



SETTING UP BUSINESS IN SPAIN



General Aspects

Spain is a country located in southwestern Europe on the Iberian Peninsula. Its mainland is bordered to the south and east by the Mediterranean Sea except for a small land boundary with Gibraltar; to the north by France, Andorra, and the Bay of Biscay; and to the west by the Atlantic Ocean and Portugal. Spanish territory also includes the Balearic Islands in the Mediterranean, the Canary Islands in the Atlantic Ocean off the African coast, and two autonomous cities in North Africa, Ceuta and Melilla, that border Morocco. With an area of 504,030 km², Spain is the second largest country in Western Europe and the European Union after France.

Spanish is spoken all over the country and so is the only language with official status nationwide (furthermore, Spanish is a global language with over 577

million speakers). Other languages have been declared co-official, along with Spanish, in (some of) their constituent communities where they are spoken.

With about 46 million inhabitants and 78 million tourists in 2018, it is the fifth economy in the Euro and the fifth country by population. In 2018 Spanish GDP rose by 2,7% and it is forecast to grow at approximately 2.4% for 2019, and 2.3% for 2020 and 2021. The country's infrastructures rank among the top ten countries with best infrastructure quality in the world (Global Competitiveness Report 2018).

Legal Forms of Business Entities

Legal form	Feature	Remarks
Private Limited Company (Sociedad de responsabilidad limitada)	<p>Limited Companies are constituted in a public document issued by a Notary and have to be registered in the Companies Register. Limited Companies require a minimum social capital of 3.000 Euros, with there being no established maximum. The social capital is divided into company shares. The transmission of shares prior to the company's inscription in the Companies Register is not permitted. Before transferring shares to third persons, there is an obligation to prior notification to the directors, partners and companies of the same group, who have right of first refusal.</p> <p>Partners are not personally responsible for the company's debt beyond the amount invested upon subscribing their participation in the social capital, except for several cases fixed by the Law.</p>	<p>Suitable for small and medium-sized companies because of the lower minimum share capital required and the high degree of flexibility in terms of management and organisation.</p>

<p>Public Limited Company (Sociedad anónima)</p>	<p>SAs are constituted in a public document issued by a Notary and have to be registered in the Companies Register. They require a minimum social capital of € 60,000 with there being no established maximum. Shares may be represented via titles or book entries, which imply the non-existence of a physical certificate of the possession of the shareholder.</p> <p>Shares can be easily transferred, except for several cases fixed by Law. Clauses stipulating a total non-transferability of shares are considered void.</p> <p>Shareholders are not personally responsible for the company's debt beyond the amount invested upon subscribing their share in the social capital, except for several cases fixed by the Law, e.g. veracity of the investments and their value, for all the contracts and obligations signed on behalf of the company prior to the registration in the Companies Register, etc.</p>	<p>Advisable for large businesses or projects, both commercial and industrial and require a substantial capital investment.</p> <p>There are some fields in which the investment must be mandatorily made through a SA Company, e.g. banking, insurance and television, among others.</p> <p>Investing in these companies is easier than in limited ones, because of the capital divided in shares, that are naturally transferable and are listed in stock.</p>
<p>Civil Law Partnership (Sociedad Civil)</p>	<p>Joint venture (JV): is short term partnership that allows associate with a business already established in Spain by incorporating a limited company or acquiring a stake in an existing company. The partners jointly undertake a transaction for mutual profit.</p> <p>Spanish law allows also this forms of joint venture:</p> <ul style="list-style-type: none"> • Temporary joint ventures (Unión Temporal de Empresas: UTE) • Economic interest groupings (Agrupación de Interés Económico: EIG) • Joint accounts agreements (cuentas en participación) 	<p>UTE's are set up for the purpose of carrying out a specific project or service.</p> <p>EIG are non-profit legal entities created to help their profit-making members achieve their objectives. They are used to provide centralized services for a group of companies.</p> <p>Joint accounts agreements give investors the right to participate in the positive or negative results of the business.</p>
<p>Branch of activity (Sucursal)</p>	<p>Branch of activity (sucursal):</p> <p>Organization depending on its parent, which can be located abroad. It has the same legal personality as its parent and runs a similar activity.</p> <p>A branch has to be set up through a public deed issued by a Notary and registered in the Companies Register.</p> <p>A permanent address and fiscal representative in Spain is required.</p>	<p>Suitable for foreign companies looking for a presence in Spain to initiate business or maintain contacts with business partners, especially in cases of uncertain success.</p>

Differences between SAs and SLs	SL	SA
Share Capital	The minimum required is 3.000 €, divided into quotas non-negotiables.	Requires 60,000€, though only 25% of this needs to be deposited in the bank at the time of incorporation. The capital is divided into shares that are negotiable on the stock market.
Share Transfers	Quotas can be freely transacted only between partners or with partners family members and group companies.	Freedom of share transfers is the general rule, although bylaws can establish some restrictions.
Accounting	"Simplified accounting" in the first three years.	More complicated, a yearly auditing is required.
Financing	Financial assistance is prohibited. The quotes can't be sell in the capital market	They can sell shares or issuing bonds and similar in the capital markets to raise funds
Meeting Of Shareholders	A simply communication to the partners is valid. There is no attendance quorum and most resolutions are made by a simply majority (representing one-third of the voting rights).	Requires the publication in the web site of the company or in official bulleting of the Mercantile Registry and in a popular newspaper.
Capital Decrease	There is no compulsory capital decrease for losses.	SAs have to reduce their capital when they have losses for more than a financial year that decrease the net worth of the company below two-thirds of its share capital.

Organizational Questions

Topic	Feature	Remarks
Commercial Register	Companies of all legal forms must be entered in the Company Register, except Civil Law Partnership.	If a company is legally required to be registered, but takes up business operations before being entered in the Companies Register, partners are personally liable for any losses up to the point of registration.
Register at the Tax Authorities	Any company (company, partnership, sole Proprietorship) needs to be registered at the Tax Authority Register and get a tax number (N.I.F).	
Bank Account	To open a bank account individuals from UE states need a valid Identification document (DNI or NIE) or passport. It is also necessary to be registered at the Tax Authority Register and get a tax number (N.I.F). Companies need a certificate of the commercial register, the articles of association and the Tax Number.	

Transfer of Goods and Machinery	Within the EU goods and machinery can circulate freely. Imports from non-EU states to Spain cause customs, import VAT, and in some cases other special taxes depending on the product.	
Transfer of Capital	Within EU capital can be moved in and out of Spain without any restrictions, but in some cases is necessary to inform the authorities about the transfers.	Depending on the amount of the transfer of capital, needs to be informed to the tax authorities.
Visa and Residence permit	All EU citizens can set up business and take up self-employed work in Spain without the requirement of any permit, but they need to obtain a tax number (NIE).	

Employment

Topic	Feature	Remarks
Work permit	EU citizens are released from the obligation to obtain a work permit. Foreigners from the aforesaid countries and their families will have to register their stay in Spain and obtain a work permit.	
Labour law	<p>Labour conditions are mainly regulated in the Labour Code ("Estatuto de los Trabajadores"), the convention of every specific economic sector and other labour laws.</p> <p>The minimum remuneration for work, for full-time employees, is specified by law. In 2019 that amount is 12.600 euros per year (generally in fourteen payments), 900 euros per month, and 30 euros per day</p> <p>A minimum of 30 natural days of paid holidays a year is guaranteed (for a year of full working period, and 2.5 day per working month), although there are some specific sector agreements.</p> <p>Working hours are usually 40 hours a week.</p>	
Social system	<p>The social security system is feed by the employer contributions and the employee contributions.</p> <p>The payment of the social security contributions is absolutely compulsory for all companies and professionals.</p>	

Taxation

Tax	Feature	Remarks
<p>Corporate Income Tax (Impuesto sobre Sociedades)</p>	<p>Companies which are considered resident in Spain are subjected to Corporate Income Tax (CIT), that is levied on the worldwide income obtained by these companies.</p> <p>A company is considered tax resident when 1) it is incorporated under Spanish Laws 2) have registered head offices located in Spain 3) its effective management headquarters are located in Spain</p> <p>Taxable base: Is calculated from the declared accounting result, that is subject to adjustments required by CIT Law (i.e. non deductible expenses or profit exemptions).</p> <p>Also, reductions like the patent box and capitalization reserve can be apply on the taxable base if certain requirements are met.</p> <p>Negative tax base can be offset against positive tax bases in the following tax years, without any temporary limitation but a general 70% limitation of the positive tax base.</p> <p>Tax rates:</p> <ul style="list-style-type: none"> • 25% CIT rate to big companies (turnover of more than 10 millions Euros a year) and small and medium-sized enterprises with a turnover of no more than 10 millions Euro a year. • There is a specific 15% CIT rate for new companies incorporated from 1/1/2013. It applies the first tax period and the following second one. <p>For a non-resident company with permanent establishment in Spain, the CIT rate is also 25% and specific regulations have to be taken in account.</p> <p>Specific deductions are granted for some corporate investments (R&D and technological innovations; film productions, audiovisual series and live performances of scenic arts and music investments; employment creation and jobs creation for disable people)</p>	<p>When a Spanish Company receives dividends and obtains capital gains deriving from the transfer of shares in other companies, residents or non residents, it is subject to CIT tax at the normal rate of 25%, although Tax Agreements in order to avoid double taxation may apply.</p> <p>It is important to remark that the CIT Law grants a 95% exemption for dividends, profit distributions and capital gains if the Spanish taxpayer holds a stake of at least 5% in the company that pays the dividends or the participation is higher than 20 million Euros.</p> <p>A full tax exemption of 100% will be applicable if the Spanish taxpayer a) had a turnover of less than 40 million Euros, is not an asset-holding company and prior to the incorporation of the paying entity was not part of a corporate group or ≥5% owned (directly or indirectly) by another entity; b) the entity paying the dividend is incorporated after 01/01/2021 and is 100% directly owned at all times and c) dividends are received in the financial years closed during the 3 years following the incorporation of the paying entity.</p> <p>The full tax exemption applies also on foreign source dividends and capital gains from transfers in foreign companies, when the prior requisites are met and also the foreign company is subject to an income tax similar to the Spanish CIT and where the tax rate is at least 5%.</p> <p>A very competitive Holding Regime applies for Spanish companies that have shares of foreign Companies (ETVE, Entidad de Tenencia de Valores Extranjeros). It is explained in more detail in Page 9.</p>

Economic activity tax (Impuesto sobre Actividades Económicas)	There is a local tax over economic, professional and artistic activities undertaken in Spain. Individuals who undertake this activity are exempt, but they must declare it to Tax Administration. There is also an exemption on this tax for companies whose yearly turnover is lower than € 1,000,000.
Individual Income Tax (Impuesto sobre la Renta de las Personas Físicas)	Individuals with habitual residence in Spain are subject to personal income tax on their worldwide income. Usual residence: <ul style="list-style-type: none"> • Remain in Spain for more than 183 days during a calendar year. Temporary absences are considered. • Main base or centre of activities of business or economic interest in Spain. • Husband/wife and under age children resident in Spain. The tax is levied on the disposable income, which is the result of reducing the rent in the amount laid down by the legislation as minimum personal and family income and reductions such as contribution to pension plans. The tax return can be filed individually or together with the other members of the family household. Tax rates: Progressive general tax rates from 19% to 45%, depending on the Autonomous Community. There are fixed tax rates for savings income and capital gains: 1) 19% for Taxable Base up to 6,000 Euros, 2) 21% from 6,000 Euros up to 50,000 Euros, 3) 23% from 50,000 Euros up to 200,000, and 4) 26% above 200,000 Tax credits that reduce the gross tax payable: business angels investments, donations to non-profits companies or institutions, economic activities, income obtain in Ceuta and Melilla, renting a habitual residence.
Individual Income Tax (Withholding tax)	<ul style="list-style-type: none"> • Earned income: depending on the amount and other different circumstances. • Dividends, rates: 19% • Independent activities income: 15% • Administrators: 19% / 35% • Real estate leases: 19%
Value Added Tax (VAT) (Impuesto sobre el Valor Añadido)	VAT is due on supplies of goods and services in Spain, intra-EU acquisitions of goods and imports of goods from non EU countries. Entrepreneurs and professionals charge VAT and must pay this tax to the tax Authorities. The final tax burden is borne by consumers. Tax rates: General: 21 % Reduced: 10 % (house to live, health products, live shows,...) Super-reduced: 4% (bread, flavour, eggs, milk, books,...)
Payroll Taxes	A tax is withheld at source by the payer of wages, salaries, director's fees, bonuses, pensions and benefits. Withholding tax is based on progressive tax rates on the earned income and the personal and family situation of the person in order to do an adjusted prepayment of the final tax, but these will depend on the other source of incomes. From 2% to 45%

Social Security Contribution	<p>For employers: on wages and salaries, social security is due. The minimum taxable base is 1.050 Euros and the maximum taxable base is 4,070.05 Euros. The social security contribution is distributed as follows</p> <table border="1" data-bbox="439 252 1429 531"> <thead> <tr> <th>Concept</th> <th>Company charge</th> <th>Employee charge</th> </tr> </thead> <tbody> <tr> <td>General</td> <td>23.60 %</td> <td>4.70 %</td> </tr> <tr> <td>Unemployed</td> <td>5.50 – 6,70 %</td> <td>1.55 -1,60 %</td> </tr> <tr> <td>Salary fund</td> <td>0.20 %</td> <td>--</td> </tr> <tr> <td>Professional knowledge</td> <td>0.60 %</td> <td>0.10 %</td> </tr> <tr> <td>Total (%)</td> <td>29.90%</td> <td>6.35%</td> </tr> </tbody> </table> <p>Additionally a plus for accidents must be added and it depends on the activity of the employer.</p> <p>For autonomous workers (working by their own for several clients) the contribution is 29.90% of the taxable base (minimum base of 944.40 Euros and maximum of 4,070.10 Euros)</p>	Concept	Company charge	Employee charge	General	23.60 %	4.70 %	Unemployed	5.50 – 6,70 %	1.55 -1,60 %	Salary fund	0.20 %	--	Professional knowledge	0.60 %	0.10 %	Total (%)	29.90%	6.35%
Concept	Company charge	Employee charge																	
General	23.60 %	4.70 %																	
Unemployed	5.50 – 6,70 %	1.55 -1,60 %																	
Salary fund	0.20 %	--																	
Professional knowledge	0.60 %	0.10 %																	
Total (%)	29.90%	6.35%																	
Goods Transfer Tax:	<p>Some Autonomous Communities have their own legislation. State law is liable to non residents or in case this legislation does not apply. When VAT does not apply, the transfer of goods or assets are subject to Transfer Tax, to the following rates over the transfer value:</p> <ul style="list-style-type: none"> • Buildings in general: 7 - 11 % (1) (2) • Goods (furniture, machines,...): 4 % (2) • Cars, boats and antiques 5 -8% • Company transactions: 1% • Stamp Tax: 0.5 – 2.5 % (1) <p>(1) Depending on the Autonomous Communities. (2) This Tax is not compatible with VAT.</p>																		
Corporate Groups	<p>In Spain every company is considered as an individual unit but a corporate group of companies could pay corporate tax like a “consolidated group”. It means that a group of companies could request the application of this regime to Tax Administration. The parent company of the group must have directly or indirectly at least 75% ownership in capital of other companies or 70% if they are negotiated in the stock market, the Spanish parent will be required to hold more than 50% of the voting rights.</p> <p>Spanish subsidiaries held indirectly through a foreign intermediary company will be able to be part of a consolidated group, as well as Spanish subsidiaries held directly or indirectly by a foreign parent (horizontal tax consolidation).</p> <p>The application of this regime has advantages like the possibility of compensation of profits and losses between the group companies or not compulsory documentation of transfer price operation between group companies.</p>																		
Inter-company Relations	<p>The basic principle is that the transactions with related parties have to be on arm’s length basis.</p>																		

Withholding Taxes	In general, non-residents withholding tax is 19% for UE residents, 24% for non UE residents (19% for dividends and capital gains) with non treaty countries. Double Taxation Agreements may state lower or none taxation. In these cases, the non resident must justify that he is a resident of a country with which Spain has signed the Agreement.
Special regime for companies that have shares of foreign companies (ETVE)	<p>There is a special regime (ETVE) for companies that only have shares (minimum 5% or acquisition price of the participation over 20 million Euro) of foreign companies to conduct business outside.</p> <p>These companies have not to declare in Spain dividends from their subsidiaries (or permanent establishment located abroad that distributed income to a non resident shareholder) according to the following:</p> <p>The Spanish company should own the non resident company shares for one year before obtaining the dividends.</p> <p>The non resident company should be taxed with a similar corporate tax to pay in the foreign country and not be resident in a tax heaven.</p> <p>The dividends must come from economic activity in the foreign country.</p> <p>Also the capital gain for the selling of the shares of the subsidiary foreign company would not be included in the corporate tax of the Spanish company (ETVE). In this case, the buyer should not be related with the seller of the shares.</p> <p>The company should have economic substance.</p> <p>To apply the regime the Spanish company should ask for to Tax Administration.</p>
Inheritance and gifts tax (Impuesto sobre sucesiones y donaciones)	<p>This Tax must be paid by individuals (not companies) when there is an acquisition of rights or goods in case of inheritance or gift.</p> <p>Individuals resident in Spain are subject to this Tax regardless of the location of the goods. The Tax has a progressive rate up to 36,5 %, depending on the Autonomous community.</p> <p>A reduction of 95 % could be applied under certain circumstances over: transfer of shares (family companies).</p> <p>Some Autonomous Communities have their own legislation. Most of them have established deductions that reduce or practically abolish inheritance taxation. State law is liable to non residents or in case this legislation does not apply.</p>

Non residents taxation

Individuals and entities non resident in Spain are taxed only on their incomes from sources within Spain.

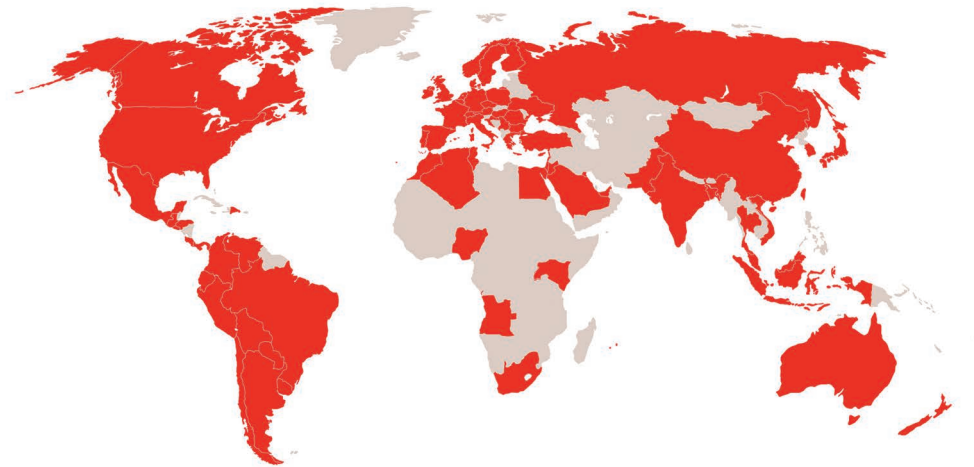
The Double Taxation agreements signed by Spain and most of other countries avoid the double taxation of certain kind of incomes. The law distinguishes between income obtained through a permanent establishment (taxed at 25%) and income obtained not through a permanent establishment, taxed separately for each type of rent and taxed at 24% or 19% for dividends, interests and capital gains and other tax rates more specific.

Most income obtained in Spain by non resident is subject to withholding tax.

Individuals resident in a State Member of the European Union in some conditions can request the application of a special regime which purpose is to calculate their liability in Spain according to the rules existing for resident taxpayers.

Also, dividends, interest and capital gains among EU countries, may be exempt under certain circumstances.

Non resident have to deal with tax authorities through a tax representative when they have a permanent establishment in Spain, they want to apply deductions on the tax base, residents of countries with not effective exchange of tax information and other cases.



EUROPE

Andorra
Austria
Belgium
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark
Finland
France
Germany
Greece
Hungary
Ireland
Italy

Luxembourg

Malta
Montenegro
Norway
Poland

Portugal

Romania
Russia
Serbia
Sweden

Spain

Switzerland
The Netherlands
Ukraine
United Kingdom

AMERICA

Argentina

Bolivia
Brazil
Canada

Chile

Colombia
Costa Rica
Dominican
Republic
Ecuador
El Salvador
Guatemala
Honduras

Mexico

Panama
Paraguay
Peru
Uruguay
USA
Venezuela

**MIDDLE EAST
AND AFRICA**

Algeria
Angola
Egypt
Israel
Jordan
Kenya

Kuwait
Lebanon
Mauritius
Morocco
Nigeria
Saudi Arabia
South Africa
Tunisia
Turkey
UAE
Uganda

ASIA-PACIFIC

Australia
Bangladesh
China
India
Indonesia
Japan
Malaysia
New Zealand
Pakistan
Singapore
South Korea
Thailand
Vietnam



ASSOCIATES