 35% (19% where the company has a turnover of below EUR 100 000).

### **Income from a business or profession**

Taxable income from a business or profession is generally calculated under the same rules that apply to companies (see Chapter 6). This includes depreciation (the recommended rates for which are shown in Table 1 in Chapter 6).

There are some differences, with regard to certain deductions and the transfer of assets.

Taxpayers with an annual turnover below EUR 600 000 may opt for a simplified computation, under which there is no deduction for provisions and depreciation must be claimed at the minimum statutory rate.

### *Business allowance*

In parallel with the employment allowance (see under 'Income from employment: deductions' above), an allowance may be claimed in respect of net business income (i.e. income after deductions) where the taxpayer's net business income is below EUR 14 450.

As with the employment allowance, the business allowance for individuals with net business income of no more than EUR 11 250, the allowance is EUR 3700. Where net business income is between EUR 11 251 and EUR 14 450, the allowance is tapered according to the formula:

$$A = 3700 - ((3700/3200) \times (NBI - 11\,250))$$

where A is the amount of the allowance and NBI is the net employment income.

The business allowance is available to individuals whose profits are computed under the standard method or the simplified method, but those who have opted for the simplified method may instead claim a notional expense allowance of EUR 2000. Alternatively, individuals in business or the professions whose taxable income from all sources does not exceed EUR 8000 may claim an allowance of EUR 1620. Those whose taxable income from all sources is between EUR 8001 and EUR 12 000 may claim an allowance that is tapered according to the formula:

$$A = 1620 - ((1620/4000) \times (TI - 8000))$$

where A is the amount of the allowance and TI is the taxable income. However, the sum of this allowance and the employment allowance (where applicable) may not exceed EUR 3700.

#### ***Special computation method***

Individuals carrying out certain activities, such as running cafés or bars, providing taxi services, operating pharmacies or retail grocery may apply for lump-sum taxation based on different types of income indicators such as personnel, electrical installations, number of tables, kilometres driven etc. Under this option, there is no deduction for depreciation or business expenses.

#### **Taxation of investment income**

##### ***Dividends, interest and royalties***

Dividends and interest are treated as savings income and subject to tax at the rates applicable to savings income (see below).

The rate of withholding tax on dividends, interest and royalties in 2016 is 19% (previously 19.5% and 20% before 1 July 2015).

##### ***Rental of movable property***

The same rules and rates apply as for dividends, interest and royalties.

##### ***Rental of immovable property***

Rents from leasing immovable property are included in general income. In general, expenses linked to the generation of income (including mortgage interest) are deductible. There is also a depreciation deduction of 3% of the property's wealth-tax value. In the case of residential property, there is also a specific reduction of 60% of net taxable income.

Owners of second or further empty urban properties are deemed to receive an imputed income of 1.1% of the property's cadastral value (2% where the cadastral value was fixed before 1 January 1994). There is no imputed income in respect of rural properties or the taxpayer's main residence.

The general withholding tax on rents from urban properties is 19% (previously 19.5% from 1 July 2015 and 20% before that).

Withholding tax on domestic and cross-border payments

The rates of withholding tax on payments to resident and non-resident individuals are summarised in Table 4 below.

Table 4 – Rates of withholding tax

Type of payment	Residents	Non-residents
Dividends	19%	19%
Interest	0%/19% <sup>1</sup>	0%/19% <sup>2</sup>
Royalties	19%	19%/24% <sup>3</sup>
Property rentals	0%/19% <sup>4</sup>	19%/24% <sup>3</sup>
Artistes', athletes' etc fees	7%/9%/15%/19% <sup>5</sup>	19%/24% <sup>3</sup>
Pensions	<i>Salary tax</i>	8%/30%/40% <sup>6</sup>

## Notes

- 1 The 0% rate applies to interest on certain government bonds
- 2 The 0% rate applies to interest on certain government bonds and on bank deposits. Any interest paid to a resident of an EU Member State is also free of withholding tax
- 3 The 19% rate applies to recipients in an EU Member State or in an EEA state with which Spain has an agreement for exchange of information
- 4 The 19% rate applies to rents from urban properties only
- 5 The 7% and 15% rates apply to artistes etc whose gross income from their activities in the previous year was less than EUR 15 000 and more than 75% of whose gross taxable earned income in the current year consists of income from this type of activity; in that case, 7% is withheld in the first three years of their career and 15% thereafter. For other artistes etc, the corresponding rates are 9% and 19%
- 6 Withholding tax is charged at progressive rates: at 8% on the first EUR 12 000, 30% on the next EUR 6700 and at 40% on the excess over EUR 18 700

## Allowances and deductions

Spain has a relatively complex system of deductions, allowances and tax credits for individuals.

### Deductions

Taxpayers are entitled to relatively few deductions, other than those specific to a particular source of income.



Worth noting is that alimony and support payments to a former spouse paid under a court order are deductible for the payer and constitute taxable employment income for the recipient. Child-support payments under a court order, on the other hand, are exempt for the recipient and non-deductible for the payer.

### Personal allowances

The different types and amounts of personal allowance are set out in Table 5.

Table 5 – Personal allowances for 2016

Type of allowance	Amount (EUR)
Personal allowance (taxpayers under 65)	5550
Personal allowance (taxpayers 65-74)	6700
Personal allowance (taxpayers 75 and older)	8100
Child allowance <sup>1</sup> (1st child)	2400
Child allowance <sup>1</sup> (2nd child)	2700
Child allowance <sup>1</sup> (3rd child)	4000
Child allowance <sup>1</sup> (4th & subsequent children)	4500
Childcare allowance <sup>2</sup>	2800 per child
Elderly dependant allowance <sup>3</sup>	1150/2550 <sup>4</sup>
Disability allowance <sup>5</sup>	3000/9000 <sup>6</sup>
Attendance allowance <sup>7</sup>	3000

#### Notes

- 1 Eligible children are those who are (a) unmarried; (b) under 25; (c) living with the taxpayer; and (d) have no taxable income or a taxable income of their own not exceeding EUR 8000. Where the parents file separate returns, the allowance is split equally between them
- 2 Available under certain conditions in respect of children under three years old
- 3 The dependant must be 66 years of age or older, live with the taxpayer for at least six months in the tax year, be a direct forebear (i.e. parent, grandparent etc) and have a taxable income of his or her own of no more than EUR 8000
- 4 The higher amount applies where the dependant is aged 76 or more
- 5 Available to disabled taxpayers themselves or in respect of disabled direct forebears or descendants living with the taxpayer
- 6 The higher amount applies where the person concerned is severely disabled (i.e. to the extent of 65% or more)
- 7 Available to taxpayers who require assistance from third-party carers, have reduced mobility or are severely disabled

NB: rather than being directly deducted at the last stage of computing taxable income, the allowances are given effect by first calculating the tax due in respect of the taxable income before the application of the allowances and then making a deduction of tax at the taxpayer's marginal rate on an amount equal to the aggregate of the allowances.

### Tax credits

A tax credit is available for donations to charitable and similar institutions or to state and local organs equal to 75% of the donation for the first EUR 150 and to 30% for the excess.

Persons not in business may claim a tax credit of 15% for qualifying investments in cultural assets. Taken together with donations, the aggregate amount qualifying for credits may not exceed 10% of taxable income.

Persons who are in business are generally entitled to the same incentive credits as companies (see in Chapter 6 under 'Tax incentives').

## Rates of income tax

For income other than savings income, the rates of income tax on 2016 income (payable in 2017) are shown in Table 6.

Table 6 – Rates of national income tax on 2016 income other than savings income

Band of taxable income (EUR)	Rate of tax (%)
First 12 450	19
Next 7 750	24
Next 15 000	30
Next 25 000	37
Balance over 60 000	45

NB: taxpayers in Euzkadi and Navarre will be subject to slightly different rates, as those Autonomous Regions have exercised their right to vary national tax rates.

Table 7 – Rates of national income tax on 2016 savings income

Band of taxable income (EUR)	Rate of tax (%)
First 6 000	19
Next 44 000	21
Balance over 50 000	23

## Returns and payment

### Returns

With the exceptions mentioned below, all taxpayers must file income tax returns. The filing date is normally 30 June of the year following the return year. Taxpayers with gross employment income of no more than EUR 22 000 together with gross investment income of no more than EUR 1 600 and imputed income from immovable property no greater than EUR 1 000 need not file a return, except in certain circumstances.

### Assessment and payment

Spain operates a system of self-assessment. Taxpayers are expected to compute their own tax liability and pay any outstanding tax, after taking into account tax withheld and payments on account, when filing the return. In certain circumstances, however, taxpayers may request an assessment from the tax authorities.

Payments on account are due from individuals deriving business or professional income, in four instalments: on 20 April, 20 July and 20 October in the current year and 30 January of the following year. The amount of each payment is 20% of net income for the year to date. Different percentages apply to farmers, fisherfolk and to sole traders subject to the special computation method.

## Inheritance and gift taxes

### Taxable persons

Inheritance and gift taxes are imposed on the transferee acquiring property by inheritance or gift. A transferee who is resident in Spain is subject to tax on the acquisition of property or rights wherever situated; a non-resident transferee is subject to tax in assets situated in Spain or rights exercisable in Spain and on the proceeds of a life policy taken out with a Spanish insurer or a foreign insurer's Spanish branch. The residence status of the transferor is irrelevant.

### Taxable base

The taxable base is the value of all property received net of liabilities.

In the case of a transfer on death, certain property is added back to the deceased's estate for tax purposes and apportioned to the beneficiaries:

- Any property alienated by the deceased within a year of death, unless it was transferred for consideration and the current owner is neither the deceased's spouse, heir, legatee, close relative nor the spouse of any of the preceding
- Any property acquired within three years of death ownership in which has been vested in the deceased's spouse or any of the persons mentioned above, and in which the deceased had a usufruct
- Any property or rights transferred by the deceased within four years of death in which he or she retained a life interest, excluding life annuities taken out with an insurance company

unless the fair consideration for any of these transfers is included in the deceased's estate at death.

### Business property relief

A 95% exemption is available on the transfer on death of a family business or of shares in other companies where:

- The deceased owned more than 15% of the capital of the enterprise
- The enterprise was carrying on a business other than the management of movable or immovable property
- The deceased derived more than 50% of his or her business or employment income from working in or for the company
- The transferee is the deceased's spouse or direct or adopted descendant and
- The transferee retains the shares or other participation for at least 10 years after the transfer, unless the transferee's earlier death intervenes

A 95% exemption is also available on the transfer by way of inter vivos gift of a family business or of shares in other companies where:

- The transferee is the transferor's spouse or direct or adopted descendant
- The transferor is aged 65 or older or is disabled
- The transferor retires from any directorships or, while remaining as a director, ceases to be paid or take any active part in the management
- The transferee retains the shares or other participation for at least 10 years after the transfer, unless the transferee's earlier death intervenes, and does not enter into any transactions that may significantly decrease the value of the assets transferred

Where the transfer on death is of the deceased's 'habitual abode', a 100% exemption is available where:

- The transferee is the transferor's spouse, a forebear or descendant, an avuncular relation (sibling or sibling's child)
- The transferee is aged 65 or older and has lived with the transferor for at least two years before the latter's death and
- The transferee retains the property in his or her ownership for at least 10 years following the death, unless the transferee's earlier death intervenes

Even where these conditions are met, only the first EUR 122 606.47 of the value passing to any one transferee is exempt.

### Jurisdiction

The inheritance and gift tax has been devolved to the Autonomous Communities, which have the power to set rates and allowances. Most of them have exercised this right. Thus, for example, a 99% reduction of the tax liability is available for transfers between parents and children in Madrid.

In the case of transfers mortis causa, the jurisdiction with the taxing right is the Autonomous Community in which the deceased was habitually resident (except in the case of non-resident testators, jurisdiction for whom rests with the State tax authorities). The transferee's location is irrelevant.

As for acquisitions of assets or rights by way of gift, or any other inter vivos legal transaction for no consideration, the tax must be paid to the Autonomous Community in which the transferee is habitually resident (except in the case of transfers of immovable property, in which case the Autonomous Community with jurisdiction will be that in which the property is located).

Allowances and rates cited below are the nationally set amounts, which serve as the default rates and allowances.

### Personal allowances

Certain deductions are allowed from the transferee's share in the estate on the occasion of a transfer mortis causa. No personal allowances are available on a lifetime transfer.

For this purpose, transferees are divisible into four categories, depending on their degree of kinship with the transferor.

Category I consists of direct and legally adopted descendants under the age of 21

Category II consists of direct and legally adopted descendants aged 21 or over; spouses; and direct or adoptive forebears

Category III consists of avuncular relations and in-laws (i.e. descendants and forebears of a spouse)

Category IV consists of all other transferees

In 2016, the amount of the allowance for each category is shown in Table 8.

Table 8 – Personal allowances for transfers on death

Transferee category	Amount of allowance (EUR)
Category I	15 956.87 + 3990.72 per full year under 21 <sup>1</sup>
Category II	15 956.87
Category III	7993.46
Category IV	00.00

### Note

<sup>1</sup> Subject to a maximum of EUR 47 858.89

Transferees who are disabled are entitled to an additional allowance of EUR 47 858.89, but if the degree of their disability is greater than 65%, this additional allowance is increased to EUR 150 253.03.

### Repeated transfers on death within 10 years

When the same assets are subject to two or more transfers on death to descendants within a 10-year period, the tax paid on previous transfers may be deducted from the value transferred in the current transfer.



### Rates of inheritance and gift tax

The tax payable is calculated in two steps, the second of which involves a wealth-related surcharge on the tax liability determined in the first step.

#### Step 1

The initial charge is calculated from a 16-band rate table, as indicated in Table 9.

Table 9 – National default rates of inheritance & gift tax

Band of taxable receipt (EUR)	Rate of tax (%)
First 7993.46	7.65
Next 7987.45	8.50
Next 7987.45	9.35
Next 7987.45	10.20
Next 7987.45	11.05
Next 7987.46	11.90
Next 7987.45	12.75
Next 7987.45	13.60
Next 7987.45	14.45
Next 7987.45	15.30
Next 39 877.15	16.15
Next 39 877.16	18.70
Next 79 754.30	21.25
Next 159 388.41	25.50
Next 398 777.54	29.75
Balance over 797 555.08	34.00

#### Step 2

To the tax calculated using Table 8, there is added a wealth-related surcharge, calculated as a percentage of the tax due under Step 1. The precise percentage depends on the Category into which the transferee falls and on the transferee's net wealth immediately before receipt of the transfer. Table 10 has the details.

Table 10 – Wealth-related surcharge on inheritance & gift tax liability

Transferee's net wealth before transfer (EUR)	Surcharge as percentage of liability under Step 1		
	Category of recipient		
	I & II	III	IV
No more than 402 678.11	0.00	58.82	100.00
402 678.12 – 2 007 380.43	5.00	66.76	110.00
2 007 380.44 – 4 020 770.98	10.00	74.71	120.00
Over 4 020 770.98	20.00	90.59	140.00

## Example

A childless tax-resident of Spain dies, leaving her estate at death, valued at EUR 495 000, to be divided equally between her nephew and a second cousin. The nephew's net wealth is EUR 125 000 and the second cousin's net wealth is EUR 530 000. Assume national rates apply in both cases.

The nephew is a transferee in Category III, whereas the second cousin falls within Category IV.

The tax on the nephew is calculated as follows:

### Step 1

Amount received		EUR 297 500.00
Allowance: Category III		7 993.46
Taxable amount		<u>EUR 289 506.54</u>
Tax on first EUR 239 389.13	EUR 23 063.25	
Tax on next EUR 50 117.41 @ 21.25%	10 649.95	
	<u>EUR 33 713.20</u>	

### Step 2

Surcharge: 58.82% of EUR 33 713.20	19 830.10	
Tax payable	<u>EUR 53 543.30</u>	
Effective rate of tax		17.83%

The tax on the second cousin, on the other hand, is calculated thus:

Amount received	EUR 297 500.00
Allowance: Category IV	0.00
Taxable amount	<u>EUR 297 500.00</u>

### Step 1

Tax on first EUR 239 389.13	EUR 23 063.25
Tax on next EUR 58 110.87	12 348.56
	<u>EUR 35 411.81</u>

### Step 2

Surcharge: 110% on EUR 35 411.81	38 952.99	
Tax payable	<u>EUR 74 364.80</u>	
Effective rate of tax		25.00%

## Wealth tax

### Scope and jurisdiction

Spanish-resident individuals are subject to an annual wealth tax on their total assets (located worldwide) as at 31 December of each year, valued according to tax provisions. Non-residents are taxed only on the assets located or the rights exercisable in Spain. However, some tax treaties can affect the application of this provision.

As with inheritance and gift tax, the power to set their own rates and allowances, within a prescribed framework, has been devolved to the Autonomous Communities. Madrid, for example, currently charges a flat rate of 0%. If the particular Autonomous Community does not exercise this right, nationally set allowances and rates apply as a default.

Individuals are separately assessed. In the case of a married couple under the so-called community-property régime, assets are allocated equally for the purposes of the wealth tax.

### Exemptions

Exempt assets include:

- Heritage property
- Works of art and antiques (within certain limits)
- Household furnishings
- Pension rights
- Intellectual property rights in the author's ownership
- Interests in an unquoted family business (excluding e.g. property-management companies) in or from which the taxpayer:
  - Holds more than 5% of the capital
  - Acts as a director or manager and
  - Derives more than 50% of his or her income

### Allowances

A personal allowance of EUR 700 000 is available for each taxpayer under the default national rules, with an additional EUR 300 000 for the taxpayer's main residence.

### Overall tax cap

No individual is obliged to pay more income tax and wealth tax in aggregate than 60% of his or her total taxable income. Where this cap would otherwise be exceeded, the liability to wealth tax is reduced to the extent necessary to comply with the cap.

### Rates

The default national rates are shown in Table 11.

Table 11 – National wealth tax rates

Taxable amount (EUR)	Rate of tax (%)
First 167 129	0.2
Next 167 124	0.3
Next 334 247	0.5
Next 668 500	0.9
Next 1 336 999	1.3
Next 2 673 999	1.7
Next 5 347 998	2.1
Balance over 10 695 996	2.5

The wealth tax is now scheduled for abolition in 2017.

## 8. Other taxes

### Immovable property tax

This tax (*impuesto sobre bienes inmuebles*) is a tax levied by local authorities on the owners of immovable property, whether they be natural persons or legal persons, regardless of their tax residence. The tax is based on the cadastral value (*valor catastral*) of the property, updated every eight years. The nationally set rates are 0.4% for urban property and 0.3% for rural property, but local authorities are at liberty to increase these rates.

The tax is a deductible expense for the purposes of corporate income tax.

### Immovable property transfer tax

The second and any subsequent transfer of immovable property or of rights over such property is subject to transfer tax (*impuesto sobre transmisiones patrimoniales*), unless the transaction is liable to VAT. The tax is also chargeable on the transfer of shares in a company more than 50% of whose assets by value consist of Spanish immovable property.

The nationally set rate is 6% of the transfer price, but the Autonomous Communities may set their own rates; the most common rate is in fact 7%.

### Stamp duty

Stamp duty (*impuesto sobre actos jurídicos documentados*) is charged on legal documents drawn up or having an economic effect in Spain, such as notarial deeds, bills of exchange, certificates of deposit etc. The normal rate is 0.5% where there is a monetary consideration involved, but this has been increased to 1.5% in certain cases. Otherwise, fixed amounts of duty are payable.

### Capital duty

For capital duty, see Chapter 6.

### Excise duties

Spain charges excise duties on alcoholic beverages, tobacco, fuel and other mineral oils, and on the first registration in Spain of new or used means of transport.

### Customs duty

As a member of the European Union, Spain is part of the European customs union and applies the European customs tariffs and regulations. Accordingly, goods entering the European Union in Spain are in principle subject to customs duty.



## 9. Social security contributions

### Employees and employers

Social security contributions are payable by employers and employees. Contributions are made to five distinct funds, but employees pay into three only of these.

Earnings thresholds and ceilings apply, but the precise amounts depend on the employee's occupational category. Thus, the threshold for engineers and university graduates is EUR 1067.32 per month (annual equivalent: EUR 12 807.84), whereas for labourers, it is EUR 25.48 per day. In 2016, however, the earnings ceiling for all categories in respect of which a monthly threshold applies is EUR 3642 per month (an annual equivalent of EUR 43 704).

Contributions are charged on an employee's gross earnings, excluding certain benefits-in-kind and expense allowances. Rates applicable in 2016 are shown in Table 12 below.

Table 12 – Rates of social security contributions in 2016

Nature of fund	Employee contribution rate (%)	Employer contribution rate (%)	Total (%)
General risks	4.70	23.60	28.30
Unemployment	1.55 / 1.60 <sup>1</sup>	5.50 / 6.70 <sup>1</sup>	7.05 / 8.30 <sup>1</sup>
Salary guarantee	0.00	0.20	0.20
Occupational training	0.10	0.60	0.70
Industrial accident	0.00	Varies <sup>2</sup>	Varies <sup>2</sup>
<b>Total</b>	<b>6.35 / 6.40</b>	<b>29.90 + / 31.10 +</b>	<b>36.25 + / 37.50 +</b>

#### Notes

- 1 The lower rates apply in respect of employees on temporary contracts and the higher rates in respect of those on permanent contracts
- 2 The precise rate varies according to the nature of the occupation, increasing with increased risk. Thus, the rate for office workers is 1% and the rate for construction workers is 6.7%

### Self-employed contributions

Self-employed persons have to contribute to the special system for self-employed workers (*Régimen Especial de los Trabajadores Autónomos*). This special system for the self-employed covers 90% of total self-employed workers regardless of whether they have employees and with no differences according to sector or occupation. Other self-employed persons contribute to other systems aimed at specific sectors, such as the special agricultural system (*Régimen Especial Agrario*) and the special system for mariners (*Régimen Especial de los Trabajadores del Mar*).

Self-employed persons may choose their own contributions base, within a range established by law, which in 2016 ranges from EUR 883.10 to EUR 3642 per month (annual equivalents: EUR 10 597.20 to EUR 43 704.00). Those aged 48 and over may fix a base between EUR 963.30 and EUR 1964.70 (annual equivalents: EUR 11 559.60 and EUR 23 576.40).

The level of contributions is linked to the contingencies that the self-employed person is willing to cover. If coverage is to include temporary incapacity, the rate is 29.80%; otherwise the rate is 26.50%.

## 10. Moore Stephens in Spain

There are eight Moore Stephens member firms in Spain. They cooperate under a national umbrella company, Moore Stephens Hispania SL, which has offices in Madrid and Barcelona:

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# Appendix 1: Double tax treaties

## Comprehensive double tax treaties

Spain has comprehensive double taxation treaties with the following countries and jurisdictions:

Albania	Dominican Republic	Kuwait	Senegal
Algeria	Ecuador	Kyrgyzstan <sup>2</sup>	Serbia
Andorra	Egypt	Latvia	Singapore
Argentina	El Salvador	Lithuania	Slovakia <sup>2</sup>
Armenia	Estonia	Luxembourg	Slovenia
Australia	Finland	Macedonia <sup>1</sup>	South Africa
Austria	France	Malaysia	Sweden
Barbados	Georgia	Malta	Switzerland
Belarus <sup>1</sup>	Germany	Mexico	Tajikistan <sup>1</sup>
Belgium	Greece	Moldova	Thailand
Bolivia	Hong Kong	Morocco	Trinidad and Tobago
Bosnia Herzegovina	Hungary	New Zealand	Tunisia
Brazil	Iceland	Nigeria	Turkey
Bulgaria	India	Norway	Turkmenistan <sup>1</sup>
Canada	Indonesia	Oman	Ukraine <sup>1</sup>
Chile	Iran	Pakistan	United Arab Emirates
China	Ireland	Panama	United Kingdom
Colombia	Israel	Philippines	United States
Costa Rica	Italy	Poland	Uruguay
Croatia	Jamaica	Portugal	Uzbekistan
Cuba	Japan	Romania	Venezuela
Cyprus	Kazakhstan	Russia	Vietnam
Czech Republic <sup>2</sup>	Korea	Saudi Arabia	

<sup>1</sup> The treaty with the former USSR

<sup>2</sup> The treaty with the former Czechoslovak Socialist Republic

Spain has also signed new treaties with Azerbaijan, Bahrain, Belarus, Cape Verde, Montenegro, Namibia, Qatar, Peru and Syria, but these have yet to take effect.

Spain has double tax treaties with the following jurisdictions covering profits from air transport only.

Nicaragua	Qatar
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## Double tax treaties: estates, gifts and inheritances

Spain has only two agreements covering inheritance (but not gift) taxes. They are with the following countries.

France	Sweden
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### Agreements for administrative cooperation and/or exchange of information

Within the European Union, mutual administrative assistance is governed by the Directives on exchange of information (2011/16/EU) as amended, together with its implementing Regulation (Regulation (EU) No 1156/2012), and the recovery of claims (10/24/EC). As regards VAT, the same function is performed by Council Regulation (EU) No 904/2010. Outside the European Union, Spain is a party to the Convention on Mutual Administrative Assistance in Tax Matters, and has a separate agreements on exchange of information with the **Bahamas**.

### Social security agreements

The interaction of national social security systems within the European Economic Area is governed by EU Regulations No 883/2004/EC and No 987/2009/EU, as amended, which also extend, by agreement (and with some differences), to Switzerland. Spain has pre-existing bilateral agreements with some of these states. These have largely been superseded by the EU regulations, but may be applied where, occasionally; they give a more beneficial result.

Outside the EEA and Switzerland, Spain (together with Portugal) is a party to and has ratified the Iberoamerican Organisation Social Security Treaty. Other nations that have ratified the Treaty and signed the Implementation Agreement are:

Bolivia	Chile	Paraguay
Brazil	Ecuador	Uruguay

Other countries that have ratified the Treaty but have not yet signed the Implementation Agreement are Argentina, El Salvador and Venezuela. Countries that have yet to ratify the Treaty are Colombia, Costa Rica and the Dominican Republic.

The following other non-EEA countries have social security agreements with Spain, the terms of which differ from case to case.

Andorra	Dominican Republic	Philippines
Argentina	Japan	Russia
Australia	Korea	Tunisia
Canada	Mexico	Ukraine
Cape Verde	Morocco	United States
Colombia	Peru	Venezuela

# Appendix 2: Moore Stephens around the world

Moore Stephens member firms may be found in 106 countries and territories around the world, with correspondent firms in another ten.

Albania	Denmark	Latvia	Russia
Argentina	Dominican Republic	Lebanon	Saudi Arabia
Australia	Ecuador	Liechtenstein*	Serbia
Austria	Egypt	Lithuania	Seychelles
Azerbaijan	El Salvador*	Luxembourg	Singapore
Bahamas	Estonia*	Macedonia	Slovakia
Bahrain	Finland	Malta	South Africa
Bangladesh	France	Mauritius	South Korea
Belgium	Germany	Mexico	Spain
Belize	Gibraltar	Monaco	Sri Lanka*
Bermuda	Greece	Mongolia*	Sweden
Bolivia	Guatemala	Morocco	Switzerland
Botswana*	Guernsey	Netherlands	Syria
Brazil	Honduras	New Zealand	Taiwan
British Virgin Islands	Hong Kong	Nicaragua	Thailand
Bulgaria	Hungary	Nigeria*	Tunisia
Burundi	India	Norway	Turkey
Cambodia*	Indonesia	Oman	Ukraine
Canada	Iraq	Pakistan	United Arab Emirates
Cayman Islands	Ireland	Panama*	United Kingdom
Chile	Isle of Man	Papua New Guinea	United States
China	Israel	Paraguay	Uruguay
Colombia	Italy	Peru	Venezuela
DR Congo	Japan	Philippines	Vietnam
Costa Rica	Jersey	Poland	Zambia
Croatia	Jordan	Portugal	Zimbabwe*
Cyprus	Kazakhstan	Qatar	
Czech Republic	Kuwait	Romania	

\*denotes a correspondent firm only

For more details, see [www.moorestephens.com](http://www.moorestephens.com) under 'Locations'.

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