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REGIME AND TAX INCENTIVES

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INDEX

A, CORPORATE TAX REGIME

A1 RESIDENT COMPANIES

Certain entities, including legal entities, which have their tax residence in Spain are taxpayers of corporate income tax (CIT). For these purposes, an entity is tax resident in Spain and, therefore, has to pay CIT on the income it obtains worldwide, regardless of the place where it was produced and whatever the residence of the payer, when the company meets any of the following requirements:

- It has been incorporated under Spanish law.
- It has its registered office in Spain.
- It has its effective place of management in Spain.

For these purposes, it will be understood that an entity has its effective place of management in Spanish territory when this is the place from where the management and control of all its activities are carried out, i.e., the effective management of the company is exercised. For practical purposes, the determination of the seat of management of the entity is an aspect scarcely defined in the regulations, unlike the other two requirements. By way of example, the place where the most relevant decisions for the management of the entity are taken could be considered as the effective place of management.

Concerning the above requirements, there is no preference between them, so that it could be the case, for example, that those entities that have no special link with the Spanish territory, either because they do not carry out their economic activities there, or because the decisions to direct the corporate activity are not taken from Spain, may, by the mere fact of being incorporated in that territory, benefit from the advantageous tax regimes to which certain CIT taxpayers are entitled, even though they do not have substantive economic links with Spain.

Finally, the Tax Administration may presume that an entity located in a country or territory with no taxation, or qualified as a tax haven, has its tax residence in Spanish territory when:

- its main assets, directly or indirectly, consist of assets located, or rights that are complied with or exercised in Spanish territory, or;
- its principal activity is carried out in Spain.

The aforementioned presumption could be rebutted provided that such entity proves that its direction and effective management take place in that country or territory, as well as that the incorporation and operation of the entity respond to valid economic motives and substantive business reasons other than the management of securities or other assets.

1 Permanent Establishment in the Canary Islands of non-resident entities

Taxpayers operating in Spain through a Permanent Establishment (hereinafter, PE) are subject to Non-Resident Income Tax (hereinafter, IRNR).

For this purpose, most of the agreements entered into by Spain to avoid double taxation contain a definition of PE in accordance with the criteria of the Organization for Economic Cooperation and Development (OECD).

However, in the absence of a Double Taxation Convention (hereinafter, DTC), domestic regulations establish that a person or entity operates through a PE when:

- it has continuous or regular working facilities in Spain;
- it has a physical location in Spanish territory to carry out any type of work from where it performs all or part of its activity, or;
- acts in Spain through an agent with powers to enter into an agreement in the name and on behalf of the non-resident person or company, provided that such powers are regularly exercised.

In particular, management headquarters, branch offices, offices, factories, workshops, warehouses, stores or other establishments; mines, oil or gas wells, quarries, farms, forestry facilities, livestock farms or any other site where natural resources are harvested; and construction, installation or assembly sites whose duration lasts more than six months shall be considered PEs.

It should be noted that the Spanish High Court has issued several rulings and is adopting a functional approach to the issue of the existence of a PE. In this sense, it has allowed a flexible interpretation of what should be considered a PE, and specifically, of the concepts of dependent agent and fixed place of business.

As indicated in subsequent sections, profits obtained by the aforementioned permanent establishment would be taxed under the Non-Resident Income Tax (IRNR), the amount paid for this concept being determined according to the general regime of the Corporate Income Tax, with the possibility of applying the incentives of the Canary Islands Economic and Fiscal Regime (hereinafter, REF).

2 Permanent Establishment in the Canary Islands of an entity resident in Spain

As stated in the previous section, an entity would operate through a PE in the Canary Islands when:

- it has continuous or regular working facilities in the Canary Islands;
- it has a physical place located in the insular territory of the Canary Islands to carry out any type of work from where it performs all or part of its activity, or;
- acts in the Canary Islands through an agent with powers to enter into an agreement in the name and on behalf of the non-resident person or company, provided that such powers are regularly exercised.

This *modus operandi* would allow, in general, resident entities to establish themselves in the Canary Islands without the need to incorporate a new entity for this purpose (with the consequent saving of formal obligations that this entails), and they could also benefit from the tax incentives of the Economic and Fiscal Regime of the Canary Islands that the PE located in the Canary Islands could generate.

In this case, the application of (i) the Reserve for Investments in the Canary Islands (hereinafter, RIC) and (ii) the reduced tax rate in the Canary Islands Special Zone (hereinafter, ZEC) of the REF would be limited to the part of the tax base corresponding to the profits obtained by the permanent establishment located in the Canary Islands.

The rest of the REF tax incentives (for example, the Deduction for investment in New Fixed Assets) generated by the permanent establishment located in the Canary Islands could be applied by the entity with the general limits established in the regulations for their application, given that the quota for this tax is considered a single concept, without existing a theoretical quota attributable to the permanent establishment in the Canary Islands and another attributable to the rest of the entity.

A2 CORPORATE INCOME TAX

1 Tax rate

TAX RATE	
General	**25%**
New turnover < 1.000.000 €	**23%**
New Company	**15%**
Startups	**15%**

The general Corporate Income Tax rate applicable in Spain is 25%. However, depending on the type of entity and the business carried out, other tax rates may apply. Notwithstanding the foregoing, as mentioned previously, an entity resident in Spain will be considered as a taxpayer of CIT and will be taxed through CIT on its worldwide income.

In this sense, income attributable to a PE in Spain of foreign companies will be subject to IRNR at a tax rate of 25%. Likewise, foreign entities/individuals not established in Spanish territory that obtain income in Spain would also be subject to IRNR.

As from January 1, 2022, a minimum taxation of 15% of the taxable base is established for entities with a net turnover of at least 20 million euros or that, regardless of their turnover, are taxed under the tax consolidation regime.

However, this minimum taxation does not affect the application of the tax incentives derived from the Economic and Fiscal Regime of the Canary Islands which will be explained below, specifically, the application of these incentives may result in the reduction of this minimum taxation.

I Newly created companies

Newly created entities that carry out economic activities, for tax periods beginning on or after January 1, 2015, provided that they have been established after that date, will be taxed in the first tax period in which the taxable income is positive and in the following one, at the tax rate of 15 percent.

In connection with the foregoing, those entities that form part of a commercial group (Article 42 of the Commercial Code), whether national or international, will not be considered newly created entities, regardless of their residence and the obligation to prepare consolidated financial statements.

Likewise, the reduced tax rate of 15% will not be applicable if the economic activity of the entity had been previously carried out by other related persons or entities.

II Entities with net turnover of less than EUR 1 million

With effect for tax periods beginning on or after 1 January 2023, a reduced tax rate of 23% shall apply to those entities that meet the following requirements:

- They have a net turnover for the immediately preceding tax period of less than 1 million euros.
- They are not considered to be asset-holding entities.

III Startups

With effect for tax periods beginning on or after 1 January 2023, a reduced tax rate of 15% will apply to emerging companies or Startups, to which a specific section will be devoted below, in the first year in which they obtain a positive taxable income and in the following three years, provided that they maintain their status as an emerging company.

V Emerging companies or Startups and the tax benefits of this type of company

Emerging companies are treated differently from companies with conventional business models as they have specific characteristics, which also means that they can enjoy tax benefits that are exclusive to this type of company, in addition to those established for other companies that are not considered to be emerging companies or “start-ups”.

In this respect, an emerging company is considered to be a legal entity that simultaneously meets the following conditions:

- Being newly created, or not being so, when no more than five years have elapsed since the date of registration of its incorporation in the Commercial Register or in the Register of Cooperatives or more than seven years if the company is in the biotechnology, energy, industrial and other strategic sectors.
- It must not have arisen from a merger, spin-off, segregation or transformation of companies that are not considered as a start-up company.
- Not distribute or have distributed dividends, or returns, as the case may be.
- Not be listed on a regulated market.
- Have their registered office, registered office or permanent establishment in Spain.
- Have 60% of the workforce with employment contracts in Spain.
- The annual turnover of the company may not exceed 10 million euros.
- Develop an innovative entrepreneurial project with a scalable business model. Compliance with this requirement will depend on various factors such as the degree of innovation of the activity, market attractiveness, the business model adopted, competition in the sector, etc.

Entities wishing to avail themselves of the benefits and specialities of emerging companies or “Startups” must apply to ENISA (Empresa Nacional de Innovación, S.M.E., SA) to assess compliance with the above requirements.

Under no circumstances will the following be eligible for the tax benefits of start-ups:

Those that are not up to date with their tax and social security obligations;

- Those that have been convicted by final judgment for a crime of unfair administration, punishable insolvency, money laundering offences, among others, as well as those sentenced to the penalty of loss of the possibility of obtaining public subsidies or aid. Likewise, if their directors or partners with a shareholding of at least 5% of the share capital have been convicted;
- Those that have lost the possibility of contracting with the Administration;
- Those that carry out an activity that generates significant damage to the environment.
- Those that are acquired by another company that does not have the status of an emerging company.

Those entities that, in compliance with the aforementioned requirements, are considered to be emerging companies or "Startups" may enjoy the following tax benefits established exclusively for this type of company:

Thus, emerging companies or "Startups" will be able to enjoy the tax benefits indicated below:

• As we indicated in previous sections, they will be taxed in the IS at the tax rate of 15% in the first financial year in which they obtain a positive taxable base and the following three, provided that they maintain their status as an emerging company. Likewise, they are not obliged to file tax instalments in the first two years in which they obtain a positive taxable income.

• Provided that the start-up company is up to date with its tax obligations and files its tax returns on time, it may request deferred payment of the IS tax debt for the first two tax periods (12 months in the first period and 6 months in the second) in which the company has a positive tax base without providing guarantees or sureties or having to pay late payment interest (unlike other companies that are not considered "start-ups").

In addition to the tax benefits indicated above, emerging companies or "Startups" may apply the tax incentives indicated in the following sections.

2 Income

In general, the taxable income for CIT will include the income which, in accordance with the rules set forth in the Commercial Code, must be taken into consideration in the accounting profit of the entity, corrected by applying the provisions established in the regulations on CIT.

In Spain, the tax authorities are entitled to modify the accounting results exclusively to determine the taxable income for CIT purposes, in the event that they have not been calculated in accordance with generally accepted accounting principles.

I Valuation of inventories

In general, inventories are valued at acquisition or production cost using the average price or weighted average cost method. Notwithstanding the foregoing, the entity may use the FIFO (First In First Out) method if it considers it more convenient for management purposes.

In this regard, the tax regulations do not establish any specific criteria. Thus, the income determined in accordance with the rules of the Commercial Code must be included in the CIT taxable income.

II Losses and capital gains

Income derived from capital gains, in general, will be included in the CIT taxable base in the year in which they accrue, subject to the general tax rate of 25%.

Notwithstanding the foregoing, in the case of installment or deferred price transactions, the income will be deemed to have been obtained and will be included in the CIT taxable base proportionally as the corresponding collections become due, unless the entity decides to apply the accrual method.

Effective January 1, 2021, 95% of the income derived from the transfer of the shares of an entity resident in Spain will be exempt from CIT when the percentage of direct or indirect participation in the capital or equity of the entity is at least 5%.

In this regard, the aforementioned shareholding must be held uninterruptedly during the year before the day on which the aforementioned positive income is generated or, in the absence thereof, it must be held subsequently for the time necessary to complete said period. In this respect, for the computation of the term, the period in which the shareholding has been held uninterruptedly by other entities of the commercial group will also be taken into account (Article 42 of the Commercial Code).

Negative income derived from the transfer of shareholdings will only be deductible in the CIT when the percentage of direct or indirect participation in the capital or equity of the entity resident in Spain is less than 5%.

Likewise, being entities not resident in Spanish territory, the aforementioned negative income will be deductible provided that, in addition to complying with the requirements indicated in the previous section, the investee had been subject to and not exempt from a foreign tax of an identical or analogous nature to the CIT at a nominal rate of at least 10%. This requirement will be deemed to be met when the investee is resident in a country with which Spain has signed a DTA, which applies to it and which contains an exchange of information clause.

In any case, negative income generated in the event of extinction of the investee will be tax-deductible, unless they are the result of a restructuring operation.

In this case, the amount of the negative income will be reduced by the amount of the dividends or shares in profits received from the investee in the ten years before the date of extinction, provided that such dividends or shares in profits have not reduced the acquisition value and have been entitled to the application of an exemption or deduction regime for the elimination of double taxation, for the amount of the same.

Losses derived from the transfer of assets to another entity of the same tax group will not be deductible in the CIT of the year in which they accrue, and their deductibility will be deferred until the assets are canceled, transferred to an entity not belonging to the group, or when the acquirer ceases to form part of the group. However, in the case of depreciable assets, income not included in the CIT taxable base must be included in proportion to the depreciation recorded by the acquiring entity.

III Dividend income

Effective January 1, 2021, 95% of dividends received from companies resident in Spain will be exempt provided that the direct or indirect shareholding percentage of the entity owning the shares in the capital or equity of the entity is at least 5%. If the aforementioned requirements are not met, the income received as dividends must be included in full in the taxable income of the recipient of the dividends, thus being subject to CIT.

However, 100% of the dividends received from companies resident in Spain will continue to be exempt when the following requirements are met:

a. Dividends or shares in profits are received by an entity whose net turnover in the immediately preceding tax period is under 40 million euros, and the entity meets the following requirements:

   - Not being considered as a patrimonial entity;
   - Not to form part, prior to the incorporation of the entity referred to in letter b) of this paragraph, of a group of companies within the meaning of Article 42 of the Commercial Code, regardless of residence and the obligation to prepare consolidated financial statements;
   - Not to have, prior to the incorporation of the entity referred to in letter b) of this section, a direct or indirect percentage of participation in the capital or equity of another entity equal to or greater than 5 percent.

b. The dividends or shares in profits come from an entity incorporated after January 1, 2021, in which it holds, directly and since its incorporation, the totality of the capital or shareholders' equity.

c. Dividends or shares in profits are received in the tax periods ending in the 3 years immediately following the year of incorporation of the entity distributing them.

It is also necessary to point out the existence of specific rules that would be applicable if the investee obtains dividends, shares in profits, or income derived from the transfer of securities representing the capital or equity of entities in more than 70 percent of its income.

IV Dividends in kind: issuance of fully or partially paid-up shares

The tax treatment for income tax purposes does not apply to shares granted to shareholders at no additional cost (i.e., shares granted partially or totally to shareholders in a capital increase charged to distributable reserves), although they must be taken into account when calculating the average cost of the shares for tax purposes when the shares are transferred.

V Interest income

As a general rule, income received by entities in respect of interest must be included in full in the CIT taxable base, the tax rate to be applied, being the general rate of 25%.

VI Royalty income

Royalty income (royalties) is included in the IS taxable base together with the rest of the income accrued by the entity. However, income from the assignment of the right of use or exploitation or the transfer of intangible assets created in the development of R&D and Innovation activities may qualify for a 60% reduction on the net income obtained if certain requirements are met (the effective tax on this net income would generally be 10%).

In this regard, and as from July 1, 2016, the regulations governing the aforementioned reduction have been amended in order to harmonize this tax incentive with the EU and OECD agreement. With this reform, the positive income from the assignment of the right of use or exploitation of certain intangible assets or the transfer thereof will be valid to generate a reduction in the taxable base of the percentage resulting from multiplying by 60% a coefficient that cannot be greater than one (the maximum reduction will be 60%).

VII Other significant items

The following items, among others, are excluded from taxable income:

- Dividends distributed corresponding to profits obtained by companies in tax periods in which the flow-through regime (domestic and international) has been applied.
- Assets accounted for under revaluation laws and tax-sheltered restructuring transactions involving book capital gains.

VIII Foreign source income

Companies resident in Spanish territory must pay CIT on their worldwide income. Thus, to the extent that entities receiving income from foreign sources are taxed on such income both in Spain and in the foreign country where the income was generated, they may be entitled to total or partial tax relief in the form of tax credits or exemptions.

The aforementioned tax credits or exemptions include:

- ***Economic double taxation***, i.e., when the same income is taxed by two different taxpayers. For example, when profits are taxed in the headquarters of the entity that obtains them and are taxed again in the partner when such profits are distributed in the form of dividends, therefore, dividends received by a company resident in Spain from another company resident in another State will be subject to international double taxation when they are taxed by the respective Corporate Taxes of the entity that distributes (corporate profits) and the entity that receives them (dividends).
- ***Legal double taxation***, that is when the same income is taxed in two different countries in the hands of the same taxpayer for a tax of the same nature. This situation arises when different criteria are adopted between countries for taxing the income obtained. For example, a taxpayer is taxed on the same income in the country in which he resides and is taxed in the country in which the income was obtained.

In this sense, with effect from 1 January 2021, 95% of dividends or shares in profits of entities received by a Spanish company from a foreign entity are exempt from CIT, provided that the following requirements are met:

- The percentage of participation of the Spanish entity in the entity distributing dividends must be at least 5%.

  The corresponding share must be held uninterruptedly during the year before the day on which the profit to be distributed becomes payable or, failing that, must be held thereafter for the time necessary to complete that period.

- For the computation of the term, the period in which the participation has been uninterruptedly held by other entities that are part of the same commercial group will also be taken into account (Article 42 of the Commercial Code).

  The investee must have been subject to and not exempt from a foreign tax of an identical or analogous nature to income tax at a nominal rate of at least 10% in the year in which the profits to be distributed or in which the investee participates were obtained.

- This requirement will be deemed to be met when the investee is resident in a country with which Spain has signed an agreement to avoid international double taxation, which applies to it and which contains an information exchange clause.

  The aforementioned exemption would not be applicable in relation to dividends or profit-sharing whose distribution would have generated a tax-deductible expense in the distributing entity.

Likewise, with effect from 1 January 2021, 95% of the positive income obtained in the transfer of the participation in a foreign entity will be exempt, when the aforementioned requirements are met.

Both the exemptions for dividends and capital gains obtained on the transfer of shares do not apply when the investee company is resident in a tax haven, unless it is an EU member state and the company can demonstrate that it has been incorporated and operates for valid commercial reasons and that it carries out commercial activities.

In this regard, it should be noted that these exemptions may be limited in certain cases.

On the other hand, it should be taken into account that in the event that the investee obtains dividends, shares in profits, or income derived from the transfer of securities representing the capital or equity of entities in more than 70% of its income, a series of special rules established in the tax regulations would be applicable.

As an alternative to this 'tax exemption' regime applicable only to dividend distributions and capital gains derived from the transfer of securities representing the capital or equity of entities, a tax credit based on imputation is established.

Thus, when dividends or shares in profits paid by an entity not resident in Spanish territory are included in the taxable income of the entity resident in Spanish territory, the tax actually paid by the latter in respect of the profits out of which the dividends are paid will be deducted, in the corresponding amount of such dividends, provided that such amount is included in the taxable income of the taxpayer.

This deduction may not exceed the gross tax payable in Spain on this income if it had been obtained in Spanish territory. For the calculation of the gross tax liability, the exemption of 95% or 100% of the dividends, as applicable, indicated in the section "Dividend income" of this guide, must be taken into account.

Amounts not deducted due to insufficient taxable income may be deducted in subsequent tax periods, without any temporal limitation in this respect.

Notwithstanding the above, it is necessary to point out that EU DTAs and tax directives could establish other methods to avoid double taxation such as the traditional deduction of a tax credit from the tax actually paid, tax exemption or the exclusive right to tax, tax exemption clause, which allows the deduction of not only the tax actually paid but also a higher amount of tax.

3 Income from certain intangible assets ("Patent box")

A reduction in the corporate income tax base of up to 60% is allowed for positive income obtained from the assignment of the right to use or exploit certain intangible assets, as well as from the transfer of intangible assets between entities that are not related.

The intangible assets that qualify for the aforementioned reduction are patents, utility models, complementary certificates for the protection of medicines and phytosanitary products, legally protected designs and models derived from research and development and technological innovation activities, and advanced registered software derived from research and development activities.

The applicable reduction percentage is obtained by multiplying 60% by the result of the following coefficient:

- In the ***numerator***, the expenses incurred by the entity transferring the right to use or exploit the intangible asset:

  - Directly related to the creation of the asset.
  - Those arising from subcontracting with third parties unrelated to the transferor entity in connection with the creation of the asset.

  These expenses shall be increased by 30%, but in no case may the numerator exceed the amount of the denominator.

- In the ***denominator***, the expenses incurred by the entity transferring the right to use or exploit the intangible asset:

  - Directly related to the creation of the asset.
  - Those arising from subcontracting with third parties, whether or not they are related to the transferor.
  - Those relating to the acquisition of the intangible asset.

  Therefore, the fundamental difference in the expenses arising from subcontracting with third parties to be included in the numerator and in the denominator is that, while the numerator includes only expenses with unrelated third parties, the denominator may include expenses with both related and unrelated third parties.

  In no case shall financial expenses, depreciation of real estate, or other expenses not directly related to the creation of the asset be included in the above ratio.

In order for the reduction to be applicable, the following requirements must be met:

- **Use of the rights of use or exploitation:**

  The transferee must use the rights to use or exploit the intangible assets in the development of an economic activity.

  This tax incentive will not be applicable in the event that the transferee and the transferor are fiscally related entities. In this case, the income obtained by the transferor entity cannot be subject to reduction.

- **Assignee's residence:**

  The transferee does not reside in a country or territory with zero taxation or qualified as a tax haven, unless it is located in a Member State of the European Union and the taxpayer proves that the operation responds to valid economic reasons and that it carries out economic activities.

- **Separation of services:**

  When the contract for the assignment of the intangible asset includes the provision of other ancillary services, the consideration for such services must be identified in the contract.

- **Separate accounting:**

  The entity has the necessary accounting records in order to be able to determine each of the revenues and expenses related to the intangible assets assigned or transferred.

4 Tax credits

Spanish tax legislation does not establish a specific tax credit applicable to foreign investors. Thus, the tax relief available under the CIT law in Spain is as follows.

In this regard, it should be noted that most of the tax credits that had been established to promote certain investments have been eliminated. However, the CIT regulations continue to maintain the most important tax credits, i.e., exemptions, deductions to avoid domestic and international double taxation, deductions to encourage scientific research (R&D) and technological innovation (TI) activities, etc. Likewise, the CIT regulations also provide for the generation of deductions to incentivize activities of Spanish film productions and the production of audiovisual fiction, animation, or documentary series.

It is also necessary to take into account that, due to the outermost location of the Canary Islands, a specific economic and ***tax regime is applicable in this territory that is partially different from the general regime applicable in the rest of Spain***.

In this sense, ***most of the deductions regulated in the IS are 80% higher for companies and businesses established in the Canary Islands, being the increase of the tax credit of at least 20 percentage points***. As a consequence, entities established in the Canary Islands have one of the most profitable tax regimes in Europe according to the Law 19/1994 that regulates the Canary Islands Economic and Fiscal Regime.

In relation to the above, as previously indicated, the minimum taxation of 15% established as from January 1, 2022 for those entities with a net turnover of at least twenty million euros or that, regardless of their turnover, are taxed under the tax consolidation regime, does not affect the application of the tax incentives derived from the Economic and Fiscal Regime of the Canary Islands that will be explained below.

This means that the tax incentives applicable in the Canary Islands may result in a reduction of such minimum taxation. Consequently, entities established in the Canary Islands enjoy tax benefits with more beneficial and advantageous conditions than those provided for entities not established in the Canary Islands:

(i) Substantially higher deduction percentages in relation to the deduction modalities available at national level.
(ii) Applicability of deduction modalities exclusively available in the Canary Islands.

I Reserve for investments in the Canary Islands [1]

This tax incentive applies to resident legal entities subject to CIT, operating in the Canary Islands through a PE (it is also possible to apply to entities not resident in Spanish territory operating in the Canary Islands through a PE).

In this sense, companies are entitled to a reduction of the CIT taxable base in each tax period for allocations made to the Reserve for Investments in the Canary Islands (hereinafter, RIC), with a limit of 90% of the undistributed profits after CIT corresponding to their establishments located in the islands.

The requirements to apply the tax incentive are as follows:.

- **Authorized investments.** The allocations made to RIC must be materialized in initial or operating investments.
- **Location of the assets.** The assets in which the investment is made must be related to the economic activity carried out by the entity, as well as be located or received and used in the Canary Islands.

[1] Only in the Canary Islands.

- **Time of materialization.** Investments made for the purpose of materializing RIC allocations must be made within 4 years from the end of the fiscal year whose profit is subject to reduction. In this sense, it is understood that the investment is made when the assets enter into operation.
- **Maintenance of investments.** The investments made in order to materialize the allocations made to the RIC must remain in operation in the company for at least 5 years without being transferred or leased to third parties for their use.
- **Allocation and unavailability of the RIC.** The allocations made to the RIC must be recorded in the entity's balance sheets with absolute separation and appropriate title, not being available whenever the assets in which they have materialized must remain in the company.

II Taxable income equalization reserve

The possibility is introduced of reducing the positive taxable income of small entities by up to 10% by establishing a non-distributable reserve for the amount of the reduction (reserve for the equalization of tax losses). The reduction may not exceed 1 million euros and will be added to the taxable income of the tax periods ending in the 5 years immediately following the end of the tax period in which the reduction is made, provided that the taxpayer has a negative taxable income, and up to the amount of the reduction.

III Capitalization reserve

Taxpayers taxed at the general tax rate would be entitled to a reduction in their taxable income of 10 percent of the amount of the increase in their equity, to the extent that (i) the amount of the increase in the entity's equity is maintained for a period of 5 years from the end of the tax period to which this reduction corresponds, except for the existence of accounting losses in the entity; and (ii) a reserve is set aside for the amount of the reduction, which must appear in the balance sheet with absolute separation and appropriate title and will not be available during the period provided in the preceding paragraph.

IV Special Regime for Companies Producing Tangible Assets [2]

CIT taxpayers may apply a 50% rebate of the gross tax liability corresponding to income derived from the sale of tangible goods produced in the Canary Islands from agricultural, livestock, industrial, and fishing activities, provided that, in the latter case, the deep-sea fishing is landed in Canary Islands ports and is handled or processed in the archipelago.

Persons or entities resident in the Canary Islands or in other territories that are engaged in the production of such goods in the archipelago, through a branch or permanent establishment, may benefit from this tax credit, which would mean a reduction of 12.5% in the effective taxation of the beneficiary entities. For the entities under the special regime of the Canary Islands Special Zone (ZEC), the effective taxation could be 2% of the total tax liability.

[2] Only in the Canary Islands.

V Deduction for investments in R&D and technological innovation [3]

For these purposes, the following shall be considered as:

- **Research and development (R&D):** In general, research involves planned original inquiry aimed at discovering new knowledge and superior understanding in the scientific and technological field, while development involves the application of the results of research or any other type of scientific knowledge for the manufacture of new materials or products or the design of new processes or production systems, as well as for the substantial technological improvement of pre-existing materials, products, processes or systems.

  For example, the creation, combination and configuration of advanced software, the design and elaboration of the sample book for the launching of new products, etc.

- **Technological innovation (TI):** is the activity whose result is a technological advance in obtaining new products or production processes or substantial improvements to existing ones.

  Among others, this activity will include the materialization of the new products or processes in a plan, scheme, or design, the creation of a first non-marketable prototype, etc.

The performance of the aforementioned research and development (R&D) and technological innovation (TI) activities allow the application of the following deductions on the income tax liability:

- 45% of the expenses derived from research and development and technological innovation activities carried out in the Canary Islands (if they are carried out in Mainland Spain, 25% is applicable in the case of research and development activities and 12% in the case of technological innovation activities).

  In general, the base for the application of the aforementioned deduction percentages will be constituted by:

  - **Research and development (R&D):** the amount of research and development expenses and, if applicable, investments in property, plant and equipment and intangible assets, excluding buildings and land, including depreciation of assets assigned to the aforementioned activities, decreased by subsidies received for the promotion of the aforementioned activities.
  - **Technological innovation (TI):** the amount of expenses for the period in technological innovation activities, decreased by subsidies received for the promotion of the aforementioned activities.

- Additionally, in the case of research and development (R&D) activities, the following deductions may also apply:

  - In the event that the expenses of the period are higher than the average of those incurred in the previous two years, 37% is applied on the amount that exceeds that average expense (in the case of mainland Spain, 17% is applied).
  - 37% (in mainland Spain, 17% is applied) of the personnel expenses for the tax period corresponding to qualified researchers assigned exclusively to R&D activities.
  - 28% (in the case of the Spanish mainland, 8% is applied) of investments in fixed assets or equipment (excluding real estate and land) used exclusively for R&D activities.

[3] Increased advantage only in the Canary Islands.

		Canary Islands [4]	Rest of Spain
R+D	Deduction	**45%**	**25%**
	+ excess of average expenditure over the last 2 years	(+) 30,6%	(+) 17%
	Maximum of deduction	Up to **75,6%** [5]	Up to **42%**
TI	Deduction	**45%**	**12%**
Exclusive activity of R+D	Full-time researchers' salaries	(+) 37%	(+) 17%
	Investments in equipment	(+) 28%	(+) 8%

Never will the deduction surpass the 100% of the cost of R+D.

Companies that want to generate the tax deduction have different options to qualify and/or pre-certify their "R&D&I" activities. There are several methods to apply the deduction/tax credit:

- **Reduction of the Corporate Tax Base on the fiscal year:** up to 60%-90% of the tax base can be deducted every year (combined limit; pls. refer to page 22 for further information).
- **Accumulation of non-applied deductions (Tax Credit):** the remaining tax credit can be applied up and until 18 years after the deduction has been generated ('carry-forward'). The applicable 60%-90% joint limit holds valid.
- **Apply for cashback (optional at 20% discount)**, ie. allowing for 80% direct refund of the tax credit in a single cash-payment, typically one year after the tax credit was generated. These amounts must be reinvested in new R&D and/or Technological Innovation projects within 24 months after the cashback, and the employment created shall be kept in the company for a precise period. Duly note that companies under the regime of the 'Canary Islands Special Zone' (ZEC) may not request the monetization/cashback.
- **Applying through a 'Agrupación de Interés Económico'/Economic Interest Group (AIE):** both the Law 12/1991, of April 29, and the Corporation Tax Law (Chapter II, articles 43 to 47) regulate AIEs as a vehicle for making use of tax incentives. AIEs are non-profit commercial companies whose purpose is to facilitate the results of the activity of its partners, so that their conduct a differentiated economic activity from the promoters of the project.

  They are formed ad-hoc by at least two entities, to address the need of "R&D" promoters for upfronted cashflow and the need of a third party with extensive positive tax quota to reduce their fiscal burden. This method allows transferring the tax deduction to third parties unrelated to the "R&D&I" project. Selected financial and non-financial institutions are involved in the design and management of said vehicles.

[4] Increased advantage only in the Canary Islands.
[5] Increase of 30.6% proportional to the excess of average expenditure over the last two years (45% + 30.6% = 75.6%).

VI Deduction for film productions and live shows [6]

The Economic and Fiscal Regime of the Canary Islands, validated by Spanish and European regulations, establishes for the Canary Islands a special legal-fiscal framework that allows audiovisual productions to benefit from the following tax deductions.

1. Foreign productions ("Tax Rebate")

Producers or companies providing production services with tax residence in the Canary Islands and responsible for the execution of a foreign production (production services companies) will be entitled to a deduction of 50%[7] of the expenses incurred in the Canary Islands on the first million euros and 45% on the rest. This tax incentive may not exceed 36 million euros[8] in the Canary Islands (in the case of audiovisual series, 18 million per episode produced), (in the case of audiovisual series, 18 million per episode produced).

The expenses that are subject to deduction correspond to the following production-related expenses incurred in the Canary Islands:

- The expenses of creative personnel, provided that they have tax residence in Spain or any Member State of the European Economic Area.
- Expenses derived from the use of technical industries and other suppliers.

For this purpose, the minimum amount of expenses incurred must be at least 1 million euros, while those related to pre-production and post-production expenses for animation and visual effects must exceed 200,000 euros.

The deduction provided for in this section will be deductible in the full amount of the CIT from the tax period in which the production of the work is completed. In the event that the deduction generated could not be applied in the CIT due to insufficient quota, the deduction pending application may be deducted during the following 15 years.

[9]		Canary Islands	Rest of Spain
Deduction Rate	Of the first million euros	50%[10]	30%
	Thereafter	45%	25%
Limit of deduction		36.000.000[11]	20.000.000 €
Limit on the base of deduction		79.800.000 €	79.800.000 €

Please, refer to page 22 for information on limits on the application of tax credits.

[6] Increased advantage only in the Canary Islands.
[7] Up to 54% for the first million, when spending in the Canary Islands exceeds 1,900,000 €.
[8] By virtue of the provisions of the Fourteenth Additional Provision of Law 19/1994, of July 6, 1994, amending the Economic and Fiscal Regime of the Canary Islands.
[9] Increased advantage only in the Canary Islands.
[10] Up to 54% of the first million, depending on the type of production and the intensity of the public aids.
[11] By virtue of the provisions of the Fourteenth Additional Provision of Law 19/1994, of July 6, 1994, amending the Economic and Fiscal Regime of the Canary Islands.

2. Spanish productions or co-productions ("Tax Credit")

In the case of national productions or co-productions developed in the Canary Islands that obtain the corresponding certificate of nationality issued by the corresponding body of the Autonomous Community with competence in the matter, the deduction percentages are 50%[12] on the first million euros and 45% thereafter. TThis tax incentive may not exceed 36 million euros in the Canary Islands (in the case of audiovisual series, 18 million per episode produced), while in the rest of Spain the deduction may not exceed 20 million euros for each production carried out (in the case of audiovisual series, 10 million per episode produced).

Thus, Spanish productions of feature films or fiction, animation, or documentary audiovisual series that obtain the certificates of Spanish nationality and culture issued by the Institute of Cinematography and Audiovisual Arts (ICAA) and the Canary Islands Certificate of Audiovisual Production issued by the Government of the Canary Islands may benefit from this deduction.

Expenses subject to deduction are those related to the cost of production, i.e., the total amount derived from acquisition of goods and services necessary for the production of the work that are considered as production costs for accounting purposes, among others, production expenses, artists' rights, technical personnel, dubbing, developing, lodging and maintenance costs, as well as expenses for obtaining copies and advertising expenses to be paid by the producer. At least 50% of the deduction base must correspond to expenses incurred in Spanish territory.

The amount of this deduction together with the rest of the aid received may not exceed, in general, 50% of the production cost. However, the limit may be raised to:

- 85% for short films.
- 80%:
  - For productions directed by a person who has not directed or co-directed more than two feature films qualified for commercial exploitation in movie theaters, whose production budget does not exceed 1,500,000 euros.
  - For productions filmed entirely in one of the co-official languages other than Spanish that are screened in Spain in that co-official language or subtitled.
  - For productions directed exclusively by persons with a degree of disability equal to or greater than 33 percent recognized by the competent body.
- 75%:
  - In the case of productions made exclusively by female directors.
  - In the case of productions with a special cultural and artistic value that require exceptional financial support according to the criteria established by Ministerial Order or in the corresponding calls for aid applications.
  - In the case of documentaries.
  - In the case of animated works with a production budget not exceeding 2,500,000 euros.
- 60%:
  - In the case of cross-border productions financed by more than one European Union Member State and involving producers from more than one Member State.
  - In the case of international co-productions with Latin American countries.

[12] Up to 54% of the first million, depending on the type of production and the intensity of the public aids.
[13] By virtue of the provisions of the Fourteenth Additional Provision of Law 19/1994, of July 6, 1994, amending the Economic and Fiscal Regime of the Canary Islands.

Likewise, with the entry into force of Law 11/2020, of December 30, of the General State Budget for the year 2021, as of January 1, 2021, taxpayers who participate in the financing (investors) of these Spanish productions, as well as the costs of obtaining copies, advertising and promotion to be borne by the producer, up to a maximum of 30 % of production costs, without acquiring intellectual property rights or any other rights concerning the results thereof, whose ownership must, in any case, belong to the producer, may benefit from this deduction.

For the application of the incentive by the investor, it is necessary to sign one or more financing contracts with the producer, which may be signed at any stage of production, specifying, among other aspects, the identity of the producer and investor, description and budget of the production (with details of expenses), form of financing (with details of amounts contributed by the producer and investor), etc.

In the event that the deduction generated could not be applied in the CIT due to insufficient taxable income, the deduction pending application may be deducted during the following 15 years.

In this sense, as can be seen from the information contained in the preceding paragraphs, the deduction

14

		Canary Islands	Rest of Spain
Deduction Rate	Of the first million euros	50%[15]	30%
	Thereafter	45%	25%
Limit of deduction		36.000.000 €[16]	20.000.000 €
Limit on the base of deduction		79.800.000 €	79.800.000 €

Please, refer to page 22 for information on limits on the application of tax credits.

VII Deduction of New Fixed Assets

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In general, entities and/or permanent establishments with tax domicile in the Canary Islands may continue to apply the investment deduction provided for in the derogated IS Law of 1978 for investments made in new fixed assets as long as they remain in operation in the Canary Islands.

In this respect, entities or permanent establishments investing in new fixed assets, i.e. tangible fixed assets excluding land or natural assets, in the Canary Islands will be entitled to a deduction of 25 % of the acquisition value or production cost of the assets. In this respect, it should be borne in mind that the assets covered by the abovementioned DAFN must remain in operation in the company for five years, unless their useful life is shorter in accordance with the depreciation method used.

[14] Increased advantage only in the Canary Islands.
[15] Up to 54% of the first million, depending on the type of production and the intensity of the public aids.
[16] By virtue of the provisions of the Fourteenth Additional Provision of Law 19/1994, of July 6, 1994, amending the Economic and Fiscal Regime of the Canary Islands.
[17] Only in the Canary Islands.

VIII Investments in Africa and Foreign Advertising Expenditure

18 Entities, resident in the Canary Islands, whose Net Turnover in the immediately preceding tax period is equal to or under 10 million euros and with an average workforce of less than 50 people in that period will be entitled to the following deductions in corporate income tax:

Investments in Africa

15% of the investments made in setting up subsidiaries or permanent establishments in Africa (Morocco, Mauritania, Senegal, Gambia, Guinea and Cape Verde) provided that they meet the following requirements established in Law 19/1994:

- That the entity alone or jointly with other entities with tax domicile in the Canary Islands holds a shareholding of at least 50 percent in the capital or equity of the subsidiary.
- The investment in such permanent establishment must be maintained for at least 3 years.

The deduction for investments in Africa will be applied in the tax period in which the participating entity or the permanent establishments initiating the economic activity are subject to an increase in average staff in the Canary Islands, this increase will be compared to the average number of staff existing in the previous tax period and will be conditional on the maintenance of the same over a period of 3 years.

Foreign Advertising Expenditure

15% of the amount paid:

- Marketing and advertising expenses for product launches, opening and prospecting markets outside Spain.
- For attendance at fairs, exhibitions and events of a similar nature, held in Spain or abroad.

With regard to the previous deductions, i.e. for investment or advertising, when, without meeting the above requirements, the Net Turnover does not exceed 50 million euros and the average number of employees is less than 250, the percentage of the deduction will be 10%.

5 Limits on the application of tax credits

I Deduction for investments in R&D and Technological Innovation, film productions, audiovisual series and live performing arts and music shows

In general, the amount of the deductions for investments, applied in the tax period, may not exceed 25% of the gross tax liability, less deductions for international double taxation and allowances. However, the limit will be raised to 50% when the amount of the deduction for R&D and Technological Innovation corresponding to expenses and investments made in the tax period itself exceeds 10% of the tax liability, less the applicable deductions and allowances mentioned above. This general limits apply to a limited sub-set of the Deductions for Investments in the Canary Islands (DIC): 'Deduction for investments in Africa' and 'Deduction for Foreign Advertising Expenditure'. For the rest of the deductions, differentiated limits apply.

The rest of the deductions will have a particular consideration regarding the application limits in the Canary Islands, so that they remain clearly above the applicable limits in the rest of Spain. In the case of the Deduction for R&D&I activities and the Deduction for audiovisual productions, a joint limit of 60% of the gross tax liability applies (90%, if the expenses that justify the tax relief exceed the 10% percent of the gross tax due). However, the deduction for R&D and Technological Innovation activities may, optionally, be excluded from the aforementioned joint limit of 60% of the gross tax liability, applied with a discount of 20% of its amount.

[18] Only in the Canary Islands.

In the case of insufficient tax liability for the application of the deduction on R&D and Technological Innovation, the Tax Administration may be requested to pay the amounts not deducted by the provisions of Article 31 of Law 58/2003, of 17 December, General Tax Law, when at least one year has elapsed since the end of the tax period in which the deduction was generated, without the deduction having been applied.

For all this, the following requirements must be fulfilled:

- At least one year has elapsed since the end of the financial year in which it was generated without having been applied.
- An amount equal to the deduction applied to R&D and technological innovation expenditure or investments in tangible fixed assets or intangible assets used exclusively for such activities, excluding real estate, is used within 24 months after the end of the tax year in which the abovementioned deduction applies.
- The average number of employees (general staff or staff assigned to R&D and technological innovation activities) has not decreased between the end of the tax period in which the tax credit was applied and the end of the reinvestment period.

The taxpayer must own a 'Informe Motivado' issued by the Ministry of Economy and Competitiveness, or by a body attached to it (official certifying agencies), certifying that the activities carried out are R&D and Technological Innovation activities or that a prior agreement has been reached with the Spanish tax authorities on the valuation of the expenses and investments of the project.

The following aspects should also be taken into account:

- The deduction for technological innovation may not exceed the maximum limit of EUR 1 million per year.
- The combined deductions applied for technological innovation and the deduction applied for R&D in accordance with the above comments may not exceed EUR 3 million per year.

As a general rule, in the Canary Islands, the amount of the deductions on R&D and Technological Innovation and cinematographic and/or audiovisual productions together cannot exceed 60% of the gross tax liability (25% on the Spanish mainland). However, if the amount of the deduction for R&D and Technological Innovation applicable in the tax period exceeds 10% of the gross tax liability, the deduction on R&D and Technological Innovation is limited to 90% of the gross tax liability (50% in mainland Spain).

Notwithstanding the above, in the event of insufficient tax liability for the application of the deduction on R&D and Technological Innovation, it will be possible to request the monetisation of the deduction not applied, i.e. its payment to the tax authorities through the tax return, once at least one year has elapsed since the end of the tax period in which the deduction was generated, without it having been applied.

By way of summary, and taking into account the aforementioned aspects, the following are the limits to the application of the deduction for investments in R&D&I and film productions, audiovisual series and live performances of performing arts and music which, in general, would be applicable:

LIMITS ON THE APPLICATION OF TAX CREDITS

	LIMITS ON THE APPLICATION OF TAX CREDITS	
	Canary Islands [19]	**Rest of Spain**
Joint R&D and Technological Innovation and film production deduction limit	• The general rule, a maximum limit 60% of total tax liability. • If the expenses incurred in the year itself to generate the aforementioned deductions exceed 10% of the gross tax payable, a maximum limit of 50% of the gross tax payable.	• The general rule, a maximum limit 25% of total tax liability. • If the expenses incurred in the year itself to generate the aforementioned deductions exceed 10% of the gross tax payable, a maximum limit of 50% of the gross tax payable.

II Deductions for new fixed assets in the Canary Islands [20]

The deduction for new fixed assets in the Canary Islands will be 25% in respect of the investments made, the basis for the deduction being the acquisition price or production cost. This deduction, however, has limits that operate individually or jointly, the individual limit being 50% of the gross tax liability and the joint limit being 70% of the gross tax liability when the deduction for investments in new fixed assets from previous years is applied.

The deduction for new fixed assets in the Canary Islands will be 25% in respect of the investments made, the basis for the deduction being the acquisition price or production cost. This deduction, however, has limits that operate individually or jointly, the individual limit being 50% of the gross tax liability and the joint limit being 70% of the gross tax liability when the deduction for investments in new fixed assets from previous years is applied.

The combination of the deductions generated in the year together with those generated in previous years (which are pending application as they could not be applied in previous years due to the application of the limits indicated) may mean that the full amount of the gross tax liability is offset, so that no tax liability is generated.

III Temporal limit for the application of tax credits

Tax credits that are not used in the tax period of generation due to insufficient tax liability may be carried forward to future tax periods ending within 15 years immediately thereafter. However, tax credits from R&D and Technological Innovation investments may be carried forward to tax periods ending 18 years immediately thereafter, and tax credits for the avoidance of double taxation may be carried forward to subsequent tax periods without any temporal limit.

[19] Increased advantage only in the Canary Islands.
[20] Only in the Canary Islands.

IV Limits on the cumulative application of tax credits under the Canary Islands Economic and Fiscal Regime

Since the tax incentives established in the Canary Islands Economic and Fiscal Regime (REF) are considered to be State aid, certain limits apply to their cumulative application deriving from Community legislation.

For this purpose, it is necessary to distinguish between *'regional investment aid'* and *'regional operating aid'*:

1. Regional Investment aid

Aid for initial investment. The purpose of which is: the setting-up of an establishment; the extension of an establishment; the diversification of the activity of an establishment into new products; or the substantial change in the general production process of an establishment.

The following, *inter alia*, are considered to be regional investment aid:

- The deduction system for investments in the Canary Islands (DIC), when the investments made are considered to be initial investments.
- The reserve for investments in the Canary Islands (RIC), when the investments made are considered to be initial investments.
- The investment incentives regulated in Article 25 of Law 19/1994 of 6 July 1994, such as exemptions in the Tax on Transfer Tax and Stamp Duty and the Canary Islands General Indirect Tax related to investment goods.

The limits laid down in the Guidelines on national regional aid for 2014-2020, Regulation (EU) No 651/2014, and the other Community legislation applicable, where appropriate, in the field of State aid apply to this type of aid, i.e.:

	TYPE OF COMPANIES
Regional investment aid	General Rule. Limit: 35% Investment
	Medium-sized companies. Limit: 45% Investment
	Small companies. Limit: 55% Investment

However, although it has not yet been modified in the Spanish domestic regulations, as from January 1, 2022, new limits established in the Guidelines on national regional aid come into force, replacing those established by the Guidelines on national regional aid for 2014-2020. Thus, for tax periods starting from January 1, 2022 the following limits will result applicable:

	TYPE OF COMPANIES
Regional investment aid	General Rule. Limit: 50% Investment
	Medium-sized companies. Limit: 60% Investment
	Small companies. Limit: 70% Investment

For these purposes, the following shall be considered small and medium-sized enterprises:

- **Small companies:** Companies with an annual turnover (in general, Net Turnover) or total annual assets of under 10 million euros and less than 50 employees.
- **Medium-sized companies:** Companies with an annual turnover (in general, Net Turnover) of under 50 million euros or annuam balance under 43 million € and less than 250 employees.

2. Regional operating aid: to reduce a company's current expenses not linked to initial investment.

A joint limit of 30% of the annual turnover of the beneficiary obtained in the Canary Islands applies to this aid.

The following tax incentives, inter alia, are considered to be regional operating aid:

- The special regime for companies producing tangible goods.
- The deduction system for investments in the Canary Islands, when the investments made are not considered to be initial investments.
- Canary Islands Special Zone incentives.

- The special regime for companies producing tangible goods.

In addition, the following deductions are restricted:

- **Deduction for investments in West African territories and advertising and publicity costs:**
  - The amount of the deduction for investments in West African territories may not exceed EUR 7.5 million per company and per project.
  - The amount of the deduction for advertising and publicity expenses may not exceed EUR 2 million per company per year.
- **The amount of the deduction for advertising and publicity expenses may not exceed EUR 2 million per company per year.**

  The total amount of aid granted under this incentive may not exceed EUR 50 million per year.

6 Taxation period

The tax period comprises the company's financial year. The tax year may not exceed 12 months. The creation of a new entity, change of the accounting year, or dissolution of a company may result in a tax period shorter than one year.

7 Statements

The tax system in Spain is a self-assessment system, and tax returns can be inspected by the tax authorities.

Annual corporate income tax returns must be filed within 25 days after the six months following the end of the financial year (i.e. if the tax year coincides with the calendar year, the return must be filed between 1 July and 25 July of the following year).

8 Installment Payments

Three payments on account of corporate income tax must be made during the year, the deadline for making the payments will be during the first 20 days of April, October, and December. The final payment of corporate income tax must be made with the annual tax return.

For companies whose turnover, according to Spanish VAT law, during the 12 months before the start of the tax period exceeded EUR 6,010,121.04, the installment payments will be calculated by applying 17% to the taxable base (less any applicable tax loss) for each accumulated period, i.e. from 1 January to 31 March, from 1 January to 30 September and from 1 January to 30 November.

Small and medium-sized companies can choose to calculate their installment payments in the same way as large companies (applying a rate of 17%) or apply a rate (currently 18%) on the gross tax liability declared in the last corporate income tax return filed.

Open-end investment companies, financial investment funds, real estate investment companies, real estate investment funds, mortgages, regulatory market funds, and pension funds that meet certain requirements and are taxed at a tax rate of 1%, or even 0%, do not have to make installment payments and are not obliged to file the corresponding tax return.

Finally, emerging companies or “Startups”, to which a specific section will be devoted later, are not obliged to submit instalment payments during the first two financial years in which they obtain positive taxable income.

A3 TAX REGIME OF THE CANARY ISLANDS SPECIAL ZONE ("ZONA ESPECIAL CANARIA", ZEC)

The main advantage of this tax incentive is that newly created entities and branches established in the Canary Islands for the development of certain industrial activities or the provision of services may apply, provided they meet a series of requirements, a reduced tax rate of 4% on the part of the taxable base for corporate income tax corresponding to the operations they materially and effectively carry out in the Canary Islands (geographical area of the ZEC), instead of being taxed on these operations at the tax rate established in the general corporate income tax regime, i.e. 25%.

This tax regime was approved in January 2000 by the European Union, and it is the Spanish Government jointly with the Canary Islands Government who regulate this regime. The territory of application of this tax regime includes all the Canary Islands, and the companies that apply this tax regime can operate outside the Canary Islands through branches, provided that they maintain duly differentiated accounts.

The application of the ZEC Regime by branches belonging to companies which, in turn, apply the special tax consolidation regime does not exclude such companies from the tax consolidation group, so that the profits obtained by the ZEC branch must be declared separately.

For the application of this special tax regime, the company must meet the following requirements:

- Establish its registered office and its effective centre of management within the geographical area of the ZEC zone, i.e. the Canary Islands.
- Make an investment in fixed assets of at least 100,000 euros in the islands of Gran Canaria or Tenerife, or 50,000 euros in the islands of Fuerteventura, Lanzarote, La Palma, El Hierro or La Gomera, within the first two years of its activity. The investments must be in tangible or intangible fixed assets, located or received in the Canary Islands, in order to be used in the economic activity of the ZEC entity. In the case of used assets, they may not have been previously used for the ZEC.

  The assets must be held during the period of application of this special regime or, at least, during their useful life if this is shorter, and may not be leased or transferred to third parties for their use, unless it is for the corporate purpose or activity of the entity, and provided that there is no direct or indirect link with the lessees or transferees of such assets. Assets acquired through mergers, spin-offs, contributions of assets and exchanges of securities are not considered to be eligible investments.

  In relation to the above, those entities that meet the following requirements may apply for exemption from the minimum investment requirement:

  a) Creation of at least six jobs for the islands of Gran Canaria or Tenerife or four jobs for the other islands. The new workers must be hired under the ordinary or special employment regime, excluding administrators, on a full-time basis and for the whole of the calendar year. In the case of part- time, temporary or permanent contracts, or any other type of contract, they will be calculated in proportion to the full working day for the whole of the calendar year.

  b) That the applicant organisation carries out the following activities:
  - Those for which it has been attributed the status of innovative small or medium-sized enterprise (SME), a status granted by the Ministry of Science and Innovation, or those activities are aimed at obtaining this status.

- Those relating to R+D+I included in division 72 "*Research and Development*" of the statistical nomenclature of economic activities of the European Economic Community (NACE), such as basic research activities, applied research or experimental development.
- Those included in Section J "*Information and communication*" of the statistical classification of economic activities in the European Economic Community (NACE), such as software publishing activities, motion picture and sound recording activities, radio and television broadcasting and programming activities, telecommunications activities, activities using information technology (IT) and other information service activities.

In the event that the applicant entity does not meet any of the above requirements, there is the possibility of requesting a reduction in the minimum investment requirement for entities that create at least 10 jobs and are maintained for at least three years. Specifically, the amount of the minimum investment to be made by the entity would be lower the greater the number of jobs created, according to the following summary:

GRAN CANARIA Y TENERIFE	
Investment	**Number of new employees**
60.000 €	10
40.000 €	15
20.000 €	20
No minimum investment	25

RESTO DE ISLAS CANARIAS	
Investment	**Number of new employees**
30.000 €	6
20.000 €	8
10.000 €	10
No minimum investment	12

- To create at least five new jobs for the islands of Gran Canaria or Tenerife, or three for the other islands.
- Present a descriptive report of the economic activities to be carried out, which guarantees their solvency, viability, international competitiveness and their contribution to the economic and social development of the Canary Islands.
- At least one of the administrators or, in the case of branches, a legal representative, must be resident in the Canary Islands.
- Carrying out one of the commercial activities included in the list of permitted activities indicated in the Annex to the Law regulating the taxation regime.

However, entities that do not meet the above-mentioned fixed asset investment requirement may benefit from this special regime, provided that the number of jobs to be created and the current average number of employees exceeds the minimums established in the previous section.

The activities to be carried out that allow the application of the tax regime includes a wide range of industrial, commercial, and service activities, among them:

- **Industrial activities:** food, textiles, wood, paper, glass, metallurgy, machinery, vehicles, repairs, renewable energies, audiovisual production, etc.

- **Commercial and service activities:** transport, travel agencies, wholesale traders and broking, legal and accounting activities, head office and business management consultancy (excluding coordination centres and intra-group services), architecture and engineering, advertising and market research, etc.

- **Others:** Information and communication technologies (ICT), research and development (R&D), building refurbishment, security and research, training, various types of activities (professional and scientific, therapeutic care in residential centres, performing and performing arts, sport, recreation, and entertainment), etc.

- In the case of trade in goods (wholesale trade) consisting of the acquisition of goods for resale without the goods physically passing through the Canary Islands, the ZEC tax rate may be applied to the profits derived from these wholesale trade operations even when the goods do not physically pass through the Canary Islands, provided that the management of this activity is centralised in the Canary Islands and determines the closure of a business cycle with economic results.

- In this respect, this requirement of centralisation of the organisation, management, contracting and invoicing in the Canary Islands shall be deemed to be met when at least 90% of the expenses corresponding to the performance of these operations, excluding the cost of acquisition of the tangible goods delivered and those associated with the transport and traffic thereof, correspond to the use of the personal and material resources located in the Canary Islands.

To see the rest of activities, visit website of the ZEC.

Thus, activities related to real estate development (rehabilitation, reform, remodeling or renovation of buildings or spaces, as well as the on-site assembly of prefabricated constructions), tourism-accommodation activities, credit and insurance institutions and stock exchanges are not eligible for the ZEC.

The tax base on which the ZEC tax regime is to be applied is determined in accordance with the following rules:

- Companies that comply with the requirement to create a minimum number of jobs can apply the 4% tax rate on a maximum taxable base of EUR 1.8 million.
- The tax base on which the 4% tax rate is to be applied may be increased by EUR 500,000 for each job created above the minimum threshold, up to a maximum of 50 jobs. If more than 50 jobs are created, the 4% tax rate applies to the total amount of the tax base. These thresholds are considerably high and the tax relief is generally not limited.

A. CORPORATE TAX REGIME

	MAXIMUM OF THE TAX BASE ZEC	JOBS
Gran Canaria and Tenerife	**1.800.000 €**	5
	500.000 € additional for employment (maximum **24.300.000 €**)	6 - 50
	Unlimited tax base	+ 50
Remaining Canary Islands	**1.800.000 €**	3
	500.000 € additional for employment (maximum **25.300.000 €**)	4 - 50
	Unlimited tax base	+ 50
The reduction in tax liability resulting from the application of the 4% rate may not exceed 30% of the turnover of the ZEC entity.		

Under this tax regime, companies are also entitled to tax exemptions on IGIC, Transfer Tax and Stamp Duty, and large reductions and simplified regulations for local taxes.

Interest and certain other income from capital gains paid by companies under this tax regime are exempt from Non-Resident Income Tax, except when paid to taxpayers established in countries or territories with which there is no effective exchange of tax information, especially tax havens, and when the parent company has its tax residence in one of those countries or territories.

B. OTHER TAXES

B1 NON-RESIDENTS INCOME TAX (NIT)

1 Taxpayers or taxable persons

This tax is levied on the receipt of income, in cash or in kind, in Spanish territory by, among others, the following taxpayers:

- Individuals and entities not resident in Spanish territory that obtain income in Spain.
- Entities under the income attribution regime incorporated abroad that carry out an economic activity through a permanent establishment in Spain.

2 Subject income

Income from economic activities carried out through a permanent establishment located in Spanish territory.

- Income from economic activities or operations carried out without the intermediary of a permanent establishment located in Spanish territory in the following cases:
  - When the economic activities are carried out in Spain.
  - In the case of services used in Spain.
  - When they derive from the personal performance in Spain of artists and sportsmen and sportswomen or from any other activity related to such performance, even if they are received by a person other than the artist or sportsman or sportswoman.
- Income from work:
  - When they derive, directly or indirectly, from a personal activity carried out in Spanish territory.
  - In the case of public remuneration paid by the Spanish administration.
  - In the case of remuneration paid by natural persons engaged in economic activities, in the exercise of their activities, or by entities resident in Spanish territory or by permanent establishments located therein for employment on board a ship or aircraft in international traffic.
- Pensions and other similar benefits, when they derive from employment provided in Spanish territory or when they are paid by a person or entity resident in Spanish territory or by a permanent establishment situated therein.
- Remuneration of directors and members of boards of directors, of meetings acting in their stead or of representative bodies of an entity resident in Spanish territory.
- The following income from movable capital:
  - Dividends and other income derived from holdings in the equity of entities resident in Spain.
  - Interest and other income obtained from the transfer to third parties of own capital paid by persons or entities resident in Spanish territory, or by permanent establishments located therein, or in return for the provision of capital used in Spanish territory.

- Royalties or royalties paid by persons or entities resident in Spanish territory or by permanent establishments located in Spanish territory, or which are used in Spanish territory.
- Other unmentioned income from movable capital paid by individuals carrying out economic activities, in the course of their business, or entities resident in Spanish territory or by permanent establishments located therein.

- Income derived, directly or indirectly, from immovable property situated in Spanish territory or from rights relating thereto.
- Income attributed to individual taxpayers owning urban real estate located in Spanish territory not used for economic activities.
- Capital gains:
  - When they arise from securities issued by entities resident in Spain.
  - When they derive from other movable assets, other than securities, located in Spanish territory or from rights to be performed or exercised in Spanish territory.
  - Where they derive, directly or indirectly, from immovable property situated in Spanish territory or from rights relating thereto.
  - When assets located in Spanish territory or rights to be fulfilled or exercised in Spanish territory are incorporated into the taxpayer's assets, even if they do not derive from a previous transfer, such as gambling winnings.

3 Income derived without the intermediary of a permanent establishment

Depending on whether or not the income subject to IRNR is obtained through a permanent establishment (PE) located in Spanish territory, the tax regime for non-residents varies substantially.

Taxpayers who operate without a permanent establishment are taxed in accordance with Personal Income Tax (PIT) regulations, and do so for each transaction, i.e. for each type of income obtained.

I Taxable Base

The taxable amount shall be the full amount, determined in accordance with the rules of the PIT Law.
In the case of EU residents, in order to determine the taxable base of the income obtained without the intermediation of a PE, the expenses provided for in the PIT Law directly related to the income obtained in Spain and directly linked to the activity carried out in Spain may be deducted.

With regard to capital gains, the taxable base will be determined by applying the rules laid down for PIT to each change in capital gains, i.e., as a general rule, by the difference between the transfer value and the acquisition value of the asset.

Where the capital gain arises from a gainful acquisition, the amount of the gain shall be the fair market value of the item acquired.

The following special rules are also established for the determination of the tax base in certain cases:

- In the case of the provision of services, technical assistance, installation or assembly work arising from engineering contracts and, in general, activities or economic operations carried out in Spain without the

intermediary of a permanent establishment, the taxable base will be equal to the difference between the full income and the costs of personnel, supplies of materials used in the works or works and supplies, under the conditions established by regulations

- The taxable amount corresponding to income from reinsurance operations shall consist of the amounts of premiums ceded, under reinsurance, to the non-resident reinsurer.

II Type of taxation

The general tax rate applicable to IRNR in Spain is 24%, except for taxpayers resident in another Member State of the European Union or of the European Economic Area with which there is an effective exchange of tax information, to which 19% will be applicable.

In addition, depending on the type of entity and the business carried on by the entity, other tax rates may apply, such as the following:

- 2% for employment income received by non-resident individuals in Spanish territory under a fixed-term contract for foreign seasonal workers in accordance with labour regulations.
- 4% for maritime or air navigation entities resident abroad, whose ships or aircraft touch Spanish territory.
- 19% in the case of (i) dividends and other income derived from participation in the equity of an entity, (ii) interest and other income obtained from the transfer of equity to third parties and (iii) capital gains arising from the transfer of assets.
- 1.5% in income derived from reinsurance transactions.

III Deductions

Only the following may be deducted from the tax liability:

- The amounts corresponding to deductions for donations in favor of entities benefiting from patronage, under the terms provided for in article 69.3 of the revised text of the Personal Income Tax Law, approved by Royal Legislative Decree 3/2004, of March 5.
- Withholdings and payments on account made on the income of the taxpayer.

IV Withholdings

Normally, withholding taxes are the mechanism by which the Spanish tax authorities collect the final tax levied on non-resident entities.

The following are the domestic withholding tax rates applicable to the main types of income of non-resident entities. These withholding tax rates may be reduced or mitigated under the provisions of a Double Taxation Treaty that has been signed by Spain and the relevant country, or by the Spanish implementation of an EU Directive

1. Dividends

Dividends distributed to non-resident entities are subject to a 19% withholding tax rate in the country of source. However, the implementation of the EU Parent-Subsidiary Directive into Spanish law grants partners of EU resident entities an exemption from withholding tax on dividends received from Spanish companies, if certain requirements are met.

Interest and certain other income from movable capital paid by companies under this tax regime are exempt from non-resident income tax, except when paid to taxpayers resident in tax havens.

The tax benefits set out in the EU Subsidiary Directive are also extended to non-EU residents. These benefits do not apply when income is paid to residents of tax havens.

2. Interest

Interest paid to non-resident entities is subject to a 19% withholding tax in the country of source. In addition, interest paid to an EU resident entity can be reduced to a 0% withholding tax rate.

3. Royalties

In this case, the applicable withholding tax rate is 24% in general, or 19% in the case of entities resident in an EU Member State. The withholding tax rate also applies to royalty payments made to non-resident entities. In addition, royalties paid to an EU resident entity may also be reduced to a withholding tax rate of 0% if certain requirements are met.

B2 CANARY ISLANDS GENERAL INDIRECT TAX (IGIC) [21]

Although the Canary Islands are a Spanish region with the same political status as other Spanish regions, they do not belong to the VAT territory (neither Spanish, nor European), which means that Spanish law and/or EU VAT guidelines are not applicable in the Canary Islands.

The tax currently applicable in the territory of the Canary Islands is the Impuesto General Indirecto Canario (hereinafter IGIC), a tax which is equivalent in most respects to Spanish VAT, but which also includes important differences. Although the mechanism of these two taxes is the same, the IGIC tax rate is lower than that of Spanish VAT, the general tax rate for IGIC being 7%, instead of 21% for VAT.

This tax applies to the supply of goods and services for consideration, which are carried out by entities and professionals in the course of their business or on a regular or occasional basis, as well as to imports of goods.

In general, Spanish companies established in the territory of application of the IGIC are considered taxable persons for the purposes of the IGIC. The same applies to Spanish branches of non-resident entities, which are considered permanent establishments for IGIC purposes and, therefore, taxable persons for IGIC purposes.

In general terms, IGIC taxable persons are obliged to submit IGIC declarations, to prepare the record books of invoices issued and received, and invoices issued in relation to Spanish transactions must include the mention indicated in the Spanish Invoicing Regulation.

[21] Increased advantage only in the Canary Islands.

B. OTHER TAXES

TAX RATE	DELIVERY OF GOODS AND SERVICES
0%	• Food staples (water, bread, milk, milk, cheese, fruit, eggs, etc.), medicines, books and newspapers, oil refining and its variants, wheelchairs, electric power, etc. • Execution of works with Public Administrations. • Assets for astrophysics-related R&D. • Transport between the Canary Islands. • Film and audiovisual production.
3%	• Products derived from various industries (wood, textiles, paper, chemicals, etc.), agriculture, human nutrition, handicrafts, veterinary medicines, agricultural products, spectacles and accessories designed to compensate for physical deficiencies, etc. • Funeral services, transport (non-tourist), public shows, etc.
9,5%	• Construction work which is intended for the production of motor vehicles, boats, ships, and aircraft.
15%	• Products such as jewelery, precious stones, alcohol, perfumes, etc.
20%	• Tobacco.

On the other hand, specific tax rates are established for transactions related to dwellings, vehicles, ships and aircraft:

- Housing-related operations:

TAX RATE	DELIVERY OF GOODS AND PROVISION OF HOUSING-RELATED SERVICES
0%	• Social housing and its leasing.
3%	• Those intended to constitute the habitual residence for persons under 35 years of age who meet certain requirements.
5%	• Those intended to constitute the habitual residence.

- Delivery, import, leasing and construction work on vehicles:

TAX RATE	DELIVERY OF GOODS AND PROVISION OF SERVICES RELATED TO VEHICLES
0%	• Hybrid-electric, liquefied gas public transport, fuel cell. • Leasing of electric vehicles, liquefied gas, etc.
3%	• Those other than the above intended for persons with reduced mobility, those adapted for the transport of persons with reduced mobility, and those adapted for the transport of such persons.
7%	• Vehicles, other than the above, intended for the transport of goods or for commercial or industrial use, etc. buses, mopeds, taxis, etc.
15%	• Vehicles, other than the above, with a power exceeding 11 hp, caravans, trailers, etc. • Leasing of vehicles whose delivery is taxed at 9.5 or 15%.

The general IGIC system consists of filing IGIC declarations on a quarterly or monthly basis. In the event that the input IGIC is higher than that output in a given period, it can be offset against the IGIC quotas payable in subsequent periods. If at the end of the tax year the balance of the IGIC quotas is refundable, the amounts of these quotas will be reimbursed during the following six months.

When the entity's Net Turnover for the previous year exceeds €6,010,212.04, the entity must file IGIC returns on a monthly basis. There is also the possibility of applying for the monthly reimbursement system (REDEME).

B3 CUSTOMS DUTIES (AIEM)

As mentioned above, the Canary Islands do not form part of the VAT territory, but they do form part of the European customs territory. In this sense, many products imported into Spain from outside the European Union (third countries) are subject to customs duties and the corresponding tariffs based on European Community regulations.

The Tax on Imports and Deliveries of Goods in the Canary Islands (AIEM) is a state tax of an indirect nature that contributes to the development of the production of goods in the Canary Islands:

- Deliveries of goods included in Annex I of Law 4/2014, of 26 June, which amends the regulation of duty on imports and deliveries of goods in the Canary Islands, manufactured in the Canary Islands. In this sense, delivery of goods is understood to mean the transfer of the power of disposal over movable tangible property (gas, electricity, heat and other forms of energy), updated at the end of 2020 by Decree Law 21/2020 of 23 December amending Law 4/2014 of 26 June amending the regulation of duty on imports and deliveries of goods.
- The importation of the products mentioned in the previous point. For these purposes, importation is considered to be, inter alia, the definitive or temporary entry of goods into the Canary Islands, regardless of their origin.

The goods that are subject to this tax are described in Annex I of Law 4/2014 of 26 June, which determines the applicable tax rates (5, 10, 15 or 25%) depending on the product that is delivered or imported. In this regard, among others, petroleum products have a specific rate and a specific minimum rate is established for cigarettes.

However, most of the products manufactured within the Canary Islands are exempt from this tax.

B4 TAX-FREE ZONE

According to the EU Customs Code, Free Trade Zones are a part of the EU customs territory, adjacent to seaports and airports, where imported goods can be stored (without temporal limits), processed and distributed.

These operations can be carried out without the application of customs duties, excise duties and other indirect taxes. Similarly, neither quotas nor restrictions are applicable, and the supply of components from other countries is fully guaranteed.

Another applicable advantage is also the simplification of the customs procedure. It avoids the presentation of a prior customs declaration, streamlines the management and speeds up commercial responses.

B5 EXCISE DUTIES

Excise duties are levied on most hydrocarbon-based petroleum products, alcoholic beverages and other tobacco products imported or produced in Spain, with the result that lower rates apply in the Canary Islands than in the rest of Spain.

B6 TAX ON ONEROUS PROPERTY TRANSFERS AND STAMP DUTY (MODALITY ON ONEROUS PROPERTY TRANSFERS)

This tax, the rate of which varies between 1% and 7% (depending on the transaction), is generally levied on the transfer of movable and immovable property between living persons and on the transfer of buildings by second or subsequent transfer between entities. Consequently, the first transfers of real estate are subject to IGIC.

B7 TAX ON ONEROUS TRANSFER OF PROPERTY AND STAMP DUTY (STAMP DUTY)

The following documents are subject to transfer Tax and Stamp Duty in the form of documented legal acts:

- Notarial deeds (e.g. first copies of public deeds and notarial acts) when they are intended for an economically quantifiable amount or thing, which can be registered in a public register and the transaction is not subject to Inheritance or Gift Tax.
- Commercial Documents (e.g. bills of exchange and draft documents).
- Administrative and judicial documents (e.g., freezing of assets).

For notarial documents, the applicable rate in the Canary Islands is 0.75%, except in the case of documents relating to transactions subject to IGIC or VAT, in which case 1% is applied. In addition, special rates are established for specific cases.

B8 TAX ON ECONOMIC ACTIVITIES

The tax on economic activities is a direct local tax levied annually on the development of professional or artistic activities in Spanish territory, regardless of whether or not they are carried out in a particular building. The tax payable depends on different factors, such as the activity carried out and the location and size of the premises where the activity is carried out.

Corporate Income Tax taxpayers and non-resident companies that carry out an economic activity in Spain through a Permanent Establishment are exempt from this tax if their Net Turnover in the tax year of the last tax return filed before the date of accrual of the aforementioned tax, i.e. 1 January, is under 1 million euros.

C. TAXATION OF INDIVIDUALS

C1 RESIDENCE

For Personal Income Tax (PIT) purposes, the following are taxpayers of this tax:

- Natural persons whose habitual residence is in Spanish territory.
- Natural persons, with Spanish nationality, who have their habitual residence abroad due to their status, among others, as members of Spanish diplomatic missions or members of Spanish consular offices.

For these purposes, and as a general rule, an individual will be considered to have his or her habitual residence in Spain and, therefore, will be a PIT taxpayer if any of the following requirements are met:

- The taxpayer spends more than 183 days in Spanish territory during the calendar year. In this respect, sporadic absences (for holidays, professional reasons, etc.) of the taxpayer are considered to be a stay in Spain, unless the taxpayer proves his tax residence in another country.
- The main nucleus or base of his activities or economic interests is located in Spain, either directly or indirectly. It shall be presumed, in the absence of proof to the contrary, that the taxpayer has his or her habitual residence in Spanish territory when the non-legally separated spouse and dependent minor children habitually reside in Spain.

  For practical purposes, the place where a natural person obtains most of his or her income or, according to objective criteria, the territory where he or she owns real estate, carries out economic activities, exercises rights with economic significance such as participation or control in companies, concentrates most of his or her investments, etc., could be considered as the main core of economic interests.

  On the other hand, when a natural person of Spanish nationality accredits his new tax residence in a country or territory considered to be a tax haven, he will not lose his status as a PIT taxpayer either in the tax period in which the change of residence takes place or in the following four tax periods.

C2 GENERAL REGIME AND TYPES

Residents in Spain are taxed on their worldwide income and capital gains at a progressive rate ranging from 18.5% to 50.5%, the latter being the maximum tax rate applied in the Canary Islands.

In this way, income from movable capital, such as dividends, interest on bank deposits, as well as capital gains obtained by a tax resident in Spain, as mentioned above, would be subject to a progressive tax:

- 19% on the first € 6,000 of income.
- 21% on income over € 6,000 and up to € 50,000.
- 23% on income over € 50,000 and up to € 200,000.
- 27% on income over € 200,000 and up to € 300,000.
- 28% on income over € 300,000.

On the other hand, non-residents in Spain are taxed on income generated only in Spain. In this case, a flat rate of 24% would apply. However, if the individual is a tax resident in another Member State of the European Union or of the European Economic Area with effective exchange of tax information, the tax rate will be 19%.

C3 STARTUPS AND PERSONAL INCOME TAX BENEFITS

In addition to the tax benefits established in the IS with respect to emerging companies or "Startups", others are also determined for the employees and/or investors of this type of companies.

Specifically, we can find:

• "Stock options": In the case of the delivery of shares or stock options of the emerging entity itself to its employees, it will be exempt from personal income tax up to an amount of 50,000.00 euros per year, without it being necessary for this exemption to apply that the shares or options are granted to all employees under the same conditions, but it will be sufficient that they are granted as part of the general remuneration policy and contribute to the participation of the employees in the company's share capital.

The amount exceeding the exemption indicated will be considered as earned income and will be taxed in the year in which any of the following circumstances arise:

- The emerging company is floated on the stock exchange.

- The shares are transferred by the employee who received them.

- Ten years have elapsed since the delivery of the shares without any of the above circumstances having occurred.

• Deduction for investments in new or recently created companies: Individuals who proceed with the subscription of shares or participations in emerging companies or "Startups" may apply a deduction of 50% of the amounts paid for such subscription provided that the following requirements, among others, are met:

- That the subscription takes place at the time of incorporation of the entity or within seven years thereafter.

- That the amount of the entity's own funds does not exceed 400,000.00 euros (in the event that the entity belongs to a group of companies, this amount shall refer to the group of entities that form it) at the beginning of the financial year in which the investor acquires the shares.

- If the shares are not subscribed for at the time of incorporation of the company, the investor's holding, directly or indirectly, together with that of his spouse or any person related by blood or marriage up to and including the second degree, during the period of holding the shares, may not exceed 40 % of the company's share capital.

- The investor must hold the shares for a period of more than three years and less than twelve years.

- The entity in which the shares are subscribed carries out an economic activity other than the management of movable or immovable assets in any of the years in which the shares are held.

C4 SPECIAL PERSONAL INCOME TAX REGIME APPLICABLE TO WORKERS POSTED TO SPAIN

Individuals who move their tax residence to Spain could opt to apply a special regime for a period of 6 years, i.e. during the tax period in which the taxpayer acquires their habitual residence in Spain and for the following five tax periods. The taxpayer will acquire habitual residence in Spain in the tax year in which he/she moves to Spain provided that, once the move has taken place, he/she remains in Spain for more than 183 days.

In accordance with the provisions of the special regime, only income and yields obtained from Spanish sources would be taxed at a flat rate of 24% (in this case, no deductions or subsidies would be allowed), up to a limit of 600,000 euros (the excess of this amount would be taxed at 47%).

The aforementioned fixed rate of 24% (47% for income above 600,000.00 €) would not apply to (i) dividends and other income derived from the participation in the equity of an entity, (ii) interest and other income obtained from the transfer to third parties of equity capital, and (iii) capital gains that may arise as a result of the transfer of assets received by the taxpayer, which would be taxed according to the following scale applicable to the PIT savings tax base:

- 19% on the first € 6,000 of income.
- 21% on income over € 6,000 and up to € 50,000.
- 23% on income over € 50,000 and up to € 200,000.
- 27% on income over € 200,000 and up to € 300,000.
- 28% on income over € 300,000

In this respect, in order to be able to apply the special regime, the following requirements must be met:

- The taxable person must not have been resident in Spain for tax purposes in the 5 tax periods preceding his transfer to Spain.

- The taxable person's transfer to Spain must be the result of one of the following circumstances:

  - By an employment contract. This requirement is deemed to be fulfilled (i) when an employment relationship is initiated, (ii) when the posting is ordered by the employer and there is a letter of posting issued by the employer or (iii) when, without being ordered by the employer, the work activity is performed remotely through the exclusive use of computer or telematic means (an international telework visa is required).

  - For acquiring the status of director of a company, provided that certain requirements are met.

  - For carrying out in Spain an activity classified as innovative (it must have a favourable report issued by ENISA).

  - In the case of a highly qualified professional (must meet certain requirements to be considered as such) who provides services on their own account, for providing services to emerging entities or "Startups" provided that more than 40% of the income from their professional activity comes from the services provided to these entities.

- The posted person cannot obtain income in Spain that can be considered as obtained through a PE located in Spain.

Likewise, this special regime, in addition to being applied by the individual who moves his tax residence to Spain, may also be applied by his spouse and his children, under the age of twenty-five or whatever their age in the case of disability, or in the event of the absence of a marital relationship, their parent, provided that the following conditions are met:

- these persons move with the taxpayer or at a later date to Spanish territory, provided that the first tax period in which the taxpayer is subject to the special scheme has not ended;

- who acquire their tax residence in Spain;

- who have not been resident in Spain during the five tax periods prior to that in which they move to Spanish territory;

- they do not obtain income that would be classified as being obtained through a PE in Spanish territory, except in the cases of carrying out in Spain an economic activity classified as an entrepreneurial activity, or carrying out an economic activity by highly qualified professionals (both cases require compliance with a series of requirements);

- the sum of the income received after the application of the corresponding applicable personal income tax reductions (net taxable income) of the taxpayers in each of the tax periods in which this special regime applies to them is less than that of the taxpayer to whom they are accompanying.

The special scheme shall be applicable during the successive tax periods in which, if the above conditions are met, the scheme is also applicable to the taxpayer to whom it accompanies.

In this respect, during the tax years in which the special scheme is applicable:

• Income from employment obtained worldwide, i.e. obtained in Spain or abroad, will be taxed in Spain, but at the reduced tax rate of 24% up to an amount of 600,000 euros.

• Income other than earned income (interest, dividends or capital gains) will be taxed in Spain provided that it is deemed to be obtained in Spanish territory (mainly because it is paid by persons or entities resident in Spanish territory, by PEs located in Spain or because it derives from assets located in Spain). In other words, the rest of the income obtained abroad will not be taxed in Spain, unlike what would happen if this special regime were not applied, in which case all the income obtained worldwide would be taxed in Spain.

• Income from work obtained abroad from 1 January until the move to Spain, or income obtained between the date the special regime ceases to apply and 31 December, will not be taxed in Spain.

In short, the application of the special tax regime means that workers posted to Spain will be subject to the tax rates established for the IRNR instead of those established for the IRPF (applicable, as a general rule, to persons resident in Spain) and, therefore, they will have a lower tax cost than other individuals resident in Spain, as a result of the

C. TAXATION ON INDIVIDUALS

	GENERAL REGIME (PIT)	SPECIAL REGIME (NIT)
Percentage applicable	From 18,5% to 50,5%	24% up to € 600,000
Income from work obtained between 1 January and the date of arrival of the employee (during the tax year)	Taxable	Not subject to tax
Employment income earned between the employee's departure date and 31 December (during the tax year)		
Employment income earned in Spain and abroad		Taxable
Other income earned in Spain		
Other income earned abroad		Not subject to tax

The average effective tax rate (the percentage of income earned that would be used to pay the tax) that would apply for different amounts of income can be seen below:

SALARY	GENERAL REGIME	SPECIAL REGIME
28.000 €	22,92%	24%
40.000 €	25,80%	
60.000 €	29,92%	
80.000 €	33,94%	
100.000 €	36,50%	
150.000 €	40,37%	
600.000 €	47,47%	

D. SOCIAL SECURITY

All employers, employees, self-employed, etc. working in Spain must be registered with the Spanish Social Security system.

In general terms, Spain's social security system comprises two different types of regimes:

- General social security scheme, which includes all employees.
- Special social security scheme for self-employed persons.

In 2023, the general employer's contribution is 23.60% for general contingencies, while the employee's contribution is 4.70%. These percentages are applied to certain minimum and maximum contribution bases (depending on the worker's occupation category), with a maximum contribution base of € 4,495.50.

In general, self-employed persons under 47 years of age can choose the level of contributions they wish to pay within their earnings group. Social security benefits depend on the social security contributions paid. The general rate is 28.30 % and is applied on a monthly social security contribution base of between € 751.63 and € 4,139.40.

Under specific circumstances, for people aged 47, the contribution base cannot exceed 2,052.00 euros per month. For people over 48 years of age, the monthly Social Security contribution base is between 1,035.90 euros and 2,113.20 euros.

Special rules apply to self-employed workers who have paid contributions to other social security schemes for a period of five years or more before reaching the age of 50.

On the other hand, various rebates are established on the Social Security contributions payable by entities depending on the duration of the employment relationship and the person hired, among which are:

- Bonuses for the indefinite full-time, part-time and temporary hiring of long-term unemployed persons, disabled persons, persons in a situation of social exclusion, victims of domestic violence, gender-based violence, terrorism and human trafficking.
- Subsidies for temporary hiring through training contracts (training and apprenticeship or internship contracts) or temporary employment contracts.
- Rebates for converting temporary contracts into open-ended contracts.
- Employment maintenance bonuses.

Likewise, a 40% rebate is established on employer contributions to social security contributions for common contingencies in respect of research personnel included in groups 1, 2, 3 and 4 of the General Social Security Scheme who, on an exclusive basis and for the totality of their working time in the company dedicated to research and development and technological innovation activities, that are dedicated to the performance of the aforementioned activities, whether their contract is indefinite-term, on an internship basis or for a specific project or service. In the latter case, the contract must have a minimum duration of three months.

The aforementioned rebate will be fully compatible with the deduction for R&D&I activities established in Article 35 of the Corporate Income Tax Act, as mentioned in previous sections of this guide, only for R&D&I-intensive SMEs recognised as such by the official "Innovative SME" seal and therefore included in the Register managed for this purpose by the Ministry of Economy and Competitiveness.

Thus, for entities recognised as "Innovative SMEs" there is no impediment to the simultaneous application of this rebate on social security contributions and the deduction for R&D&I activities applicable to corporate income tax. However, if the entity is not recognised as an "Innovative SME", it will have to choose between applying the

reimbursement on social security contributions or applying the deduction for R&D&I activities applicable to corporate income tax.

For these purposes, in general, an SME is R&D&I intensive when any of the following circumstances are present:

- When it has received public funding in the last three years, without having been revoked for incorrect or insufficient implementation of the funded activity.
- When it has demonstrated its innovative nature, through its own activity, (i) by having its own patent in operation for a period not exceeding five years before the exercise of the right to the rebate, or (ii) by having obtained, in the three years before the exercise of the right to the rebate, a binding and positive reasoned report to apply the deduction referred to in Article 35 of the revised text of the Corporate Income Tax Act referred to above.
- When it has demonstrated its capacity for innovation, through one of the official certifications recognised by the Ministry of Economy and Competitiveness.

In the case of other companies or entities, the rebate will be compatible with the deduction for research and development and technological innovation activities established in Article 35 of the Corporate Income Tax Act, provided that it is not applied to the same researcher.

Lastly, workers included in the Special Social Security Scheme for the Self-Employed or Self-Employed due to effective direct or indirect control of an emerging company or “Startup”, and who simultaneously work as employees for another employer, will be entitled to a 100% rebate on the contribution corresponding to the minimum base established in general terms, at any given time, in the aforementioned special scheme for the first three years from the date on which they are registered, they will be entitled to a 100% rebate on the contribution corresponding to the minimum base established in general terms, at any given time, in the aforementioned special regime during the first three years, starting from the date of registration that occurs as a result of the start of the self-employed activity due to the dedication to the start-up company.

More information:
www.bestingrancanaria.com