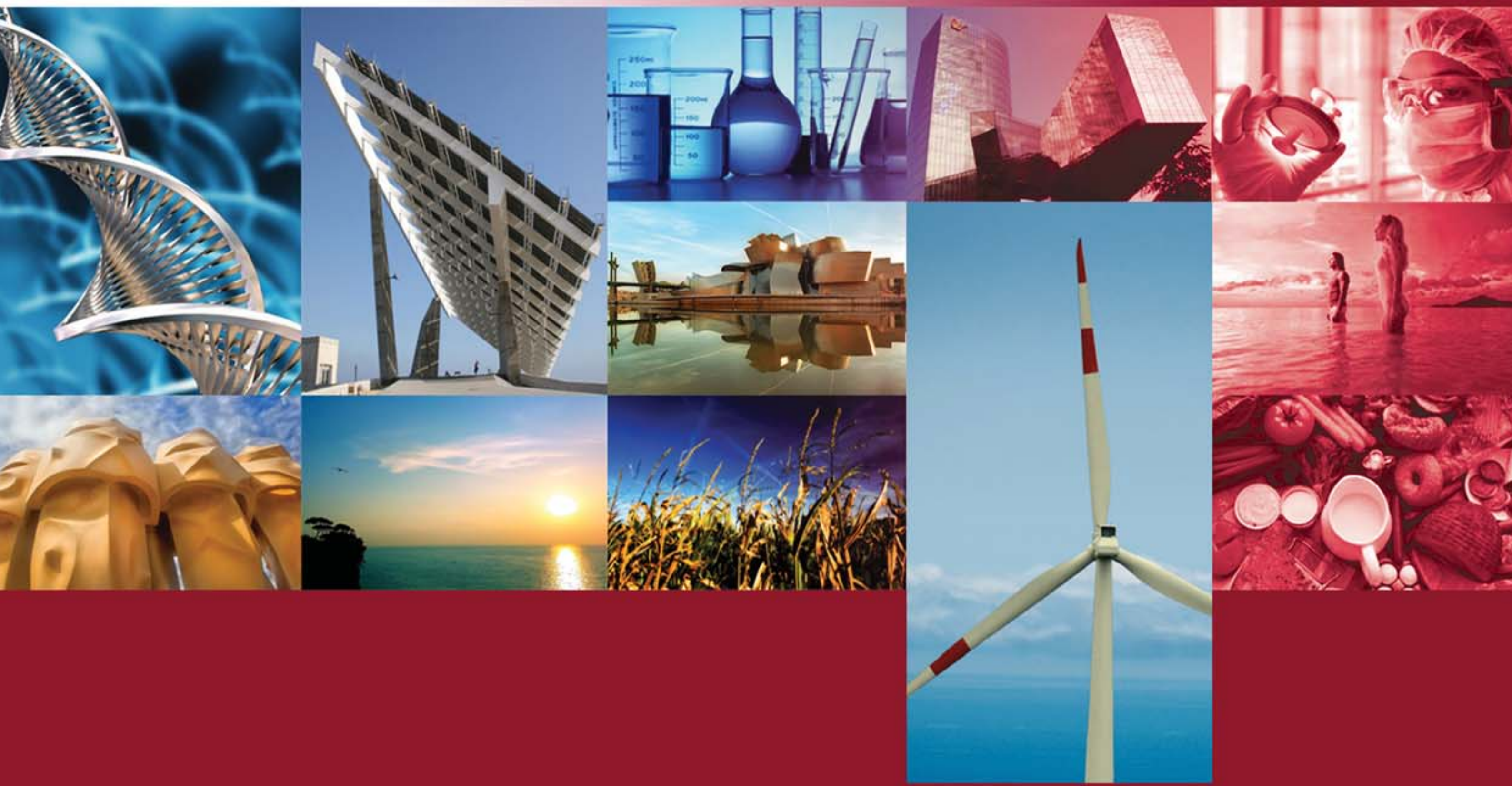
Europe/Middle East/Africa Region



Doing Business in Spain

May 2010

GLOBAL PRESENCE · LOCAL EXCELLENCE

Doing Business in
Spain

Contents

Introduction

This guide is written for companies interested in doing business in Spain. It outlines key facts and figures on Spain's economy, business infrastructure, laws and taxation. Sources quoted include AddVANTE's summary document and the CIA World Factbook. The information contained herein should be used for guidance only. Every effort has been made to ensure that the facts contained in this publication are correct at the time of publication; however, no responsibility for loss resulting from action taken based on any material herein can be accepted. It is recommended that readers obtain further information and professional advice prior to making any decision.

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Doing Business in
Spain

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Doing Business in Spain

Key facts

Population: 41 million

Currency: € - Euro
1 Euro = 166.386 former Pesetas

Dialling code: +34

Time zone: GMT + 1 (mainland Spain)
GMT (Canary Islands)

Language: Spanish

Fiscal year: Calendar year

Business hours:
0830 - 1400, 1530 - 2000 Monday to Friday.

Political context

Spain is a parliamentary monarchy, with a bicameral parliament called Las Cortes. The King is the head of state, and he monitors the country's democratic process in accordance with Spain's 1978 Constitution. *Las Cortes* consists of the Senate *(Senado)* of directly elected representatives and a Congress of Deputies *(Congreso de los Diputados)* elected every four years by universal suffrage.

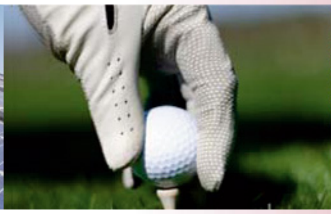
Spain comprises 17 autonomous communities, and two autonomous cities, with a total of 50 provinces. The autonomous communities share centrally collected tax revenues as well as collecting certain specific taxes directly.

Economy

The Spanish economy boomed from 1986 to 1990, averaging 5% annual growth. After a European-wide recession in the early 1990s, the Spanish economy resumed moderate growth starting in 1994. Spain's mixed capitalist economy supports a GDP that on a per capita basis is 80% that of the four leading West European economies. The centre-right government of former President Aznar successfully worked to gain admission to the first group of countries launching the European single currency (the Euro) on 1 January 1999. The Aznar administration continued to advocate liberalisation, privatisation, and deregulation of the economy and introduced some tax reforms to that end. Unemployment fell steadily under the Aznar administration but remains high at 8.7%. Growth averaging 3% annually during 2003-06 was satisfactory given the background of a faltering European economy. The Socialist president, Rodriguez Zapatero, has made mixed progress in carrying out key structural reforms, which need to be accelerated and deepened to sustain Spain's strong economic growth. Despite the economy's relative solid footing significant downside risks remain, including Spain's continued loss of competitiveness, the potential for a housing market collapse, the country's changing demographic profile and a decline in EU structural funds.

Legal and judicial system

Spain operates a civil law system, with regional applications. The Spanish legal system is hierarchical, making invalid laws of a lower jurisdiction that conflict with those of a higher jurisdiction. The Constitution is the highest jurisdiction in the system; Organic Laws regulate fundamental civil rights and liberties and require an absolute majority in Congress to approve, amend or substitute. Ordinary Laws concern subject matter not deemed by the Constitution to be reserved to Organic Laws, and the procedure for passing Ordinary Laws starts with a bill proposed by Government or a direct parliamentary initiative. Decree-Laws are approved by Government, must be ratified by Congress and deal with exceptionally urgent matters. Legislative Decrees normally deal with redrafting of existing laws without the need for amendments, and Decrees, Ministerial Orders and Resolutions have a lower status. In addition, the Autonomous Communities issue their own legal provisions within their authority.


Establishing a business in Spain

Spain has become an important country for starting a business or acting as a base for doing business in America or Europe. The different types of corporation that can be incorporated under Spanish law are as follows:

- Sole proprietorship
- Joint Stock Company
- Limited Liability Company
- Workers' Partnership
- Joint Venture
- Branches

a) Sole proprietorship

Any foreign person may start a business in Spain but must have the legal capacity, in accordance with the law of his home country, to carry out business activities.

If you are intending to set up your business in Spain as a sole propiertorship, be aware that your liability for debts is unlimited, and therefore you are personally liable for your business' debts.

b) Joint Stock Company

Stock corporations *(Sociedad Anónima - S.A.)* are normally used in Spain for investments in major projects. The deed of incorporation must be signed before a notary and then registered at the Spanish Companies Registry *(Registro Mercantil)*. Only one person, physical or a company, can establish this type of company. The minimum share capital is €60,101.21. The shareholders are not personally liable for corporate debts; they are only liable to the extent of their contribution to the corporation.

c) Limited Liability Company

The Limited Liability Company *(Sociedad de Responsabilidad Limitada - S.L.)* is normally used in Spain to establish small or medium sized businesses and may be created by only one founder. The deed of incorporation must be signed before a notary and then registered at the Companies Registry *(Registro Mercantil)*. The minimum capital requirements are €3,005.06, which must be fully subscribed and paid-up at the time that the company is set-up. Contributions may consist of credit rights, real estate... work is not valid as a capital contribution. Partners are not personally liable for company's debts; their liability is limited to their investment in the company. Only one shareholder is needed however, there is no limit on the number of shareholders.

d) Workers' partnerships (Cooperativas / Sociedades Limitadas Laborales)

The share capital of Cooperatives *(Cooperativas)* and Labour Corporations *(Sociedades Laborales)* is owned by the workers.

The Cooperative is a workers' association developing an economic activity from common economic needs. Minimum capital is not required, the deed of corporation shall be registered at the Cooperatives' Registry of the Spanish Labour Ministry *(Ministerio de Trabajo)*. Workers are not liable for company debts, unless otherwise stated in the bylaws.

Labour Corporations may take the legal form of a Limited Liability Company, or a Joint Stock Company. The workers are liable for company debts to the extent of their contributions.

e) Joint Ventures

Joint Ventures in Spain may use different forms:

A group of companies can form temporary business associations *(uniones temporales de empresas - UTE)* to carry on specific projects for a limited time; each company keeps its legal status and they undertake operations in common under specific regulation.

Economic Interest Groups *(Agrupación de Interés Económico - AIE)*, which are set up to help their members to achieve their individual objectives; its members are liable for the company debts.

Entrepreneurs may agree to contribute with money or in-kind to a venture that they do not manage *(contrato de cuentas en participación)*, the non-managing participants do not become shareholders, they receive the right to an agreed share of the profit resulting from the venture.

A partnership between two or more investors forming a company or engaging in any other kind of business venture valid under Spanish law.

Branches

The branch is an organisation dependent upon its parent, which is located abroad. It has the same legal personality as its parent and runs similar activity.

A branch has to be set up through a public deed made before a notary and registered at the Company Registry.

Doing business in Spain without investing

Doing business in Spain may imply investment or just imply the signature of a contract with a Spanish company or individual. These agreements can be made in different ways including:

- Signing a Distribution Agreement
- Operating through an agent (Agency Contract)
- Franchising

Labour

Legal framework and jurisdiction

The main labour laws that apply in Spain are the Statute of Workers' Rights (approved in 1995) and the Social Security Law (approved in 1994). These two laws – complemented by others that are more limited in scope – govern most matters related to Spanish labour law.

A special jurisdiction was created in Spain for the purpose of settling labour disputes. This jurisdiction is solely and exclusively responsible for deciding matters related to the labour relationships between companies and workers.

Labour relationships

In Spain, labour relationships between companies and workers fall into one of two categories: employment relationships and relationships with self-employed workers.

In the first case, the worker voluntarily provides paid services as an employed person within an organisational and management structure created by another natural or legal person, who is called the employer *(empleador or empresario)*. These employment relationships are governed by the Statute of Workers' Rights.

In contrast, a self-employed person is one who, outside of any organisational and management structure created by another person, performs – regularly, personally, directly and for him/herself – a profit-oriented economic or professional activity, regardless of whether or not work is given to third persons. The activity of such workers is governed by the Statute of Self-Employed Workers' Rights, approved on 20 July 2007.

Employment contract

In Spain, employment contracts can generally be made in writing or verbally, though there are certain types of contracts that must be evidenced in writing.

However we recommend hiring in writing, in order to avoid unnecessary problems.

Taxation

General structure

- Corporate Income Tax
- Value Added Tax
- Withholding Tax
- Non Resident Income Tax
- Other Taxes: capital duty, local taxes and custom duties
- Special Tax Regime for Entities Holding Foreign Securities
- Personal Income Tax
- Special Regime for Newly Working in Spain
- Net Wealth Tax
- Inheritance and Gift Tax

1. Corporate Income Tax

Introduction

Corporation Tax (hereinafter, CT) is applied throughout the whole of Spain without prejudice to special regimes for individual territories like Pays Basque and Navarra and to International Treaties and Conventions.

The event giving rise to a taxable liability for the tax payer is the obtaining of income, whatever the source or origin.

The tax is payable by entities resident in Spain. For this purpose Entities that fulfil any of the following conditions are considered to be resident in Spain:

(a) Those that have been established in accordance with Spanish law,

(b) Those that have their registered office in Spanish territory,

(c) Those whose management and head-office are located in Spain.

The taxable basis is the amount of revenue obtained in the tax period, which is the accounting year of the company. The tax base includes the accounting profit corrected, as appropriate, by the application of the tax rules. Tax will be paid by applying to the tax base the general rate of 30%.

Losses can be carried forward for the 15 years following the period in which the losses arose. For new companies, the period of 15 years in which to use losses starts from the first period in which profit is obtained.

Calculation of income and expenses

Income and expenses are calculated by using accounting figures, provided that the accounts give a true view of the company's financial position. However, in the case of transactions between related parties, certain cautions have to be considered: the most important is the respect of the arm's length principle which means that said operations must be valued at their normal market value.

Tax Administration may verify that transactions carried out between related parties have been valued at their normal market value and make appropriate corrections to the values taking into account all the individuals or companies carrying out the transaction. Companies must prepare the documentation with the explanation of every transaction with related parties.

The "thin capitalisation rule" (Debt Equity ratio) is applicable for related parties when level of interest bearing debt owed to a related non-resident entity (i.e. loans of parent company to a subsidiary) exceeds three times the shareholders' funds (excluding current year profits or losses) of the Spanish entity. In such cases the interest payable on the excess of loans over the three times figure mentioned above is treated as a dividend with all the consequent tax effects, which means it would not be a tax deductible expense. However, the "thin-capitalisation" rule is not applicable when the related party is resident in another member state of the EU.

Depreciation

Depreciation of assets has to comply with two basic requirements: to be effective and to be registered in the books.

The effectiveness of the depreciation has to be demonstrated by the taxpayer being considered as sufficiently proved when provision is made according to one of the following methods:

(a) Straight-line Depreciation Method according to official rates

(b) Reducing Balance Depreciation

(c) Other depreciation systems

Provisions

Provisions are considered deductible when they are properly recorded in the accounts and comply with tax regulations which establishes special rules regarding, amongst others, the following concepts:

- Bad and doubtful debts
- Value of portfolios of investment
- Extraordinary repairs for certain sectors of industry or with the prior agreement of a proposal by the tax authorities
- Legal obligations and duties
- Capitalised editorial costs for recording and audiovisual businesses
- Costs of inspection and repairs under warranties and for costs relating to return of goods.

Deductions on the reinvestment of non-ordinary profits

Profits made on the disposal of certain assets (mainly fixed assets and securities representing at least a 5% participation) qualify for a special deduction of the total tax liability if the sale price is reinvested in the acquisition of any of the assets previewed by Law with some exceptions; for example, if they are acquired by related parties.

The assets in which the reinvestment has been made must remain within the property of the taxpayer for five years (or for three if it is a moveable asset), unless its economic life is shorter.

Tax incentives for small companies

A special tax regime is applicable by companies whose annual net turnover is less than €8 million in the immediately previous taxable period. The incentives are:

- Free depreciation provided the company creates employment. Free depreciation also applies on tangible fixed assets whose individual value does not exceed €601.01 up to a limit of €12,020.24 per tax period.
- Accelerated depreciation, multiplying by 2 the maximum straight-line percentage allowed by the official tables of depreciation rates.
- The provision for doubtful debts is deductible up to 1% of the total debtor balances at the balance sheet closing date.
- Deduction for the promotion of information and communication.
- Tax rate is reduced to 25% on profits up to €120,202.41, although the general rate applies on the remainder.

Special tax regime for entities holding foreign securities

This special purpose vehicle gives rise to certain tax benefits to Spanish Holding Companies (Entidades de Tenencia de Valores Extrangeros, ETVE), for which the **basic requirements** are as follows:

- The corporate purpose of an ETVE must include the supervision and management of securities of nonresident entities with a minimum direct or indirect stake of 5%. Under the current regime, the supervision and management of securities must not necessarily be the primary activity of an ETVE.
- The legal status of the company does not affect the possibility of becoming an ETVE. Joint Stock Companies (Sociedad Anónima) and Limited Liability Companies (Sociedad de Responsabilidad Limitada) are both eligible to be an ETVE.
- An ETVE must have the "necessary substance" (material and human resources) to carry out the activity of supervising and managing foreign securities.

The following are applicable to the ETVE's special tax regime:

Sources of income which are exempt:

Dividends (or other profit share) income earned by an ETVE are exempt, subject to the following conditions:

(i) A one-year period of uninterrupted ownership (direct or indirect) of at least a 5% stake must have elapsed by the time the dividend is payable; this period can be achieved after the date when the dividend is payable. Moreover, the 5% threshold will not be needed should the basis of the stake held in the non resident entity be higher than €6 million.

(ii) The subsidiary must be subject to corporate taxation under an analogous system to Spanish Corporate Tax and cannot be resident in a Tax Haven. Under the current regime, the definition of what should be understood as an analogous system is more flexible than the definition provided by the former regime.

(iii) Dividend (or profit share) income must arise from underlying business activities carried out outside Spain. The subsidiary will be deemed to have such business income when at least 85% of its total income stems from entrepreneurial activities; i.e. an activity that requires the entrepreneur to organise production and/or human resources in order to take part in the production or distribution of goods or services. Holding activities qualify as entrepreneurial activities.

Capital gains on the disposal of a stake in a foreign subsidiary are tax exempt provided that:

Condition (i) above is met at the date when the transfer takes place.

Conditions (ii) and (iii) above are met for each and every financial year during which the stake was held.

The shares are not sold to a resident in a tax haven.

Dividends or capital gains other than the above obtained by an ETVE, or other sources of income (i.e. interest, services charges, etc.) are subject to the ordinary Spanish Corporate tax regime.

Capital losses / Portfolio decline

Capital losses are tax deductible.

Portfolio decline due to the losses generated by the foreign subsidiaries is tax deductible except when it results from profit distribution.

Non-taxation of an ETVE's foreign shareholders

As mentioned above, one of the most interesting features of the Spanish Holding Company tax regime is the non-taxation in Spain of dividends and capital gains obtained by ETVE's foreign shareholders under the following conditions:

- No withholding tax shall be applicable on dividends stemming from exempt sources of income distributed by an ETVE to its non-resident shareholders (unless the shareholders were resident in a tax haven).
- No withholding tax shall be applicable on capital gains obtained by non-resident shareholders on the disposal of the shares of an ETVE, insofar as the capital gain corresponds to the exempt undistributed reserves of the ETVE and/or to the increase of value of the securities held by the ETVE which qualify for the special tax regime (unless to shareholder is resident in a tax haven).

Capital tax

In general terms, Spanish Capital Tax (1%) applicable to the incorporation of a Spanish company will be avoided on the non-monetary contributions of the shares of the foreign entities to an ETVE.

Tax deduction of interest

The regime does not provide any limitation on the tax deduction of interest paid on the funding received in order to make investments, unless Spanish thin capitalisation rules which currently provide a 3/1 debt/equity ratio are applicable. Thus, if an ETVE generates non-exempt sources of income such as, service charges, dividends which are not eligible for the exemption regime etc., a factor to be considered will be the possibility for an ETVE to offset interest expenses with its taxable sources of income.

No previous approval from the Tax Authorities is required to benefit from this regime. Entities opting for this regime need only notify the Ministry of Economy and Finance.

Tax credits

(a) Relief for double taxation within Spain: dividends and capital gains

Double taxation arises when the income of a company included in its taxable income and later distributed as dividends incurs Corporation Tax in the first company (payer) and, in turn, the company receiving the dividends includes taxable income.

To avoid double taxation, companies are allowed to apply a deduction of 50% of the income stemming from such dividends. This deduction reaches 100% when the participation in the company is, at least, of 5%.

(b) Relief for international double taxation

This deduction attempts to avoid "legal" and "economic" double taxation. "Legal" double taxation is defined as the same taxpayer being taxed in two countries on the same income. “Economic” double taxation is defined as a source of income being taxed in two countries on two different taxpayers.

Corporation tax legislation allows the deduction of the lower of the following amounts:

- Tax of similar nature paid abroad.
- Tax to be paid in Spain if the income were obtained in this country.

Income obtained from permanent establishments abroad is tax free in Spain, provided the permanent establishment's income is subject to a tax similar to corporation tax, is not exempt from tax, is derived from business activities and is not located in a tax haven.

(c) Deductions encouraging certain activities

The most important deductions to encourage the carrying out of particular activities are:

- Deduction for Research and Development, and Technological Innovation.
- Deduction for Promotion of Information and Communication Technologies.
- Deduction for export activities.
- Deduction for Environmental Investments.
- Deduction for Professional Training.

Withholding tax and payments on account

Withholding tax

Some kinds of income paid by entities liable to corporation tax are subject to a withholding tax. The usual percentage withheld is 19%, but it may vary depending on the type of income.

Payments on account

Companies must to make 3 payments on account of Corporation Tax payable for the current financial year. Each payment consists of 18% of the total figure for the previous financial year, after deducting any withholding tax incurred and any other allowable deductions.

Alternatively there is an option to make payments on account based on the taxable income of the first three, nine or eleven months of each year. The payment on account is at 5/7ths of the tax rate, rounded down (i.e. normally will be of 21%). This method is obligatory for entities with a turnover exceeding €6,010,121.04 during the twelve months preceding the date at which the tax period begins.

Withholding taxes and payments on account of taxes are deductible from the corporation tax for the corresponding year. Should they exceed the final amount payable, the company has the right to ask for a refund of the balance in excess.

Consolidated tax return

Spanish companies holding, directly or indirectly, at least 75% of the capital of other entities, can apply for a Tax Consolidation Regime of all the companies who meet this requirement, thus resulting in a sole tax payer for Corporation Tax purposes. Some exceptions regarding the legal form and tax regime applicable to the entities of the group may hamper the inclusion of an entity in the tax group.

2. Value Added Tax

VAT is a tax on general consumption which applies mainly to supplies of goods and services, acquisitions of goods from other EU members, and on imports.

Exemptions

Some exceptions are established due to the nature of the operation carried out or due to legal nature of those who take part in a transaction.

Tax rates

Spanish VAT Law includes three different tax rates according to the nature of the goods or the services, as follows:

Standard tax rate:	18%
Reduced rate:	8%
Extra reduced rate:	4%

Up to June 30th the rates were 16%, 7% and 4%.

Limits on the right to deduct input VAT

Traders and professionals are only entitled to deduct the tax paid or satisfied on the acquisitions or importations of goods or services as long as they are directly and exclusively used for their business or professional activity.

Without prejudice to the foregoing provisions, where only part of the business assets are used for the business or professional activity, only those parts of the business assets susceptible of being used separately from and independently of the rest shall be deemed used for the business or professional activity. In no case shall indivisible business assets be susceptible of being partially used for the business or professional activity.

Limits on the right to deduct input VAT

Entrepreneurs or professional people who are not established in the area of application of Spanish Value Added Tax are entitled to apply for the refund of VAT paid, provided that they are established in an EU country or in a third country subject to reciprocity.

The application for reimbursement must be submitted up to the 30th June of the year following that in which Spanish VAT was paid.

3. Withholding Taxes

Spanish companies, non-residents operating in Spain through a permanent establishment, entrepreneurs and professionals, must withhold and pay to the tax authorities, on items such as the following:

- Salaries: the withholding rate depends on the annual salary and personal circumstances
- Income derived from giving courses, lectures: 15%
- Dividends, interest: 19%
- Fees to professionals: 15%, except in the first year of practice and in the two following years: 7%
- Payment to Members of the Board of Directors: 35%
- Rent of buildings: 19%
- Income from intellectual or industrial property, technical assistance and leasing of movable property: 19%

In case the income mentioned above is not paid in cash but in kind, there is still a requirement to make a payment on account. Non-residents without a permanent establishment basically have to withhold tax on every income obtained.

4. Non-resident Income Tax

Non-resident Income Tax is payable on income obtained in Spain by individuals and entities which are not resident in Spain. Two different scenarios are previewed by the Law:

4.1 Income obtained by means of a Permanent Establishment

The taxable income of a company's permanent establishment is calculated according to the normal rules of Corporation Tax with the following conditions:

- Payments made to its parent company - or any other of its permanent establishments - of royalties, interest, commission, for technical assistance or for the use of any assets or rights are not deductible.
- Management and general administration costs payable in respect of the permanent establishment are deductible provided that they are reasonable and consistently applied and shown in the Annual Report and Accounts.

Taxable income is charged at the general Corporation Tax rate of 30%.

The foreign entities' permanent establishments are subject to the same formal registry and accounting obligations as entities resident in Spain.

It is relevant that profits of a Permanent Establishment when transferred abroad, are subject to an additional tax of 19% is payable on the transferred income. This additional taxation does not apply if:

- There is a Double Taxation Treaty, different to Treaty with the United States
- The non-resident entity is resident in a Member State of the EU.

4.2 Income obtained without a Permanent Establishment

The taxable income is the gross income amount received by the non-resident, which means that expenses and costs cannot be deducted except in the case of certain businesses (technical assistance, installation or assembly work, the provision of services, and in general economic activities in Spain) where personnel costs and the cost of materials and supplies can be deducted.

As far as capital gains are concerned the taxable amount is the difference between the value on disposal of the asset in question and its acquisition cost updated, only for immovable property, by the application of the indexation rates approved annually in the Finance Act.

Each source of income or capital gain is taxed separately. Tax rates are as follows:

- General tax rate: 24%
- Dividends, interest and capital gains: 19%
- Payments to non-resident staff working in Spanish embassies and consulates abroad: 8%
- Pensions: the rate depends on the level of income
- Reinsurance operations: 1.5%
- Sea and air transport businesses, which are resident abroad and whose ships or planes enter Spanish Territory: 4%
- Royalties: 10% when the recipients are EU residents and meet the requirements prescribed by law.

Lastly, in case of the transfer of real estate located in Spain by non-residents without a permanent establishment, the buyer is obliged to withhold and pay into the tax office 3% of the sale price as a payment on account of the non resident seller.

Fiscal Representative

Non resident entities in Spanish territories are required, in some cases, to appoint an individual or a legal entity residing in Spain to represent them before the tax authorities. The same obligation exists for individuals or companies resident in countries or territories with which there is no effective exchange of tax information who own property situated or rights which are fulfilled or exercised in Spain, excluding securities negotiated in official secondary markets.

The fiscal representatives of companies operating in Spain by means of a permanent establishment are considered to be the person or legal entity named as such in the Companies Register and, if no name is given, the people empowered to contract in the name of these establishments.

Special Tax on Real Estate

Non-resident entities that own real estate or have real property rights in Spain are subject to a special tax on real estate. The tax is accrued on 31 December each year and it has to be paid during the following month of January and it is the result of applying a 3% tax rate on the value of the real estate. This special tax is not applicable to some specific entities like:

- Foreign States, Public Institutions and International Organisations
- Entities with the right to benefit from a Double Tax Treaty.

Exemption for Certain Income Stemming from the European Union

Amongst others, the following sources of income are exempt:

(a) Income and capital gains deriving from investments in Spain owned by non resident entities which have no Permanent Establishment in Spain and are resident in other member states of the EU. This beneficial arrangement is not available for capital gains arising from the disposal of shares or other interests in companies in the following cases:

- The assets of the company consist mainly of real estate in Spain
- The participation has not been of at least 25% during the previous year to the date of the disposal.

(b) Income and capital gains obtained by non-resident entities without a permanent establishment in Spain from Spanish Government Debt.

(c) Income arising on accounts held in Spain by non residents and paid to non residents entities, unless the payment is made to a permanent establishment located in Spain by a Spanish financial entity.

(d) Income derived from securities issued in Spain by non-residents without a permanent establishment whatever the residence of the financial institutions that act as paying agents or are involved in the issue or transfer of the securities.

(e) Income derived in Spanish territories, without permanent establishment, from finance leases, disposal or transfer of containers or of an unequipped ship or plane used in international shipping or aviation services.

(f) Profits distributed by subsidiary companies resident in Spain to their parent companies resident in other EU member states, provided that certain conditions are met.

(g) Income derived by non-residents without a permanent establishment in Spain from the transfer of securities or the repayment of units in investment funds carried out on officially recognised secondary markets for Spanish securities provided that they are resident in a country which has a Treaty with Spain containing an exchange of information clause.

(h) Dividends and shares in profits obtained without a permanent establishment by individuals resident in another member State of the European Union or in countries with which there is an effective exchange of information, with a limit of €1,500, in a calendar year.

The exemptions described under (a), (b), (g) and (h) are in no event applicable to income obtained from tax havens.

Double Taxation Agreements

Taxation of income obtained by non-resident Companies in Spain is also subject to the application of Double Taxation Agreements. Tax Treaties override Spanish internal Law; in consequence, the income obtained in Spain by a company resident in a country with a Double Taxation Agreement, is subject to the text of the Treaty as long as this gives rise to a more beneficial treatment. Spain has signed more than 60 Double Taxation Agreements.

Tax havens

From time to time the Spanish authorities approve the list of jurisdictions considered as tax havens. These jurisdictions have special regulations.

Other Taxes

Capital Duty

This tax applies to *inter vivo* transfers of all kind of goods and rights, and the granting of rights and concessions as well as company transactions: the setting up of companies, increases and decreases of share capital, mergers, divisions and liquidations of companies and contributions made by shareholders to restore fund losses.

The main tax rates are:

- Transfers of real estate are taxed at a rate of 6% on the market value of the real estate transferred. An Autonomous Community may fix its own rate (e.g. Catalonia is 7%)
- Transfers of movable assets are taxed at 4%
- Company transactions are taxed at the rate of 1%

In relation to legal documents, Capital Duty tax is levied on stamped legal documents and applies to notarized documents both commercial and administrative.

Customs Duties

Standard (customs) duties are generally payable when goods are cleared by customs. With very few exceptions, the duties are *ad valorem*, i.e. calculated on the CIF value or on a similar invoice value.

Local Taxes

The following local or municipal taxes are worthy of special mention:

- Tax on Economic Activities *(Impuesto sobre Actividades Económicas, IAE)*

This arises on the exercise of a business, professional or artistic activity and also accrues on an annual basis. This tax is not applicable during the first two years of the trade or if the turnover of the individuals or companies does not exceed €1,000,000.00.

The tax payable depends on the kind of the activity as well as on the elements used, like the premises and industrial means.

- Council Tax *(Impuesto sobre Bienes Inmuebles, IBI)*

Liability to the tax derives from the ownership of real estate or from the ownership of a life interest or right of use of property and from the holding of an administrative concession. The tax payable is based on the council tax value of the property and is payable annually. Tax rates depend on every Council and are payable annually.

- Tax on the Increase in Value of Land

This tax is levied on the increase in value of urban land and arises on occasion of its transfer or the constitution of any legal rights of enjoyment of it (life interest, right of use etc.).

Tax payable basically depends on the years elapsed, the cadastral value of the land as well as on the rate that is established by every council.

Personal Income Tax

Basic Aspects

Tax liability arises on the obtaining of income by individuals resident in Spanish territory. Tax residence is deemed from a stay of more than 183 days of the year on Spanish territory. In addition, it is assumed that a taxable individual has habitual residence in Spain when the main centre of his or her business or economic interests is situated in Spain.

Individuals with Spanish nationality who transfer their residence to a tax haven remain liable to this tax in the year in which they move and for the following four years.

Families may opt either for joint taxation or for separate taxation for each of their members.

Tax Base and Rates Applicable

The determination of the tax base results from the addition of two different sub tax bases:

General Tax Base: All kinds of income are included in this category, except those who are deemed to be included in the Special Base detailed below. The incomes included in this category are taxed at a progressive tax rate.

Taxable income up to	Total payable	Rest of taxable income up to	Rate applicable
0	0	€17,707.20	24%
€17,707.20	€4,249.73	€15,300.00	28%
€33,007.20	€8,533.73	€20,400.00	37%
€53,407.20	€16,081.73	remainder	43%

Special base for interests, dividends and capital gains:

The tax rates applicable for the incomes included in this category are the following:

- 19% for the first €6,000
- 21% for income in excess of €6,000.

Tax Allowances

Some of the tax allowances are as follows:

(a) Deduction for the cost of acquiring or restoring the taxpayer's habitual residence

(b) Deduction for business activities: taxpayers who carry out business activities on their own risk may apply the incentives and aids to investment available under Corporation Tax rules, except deductions for reinvestment of extraordinary profit due to the fact are taxed at reduced rate of 19%/21%.

(c) Deductions for donations: donations made to certain qualified bodies give rise to an Income Tax deduction.

(d) Deduction for international double taxation: if a tax similar to Spanish Income Tax has been paid abroad on earnings or capital gains received abroad, then a deduction from Spanish tax is available at the lower of the following amounts:

- The actual amount paid abroad
- The amount arising from applying the average rate of charge to the tax base charged abroad.

Special Regime for Impatriates Working in Spain

Individuals who acquire tax residence in Spain as a result of moving into Spain for work purposes may choose to pay IRPF or IRNR during the tax period in which the change of residence takes place and for the following five tax periods if they meet the following conditions:

- They were not residents of Spain in the ten years prior to their new move to Spain.
- The move to Spain is the result of an employment contract.
- The work involved is actually carried out in Spain.
- The work is carried out for a resident company or body corporate or the permanent establishment (PE) in Spain of a body corporate that is not a resident of Spain.
- That the wages received not be higher than €600,000.

The earned income deriving from said employment is not exempt from IRNR.

- Taxpayers who choose to pay IRNR shall, as a real obligation, be liable to capital tax.

This voluntary regime allows employees to be taxed at a 24% tax rate instead of the general tax rate. Thus it is especially recommended for individuals with a high level of income.

- The option to apply the special tax regime in Spain for impatriates should be communicated to the Spanish Tax Authorities during the 6 mouths from the registration of such non tax resident in the Social Security.

After receiving the application, the tax authorities shall issue and provide the employee with a certificate to be given to the employer, so the employer may withhold tax in accordance with the regulations governing IRPF or IRNR as from the date indicated on said certificate.

Inheritance and Gift Tax

This tax applies to the acquisition of goods and rights by inheritance and by gift, as well as the receipt of amounts by the beneficiaries of life insurance policies, when the person paying the insurance is different from the beneficiary.

Taxpayers with tax residence in Spain are taxable irrespective of the place where the acquired assets or rights are situated. Non-residents will be taxed on assets located in Spain or rights that may be exercised in Spain.

It is very important to note that the regulation of this tax varies in a very substantial way depending on the Local Administration in which the individual resides.

Auditing and Accounting

On 4 July 2007 the Spanish state published a law to reform and adapt business-related legislation in matters relating to accounting with the aim of achieving international harmonisation. In particular, the Spanish accounting reform was based on the framework defined by the EU's Fourth Council Directive, which concerns individual annual accounts, and the Seventh Council Directive, which covers consolidated accounts.

The reform resulted in the approval of a New General Chart of Accounts and a New Chart of Accounts for SMEs on 16 November 2007. Companies qualify to use the latter system if they satisfy at least two of the following conditions for two consecutive financial years, as of the closing date for each year:

- Total assets do not exceed €2,850,000
- Net sales do not exceed €5,700,000
- The average number of workers does not exceed 50 employees.

Under the Spanish legislation in force, company directors are obliged to prepare annual accounts within three months of the close of each financial year. The annual accounts must comprise the following: balance sheet, profit and loss account, statement of changes in equity for the financial year, statement of cash flows, notes on the accounts, and annual report.

A statement of cashflow is not required in the case of companies that qualify to use the New Chart of Accounts for SMEs. The general meeting of shareholders must approve the annual accounts within six months of the close of each financial year.

Company directors are obliged to submit the annual accounts to the Companies Register for the company's registered office within one month of their approval, and annual accounts are available to the public from the time they are submitted to the Trade Register.

The annual accounts must be reviewed by a statutory auditor listed with the Official Register of Statutory Auditors (Registro Oficial de Auditores de Cuentas), except in the case of companies that qualify to use the New Chart of Accounts for SMEs.

Useful websites

www.aeat.es	Taxation Agency (Government of Spain)
www.meh.es	The Ministry of the Treasury (Government of Spain)
www.ine.es	National Statistics Institute
www.bde.es	Banco de España
www.cambrabcn.org	Barcelona Chamber of Commerce
http://ec.europa.eu/taxation_customs/index_en.htm	Taxation and Customs Union - European Commission